



City of Huntington Beach

Charter Review Commission

AGENDA

Tues., Jan. 05, 2010, 6:00 PM
City Hall, Room B-8

- I. **Roll Call:** Jerry Bame, Ralph Bauer, Mark Bixby, Patrick Brenden, Shirley Dettloff, Dick Harlow, Gregory Hartnett, Marijo Johnson, Gary Kutscher, Joe Shaw, Ray Silver, Sharie Sneddon, Tim Stuart, Dave Sullivan, Shane Whiteside

II. **Public Comments:**

An opportunity for the public to comment on any item of interest, either in general or specific to this agenda, that is within the subject matter or jurisdiction of the Commission. Comments will be limited to no more than 3 minutes. Speakers are encouraged to submit their comments in writing. Each Commission Member will receive a copy of all the submitted comments.

- III. **Approval of Minutes from the December 15 Commission meetings.**
- IV. **Discussion on a request to add language regarding General Plan amendment to the Charter similar to that in Newport Beach Municipal Code 423 – Traffic Density.**
- V. **Discussion as requested on Section 607(b) 2 - Retirement Tax**
- VI. **Under Article VII of the Charter - Campaign Finance**
- VII. **Commissioner Requests: Questions, comments, or suggestions for discussion at a subsequent meeting of the Commission**
- **Recommendations from Commissioner Mark Bixby**
- VIII. **Adjourn to the next regular meeting scheduled for Tuesday, Jan 21 at 6 PM in City Hall Room B 8.**

Attachments: *

1. **Letter from Karen Jackle, President of Huntington Beach Tomorrow**
2. **Memo from city staff on the city's General Plan Process**
3. **Memo from city staff on the retirement property tax.**
4. **Newport Beach Municipal Code 423**
5. **H.B. Municipal Codes Section 2.07 – Campaign Reform**
6. **Summary Report on recent amendments on Municipal Code. 2.07**
7. **Sonenshein Memo dated Oct. 31 on Campaign Finance**
8. **Matrix of other cities campaign finance law.**
9. **Recommendations from Commissioner Bixby on Article VII of the City Charter**
10. **Recommendations from Commissioner Bixby on additions to the City Charter**
11. **Letter dated 09-14-09 from Ed Kerins regarding Section 607(b)2 of the Charter**
12. **Information from David Rice on his request regarding the General Plan**

* Material related to the Charter Sections to be discussed and submitted prior to the posting of the agenda will be included in the agenda packet. Items received after posting of the agenda will be distributed at the Commission meeting as late communications.

COMMISSIONER MARK BIXBY ITEMS:

1. Add new charter section to require electronic filing & Internet publication of Statements of Economic Interests and campaign finance disclosures from elected city officials
Statement of Issue: Require key disclosure documents to be filed electronically to improve legibility, usability, and timeliness. Require Internet publication of these documents for easy public access.
2. Add new charter section to provide safe harbor for prompt refund of improper campaign contributions
Statement of Issue: Current Huntington Beach Municipal Code (HBMC) 2.07 campaign reform ordinances do not provide any means of “curing” inadvertent violations. This proposed charter amendment creates a “safe harbor” time period whereby improper contributions may be refunded promptly without penalty.
3. Add new charter section to regulate surplus campaign funds.
Statement of Issue: Prevents elected office holders from carrying forward surplus campaign funds that could be used to gain an unfair advantage when running for re-election.
4. Add new charter section to require the city council to determine at least once every 10 years whether charter review is warranted.
Statement of Issue: Over time, current city practice has diverged from strict charter compliance as needs have changed in the decades between major charter revisions. This proposal will require the city council to determine at least once every 10 years whether charter review is warranted.
5. Prohibit the use of eminent domain to transfer propriety from one private owner to another private owner for commercial profit-making purposes.
Statement of Issue: In the past the city has used eminent domain in redevelopment projects to transfer property from one private owner to another for the purposes of furthering community-wide economic growth. In *Kelo v. City of New London*, 125 S. Ct 2655 (2005), the US Supreme Court by a split vote of 5-4 upheld such use of eminent domain. Public backlash was swift, and many states and municipalities reacted by passing laws prohibiting Kelo-style eminent domain.
6. Implement Monterey-style Neighborhood Improvement Program (NIP) to allow residential neighborhoods to share the benefits of tourist-oriented development
Statement of Issue: Monterey and Huntington Beach both share a common history of being transformed from sleepy coastal towns into major tourist destinations in relatively short periods of time. In addition to bringing in money, tourism also brings negative impacts which reduce residential quality of life. Monterey’s solution to restoring balance between tourism and the residential neighborhoods was to implement a Neighborhood Improvement Program that dedicates a portion of the Transient Occupancy Tax (TOT) to funding neighborhood capital improvements selected by residents appointed to a Neighborhood Improvement Program Committee. I propose a similar solution for Huntington Beach.
7. Require park in-lieu fees to be spent on parkland development whenever the per-capita park acreage ratio is below the requirement specified in the General Plan.
Statement of Issue: The city’s General Plan requires 5 acres of parks (including beaches) for every 1,000 residents. In 1992 the city exceeded this requirement by 49 acres, but by 2009 the city fell short of the requirement by 4.2 acres, and the Beach-Edinger Corridor Specific Plan is poised to dramatically worsen the deficit. My proposal would require that whenever the current per capita ratio falls short of the General Plan, park in-lieu fees shall only be spent on parkland development.

8. Add new charter section to require the city council to determine at least once every 10 years whether charter review is warranted.

Statement of Issue: Over time, current city practice has diverged from strict charter compliance as needs have changed in the decades between major charter revisions. This proposal will require the city council to determine at least once every 10 years whether charter review is warranted.

9. City-owned tidelands

Statement of Issue: City-owned tidelands provide important, valuable public benefits and should be subject to protections similar to Measure C.

ATTACHMENT #1



HUNTINGTON BEACH TOMORROW

P. O. BOX 865, HUNTINGTON BEACH, CA 92648

"Making a difference today for Huntington Beach tomorrow"

Phone: (714) 840-4015

E-Mail: info@hbtomorrow.org

Website: www.hbtomorrow.org

December 22, 2009

Charter Review Commission
City of Huntington Beach
Huntington Beach CA 92648

Subject: Commission - Staff Operating Procedures

The staff made their Measure C presentation at the December 15 commission meeting as a late communication. The staff knew when the commission would be having the Measure C meeting months ago.

The staff recommendations went uncontested at the meeting because they were a late communication and not available to the public the previous week.

Huntington Beach Tomorrow is concerned that this might happen again.

Late communications of substance have the following effects:

They deprive the public the ability to respond

They do not give the decision makers adequate time to consider the merits of the communication

They can give the impression that "someone is trying to slip something by"

HBT recommends the commission put staff practices into place that prevent the above from occurring again. Full disclosure and transparency in a timely manner is paramount to retain the trust of the citizens.

Thank you for your consideration of this matter.

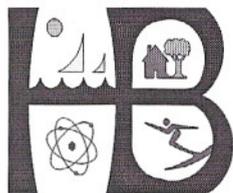
Sincerely yours,

A handwritten signature in cursive script that reads "Karen Jackle".

Karen Jackle
President
Huntington Beach Tomorrow

Copy: Fred Wilson, City Administrator

ATTACHMENT #2



CITY OF HUNTINGTON BEACH
Inter-Department Communication
Planning Department

TO: Fred A. Wilson, City Administrator

FROM: Scott Hess, AICP, Director of Planning & Building *SH*

DATE: December 22, 2009

**SUBJECT: INFORMATION FOR CHARTER REVIEW COMMISSION – CITY
PROCESS FOR GENERAL PLAN AMENDMENTS**

The purpose of this memo is to provide information regarding the City of Huntington Beach process for making land use decisions, specifically General Plan amendments. This memo also contains information regarding the City of Newport Beach process for approving “major” General Plan amendments.

City of Huntington Beach process for amending the General Plan

The City defines a “major amendment” as one that amends the land use map or changes the text of more than one element of the General Plan. A “minor amendment” is a text change that affects only one General Plan element. The process for amending the City’s General Plan, for both major and minor amendments, requires the following steps:

1. Environmental review in accordance with the California Environmental Quality Act (CEQA)
 - All potential environmental effects associated with a General Plan Amendment must be evaluated based on specific significance criteria for 17 impact areas. These impact areas include, among others, traffic, noise, air quality and land use and planning.
2. Staff analysis of the proposed General Plan Amendment
 - An analysis of the proposed General Plan Amendment’s consistency with the goals, policies and objectives of the City’s General Plan elements is required in addition to any other relevant information that would help the Planning Commission and City Council make an informed decision on the amendment. The analysis is generally provided in a staff report and is made available to the public as well so that the public may make an informed opinion about the amendment, particularly in providing public input or testimony.
3. Planning Commission and City Council noticed public hearings
 - Notification is required in accordance with the Huntington Beach Zoning and Subdivision Ordinance (HBZSO), which is consistent with California Government Code Section 65090 – 65091. In general, notification for each public hearing consists of placing an ad in the newspaper, mailing to property owners and tenants within the area as well as within a radius of 1,000 feet, and posting on the City’s website.

City of Newport Beach – Charter Section 423

In 2000, the City of Newport Beach approved City Charter Section 423 (Measure S) that requires voter approval of “major amendments” to the City’s General Plan. Section 423 states that a “major amendment” is one that would significantly increase traffic (100 peak hour trips more than the use allowed under the General Plan), intensity (40,000 s.f. more than the use allowed under the General Plan), or density (100 more units than the use allowed under the General Plan) of allowed and proposed uses.

The purpose of Charter Section 423 is “...to give the voters the power to prevent Newport Beach from becoming a traffic-congested city, by requiring their approval for any change to the City’s General Plan that may significantly increase allowed traffic; and also to make sure that major changes do not escape scrutiny by being presented piecemeal as a succession of small changes.”

City of Newport Beach Process for approving “major amendments” to the General Plan

The procedures for submitting a major amendment to the voters include the following:

1. Environmental review in accordance with the California Environmental Quality Act (CEQA)
 - All potential environmental effects associated with a General Plan Amendment must be evaluated pursuant to CEQA guidelines.
2. Planning Commission and City Council staff reports that contain information related to:
 - whether the amendment would require voter approval pursuant to Section 423
 - any other information relevant to the amendment including associated project or land use approval and environmental analysis that would help the Planning Commission and City Council make an informed decision as well as help the public develop informed opinions about the amendment.
3. Planning Commission and City Council noticed public hearings.
4. Determination by the City Council, during the noticed public hearing, if the amendment requires voter approval pursuant to Section 423.

COMPARISON OF GENERAL PLAN AMENDMENT PROCESSES

General Plan Amendment process requirement	City of Huntington Beach	City of Newport Beach
Public notice in accordance with State law required?	Yes	Yes
Noticed Planning Commission public hearing required?	Yes	Yes
Noticed City Council public hearing required?	Yes	Yes
Environmental Review in accordance with CEQA required?	Yes	Yes
Vote of the people required?	No	Yes*

*Vote of the people required if the amendment meets the criteria specified in Charter Section 423.

xc: Bob Hall, Deputy City Administrator
Mary Beth Broeren, Planning Manager
Herb Fauland, Planning Manager
Pat Dapkus, Senior Administrative Analyst

ATTACHMENT #3



**CITY OF HUNTINGTON BEACH
INTER-DEPARTMENTAL COMMUNICATION
FINANCE DEPARTMENT**

TO: Fred Wilson, City Administrator
FROM: Bob Wingenroth, Director of Finance *B. B. Wingenroth*
DATE: December 22, 2009
SUBJECT: LOSS OF THE RETIREMENT PROPERTY TAX

The retirement property tax has been levied each year since 1966. Currently, the City's retirement property tax rate is \$0.015 per \$100 of assessed valuation. The annual tax impact for a parcel with an assessed valuation of \$500,000 is about \$75.

We estimate that the city's general fund will receive \$4 million from the tax in the current fiscal year (FY 2009/10). In terms of positions, \$4 million supports 31 city jobs.

The loss of this revenue would be devastating to the general fund in the current and future years. This revenue represents 2.2% of our \$181 million general fund budget. This loss, coupled with the known revenue shortfall of over \$3 million will necessitate additional cuts of 4% in the current fiscal year.

We are facing a \$5 million deficit in FY 2010/11 before accounting for the loss of an additional \$4 million. Adding the loss of this tax revenue to our deficit would require us to reduce the FY2010/11 budget by 5%.

ATTACHMENT #4

From the City Of Newport Beach's Municipal Code

Section 423. Protection from Traffic and Density.*

Voter approval is required for any major amendment to the Newport Beach General Plan. A "major amendment" is one that significantly increases the maximum amount of traffic that allowed uses could generate, or significantly increases allowed density or intensity. "Significantly increases" means over 100 peak hour trips (traffic), or over 100 dwelling units (density), or over 40,000 square feet of floor area (intensity); these thresholds shall apply to the total of: 1) Increases resulting from the amendment itself, plus 2) Eighty percent of the increases resulting from other amendments affecting the same neighborhood and adopted within the preceding ten years. "Other amendments" does not include those approved by the voters. "Neighborhood" shall mean a Statistical Area as shown in the Land Use Element of the General Plan, page 89, in effect from 1988 to 1998, and new Statistical Areas created from time to time for land subsequently annexed to the City.

"Voter approval is required" means that the amendment shall not take effect unless it has been submitted to the voters and approved by a majority of those voting on it. Any such amendment shall be submitted to a public vote as a separate and distinct ballot measure notwithstanding its approval by the city council at the same time as one or more other amendments to the City's General Plan. The city council shall set any election required by this Section for the municipal election next following city council approval of the amendment, or, by mutual agreement with the applicant for the amendment, may call a special election for this purpose with the cost of the special election shared by the applicant and the City as they may agree. In any election required by this Section, the ballot measure shall be worded such that a YES vote approves the amendment and a NO vote rejects the amendment; any such election in which the ballot measure is not so worded shall be void and shall have no effect.

This section shall not apply if state or federal law precludes a vote of the voters on the amendment. (Added by amendment effective December 15, 2000)

ATTACHMENT #5

CHAPTER 2.07

CAMPAIGN REFORM

(2507-11/81, 2721-10/84, 2818-3/86, *3220-1/94, 3452-3/00, 3580-10/02, 3599-2/03, 3749-9/06, 3803-6/08, 3830-5/09)

*The provisions of this Chapter shall become effective upon adoption, pursuant to Huntington Beach City Charter Section 500(e)(1). (3220-1/94)

Sections:

- 2.07.010 Name
- 2.07.020 Purpose
- 2.07.030 Relation to Political Reform Act of 1974
- 2.07.040 Definitions
- 2.07.050 Campaign contribution limitations
- 2.07.060 (Repealed – Ordinance No. 3803-6/08)
- 2.07.070 Election cycle
- 2.07.080 Prohibition on multiple campaign committees
- 2.07.090 Prohibition on transfers
- 2.07.100 Loans to city candidates and elective city officers and their controlled committee
- 2.07.110 (Repealed – Ordinance No. 3803-6/08)
- 2.07.120 (Repealed – Ordinance No. 3803-6/08)
- 2.07.130 Transmittal of campaign contributions in city office buildings
- 2.07.140 Disclosure of occupation and employer
- 2.07.150 Reporting of cumulative contributions
- 2.07.160 (Repealed – Ordinance No. 3803-6/08)
- 2.07.170 (Repealed – Ordinance No. 3803-6/08)
- 2.07.180 (Repealed – Ordinance No. 3803-6/08)
- 2.07.190 (Repealed – Ordinance No. 3803-6/08)
- 2.07.200 (Repealed – Ordinance No. 3803-6/08)
- 2.07.210 (Repealed – Ordinance No. 3803-6/08)
- 2.07.220 Applicability of other laws
- 2.07.230 Severability
- 2.07.240 Interpretation of chapter
- 2.07.250 (Repealed – Ordinance No. 3803-6/08)
- 2.07.260 Effective date

2.07.010 Name. This Chapter shall be known and may be cited as the "City of Huntington Beach Campaign Reform Law." (3220-1/94)

2.07.020 Purpose. The purpose of this Chapter is to ensure that the financial strength of certain individuals or organizations does not permit them to exercise a disproportionate or controlling influence on the election of City candidates. To achieve such purpose, this Chapter is designed to reduce the influence of large contributions, to ensure that multiple contributions in excess of the contribution limits do not originate from the same source of funds, to ensure that individuals and interest groups continue to have a fair and equal opportunity to participate in electing City candidates, and to maintain public trust in governmental institutions and the electoral process. (3220-1/94)

2.07.030 Relation to Political Reform Act of 1974. This Chapter is intended to supplement the Political Reform Act of 1974. Unless the term is specifically defined in this Chapter, or the contrary is stated or clearly appears from the context, words and phrases shall have the same meaning as when they are used in Title 9 of the California Government Code, in which the Political Reform Act of 1974 is codified, as the same may be, from time to time amended. (3220-1/94)

2.07.040 Definitions.

- (a) "City Candidate" means any person who is a candidate for the city Council, City Clerk, City Treasurer, or City Attorney of the City of Huntington Beach. (3220-1/94)
- (b) "Elective City Officer" means any person who is Mayor, a member of the City Council, City Clerk, City Treasurer, or City Attorney of the City of Huntington Beach, whether appointed or elected. (3220-1/94)
- (c) "Non-elected City Official" means any person who is a member of a City of Huntington Beach board, committee, or commission, and who is not elected to that position. (3220-1/94)
- (d) "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert. (3220-1/94)

2.07.050 Campaign contribution limitations. No person shall make to any City candidate or the controlled committee of any such City candidate, and no such candidate or committee shall accept from any such person, a contribution or contributions totaling more than five hundred dollars (\$500) in a City Council, City Clerk, City Treasurer, or City Attorney election cycle. Thereafter said contribution limitations shall increase by the October consumer price index (CPI) of Los Angeles, Long Beach, and Anaheim areas, rounded to the nearest \$10, effective at the beginning of each new election cycle. (3220-1/94, 3452-3/00, 3599-2/03, 3803-6/08)

2.07.070 Election cycle. (3749-9/06)

- (a) **City Council, City Clerk, City Treasurer, and City Attorney Elections.** For purposes of the limits of this Chapter, as applied to elections for City Council, City Clerk, City Treasurer, and City Attorney, the final date for contributions shall be December 31 of the year in which the election for the open position was held. Contributions made after the final date shall be deemed contributions for the next election cycle. Notwithstanding the foregoing, contributions made after the final date to an elected Council Member who is ineligible for a further consecutive term, shall be deemed a contribution for the most recent election cycle in which such Council Member was eligible, and such contributions shall be subject to all other limitations and regulations in effect during said election cycle. (3220-1/94, 3830-5/09)
- (b) **Examples of the Election Cycle.** January 1, 1987, to December 31, 1990, was the "Election Cycle" for the 1990 election. Pursuant to Section 2.07.070 Election Cycle, the four (4) year period for purposes of applying the interpretation of the Campaign Ordinance Election Cycle 2.07.070(a) shall be as follows: (3220-1/94)

Example 1. (3220-1/94)

1992 Election Cycle - Three Council Seats and City Clerk and City Treasurer: January 1, 1989 - December 31, 1992. (3220-1/94)

- (1) The "last election" was November 1988. (3220-1/94)
- (2) December 31, 1988, was the last or final date for receipt of campaign contributions for the 1988 election. (3220-1/94)
- (3) January 1, 1989, began the election cycle for the 1992 election. (3220-1/94)
- (4) December 31, 1992, ended the election cycle for the 1992 election. (3220-1/94)

Example 2. (3220-1/94)

1994 Election Cycle - Four (4) Council Seats and City Attorney: January 1, 1991 - December 31, 1994. (3220-1/94)

- (1) The "last election" was November 1990. (3220-1/94)
- (2) December 31, 1990, was the last or final date for receipt of campaign contributions for the 1990 election. (3220-1/94)
- (3) January 1, 1991, began the election cycle for the 1994 election. (3220-1/94)
- (4) December 31, 1994, ends the election cycle for the 1994 election. (3220-1/94)

Example 3. (3220-1/94)

1996 Election Cycle - Three (3) Council Seats and City Clerk and City Treasurer: January 1, 1993 - December 31, 1996. (3220-1/94)

- (1) The "last election" was November 1992. (3220-1/94)
- (2) December 31, 1992, was the last or final date for receipt of campaign contributions for the 1992 election. (3220-1/94)
- (3) January 1, 1993, began the election cycle for the 1996 election. (3220-1/94)
- (4) December 31, 1996, ends the election cycle for the 1996 election. (3220-1/94)

(c) **Recalls.** For purposes of the limits of this Chapter, campaign contributions made at any time after a committee has been formed, pursuant to the provisions of the Political Reform Act, in support of a recall election or after the City Clerk has approved a recall petition for circulation and gathering of signatures, whichever occurs first, shall be considered contributions during a recall election cycle. A recall election cycle shall end whenever any of the following occur: (3220-1/94)

- (1) The recall proponents fail to return signed petitions to the City Clerk within the time limits set forth in the California Elections Code. (3220-1/94)
- (2) All committees formed in support of the recall have been terminated pursuant to the provisions of the Political Reform Act. (3220-1/94)
- (3) Ten (10) days after a recall election has been held. (3220-1/94)

2.07.080 Prohibition on multiple campaign committees. A City candidate or an elective City officer shall have no more than one campaign committee which shall have only one bank account out of which all qualified campaign and office holder expenses related to that City office shall be made. This section does not prevent a City candidate or an elective City officer from establishing another campaign committee solely for the purpose of running for a state, federal, local, or other City office. This section also does not prevent an elective City officer from establishing another campaign committee solely for the purpose of opposing his or her own recall. (3220-1/94)

2.07.090 Prohibition on transfers.

(a) No funds may be transferred into any city candidate or elective city officer's campaign committee from any other campaign committee controlled by a candidate (including said City candidate) or by an elective City officer (including said elective City officer.) (3220-1/94)

- (b) No City candidate and no committee controlled by a City candidate or elective City officer shall make any contribution to any other City candidate running for office or to any committee supporting or opposing a City candidate for elective City office, nor to any committee supporting or opposing a recall of an elective City officer. This section shall not prohibit a City candidate from making a contribution from his or her own personal funds to his or her own candidacy or to the candidacy of any other candidate for elective City office. (3220-1/94)

The provision of this section shall not apply to the candidate or elected officer who forms a new committee for purposes of reelection to the same office and, to close out the prior committee, transfers the money or debt from the prior committee to the new committee and, in so doing, complies with all regulations of the political Reform Act of 1974, and as amended. (3220-1/94)

2.07.100 Loans to City candidates and elective City officers and their controlled committee.

- (a) A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this Chapter. (3220-1/94)
- (b) Every loan to a City candidate or elective City officer or their controlled committees shall be by written agreement which shall be filed with the candidate's or committee's Campaign Statement on which the loan is first reported. (3220-1/94)
- (c) The proceeds of a loan made to a City candidate or elective City officer by a commercial lending institution in the regular course of business on the same terms available to members of the public shall not be subject to the contribution limitations of this Chapter if the loan is made directly to the City Candidate or elective City officer or his or her controlled committee. The guarantors of such a loan shall remain subject to the contribution limits of this Chapter. (3220-1/94)
- (d) Extensions of credit (other than loans pursuant to Section 2.07.100(c) for a period of more than thirty (30) days are subject to the contribution limitations of this Chapter. (3220-1/94)
- (e) This section shall apply only to loans and extensions of credit used or intended for use for campaign purposes or which are otherwise connected with the holding of public office. (3220-1/94)
- (f) The monetary limitations or provisions of this section shall not apply to a candidate's loan of his or her personal funds to his or her own campaign committee. (3220-1/94)
- (g) No City candidate and no committee controlled by a City candidate or elective City officer shall make any contribution to any other City candidate running for office or to any committee supporting or opposing a City candidate for elective City office, nor to any committee supporting or opposing a recall of an elective City officer. This section shall not prohibit a City candidate from making a contribution from his or her own personal funds to his or her own candidacy or to the candidacy of any other candidate for elective City office. (3220-1/94)

2.07.130 Transmittal of campaign contributions in city office buildings.

- (a) No person shall receive or personally deliver or attempt to deliver a contribution in any office which the City owns or for which the City pays the majority of the rent where the business of the City is conducted. (3220-1/94, 3803-6/08)

(b) For purposes of this section: (3220-1/94)

(1) "Personally deliver" means delivery of a contribution in person or causing a contribution to be delivered in person by an agent or intermediary, other than the United States mail.

(3220-1/94)

(2) "Receive" includes the receipt of a campaign contribution delivered in person.

(3220-1/94, 3803-6/08)

2.07.140 Disclosure of occupation and employer. No campaign contribution shall be deposited into a campaign bank account of a City candidate or elective City officer unless the disclosure information required by the Political Reform Act, including the name, address, occupation and employer of the contributor, or, if self employed, name of business, is on file in the records of the recipient of the contribution. This information is to be reported on each Campaign Statement required to be filed by the Political Reform Act. (3220-1/94)

2.07.150 Reporting of cumulative contributions. A cumulative contribution for each contributor shall be based on an election cycle and shall be reported on each Campaign Statement required to be filed by the Political Reform Act. (3220-1/94)

2.07.220 Applicability of other laws. Nothing in this Chapter shall exempt any person from applicable provisions of any other laws of this state or jurisdiction. (3220-1/94)

2.07.230 Severability. If any provisions of this Chapter, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Chapter, to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Chapter are severable. (3220-1/94)

2.07.240 Interpretation of chapter. This Chapter should be liberally construed to accomplish its purposes. (3220-1/94)

2.07.260 Effective date. The provisions of this Chapter shall become effective upon adoption, pursuant to Huntington Beach City Charter Section 500(e)(1). (3220-1/94)

ATTACHMENT #6



CITY OF HUNTINGTON BEACH
INTERDEPARTMENTAL COMMUNICATION

TO: CHARTER REVIEW COMMISSION
FROM: JENNIFER McGRATH, City Attorney
DATE: December 24, 2009
SUBJECT: Campaign Reform

On August 20, 2007, the City Council created a subcommittee to consider a campaign contribution increase and to review *Huntington Beach Municipal Code* Chapters 2.04, 2.06 and 2.07 relating to campaign regulations. The subcommittee was chaired by Don Hansen, and the other members were Cathy Green and Jill Hardy. The committee reviewed a matrix of the campaign regulations of seven cities, the County, and the State of California.

Ultimately, the committee recommended the repeal of Chapter 2.06 (mass mailings); no change to Chapter 2.04 (Eligibility); and multiple revisions to Chapter 2.07 to avoid duplication of State law, clarify existing law, and increase the campaign contribution limitation. The City Council adopted the recommendations of the subcommittee at its meeting of June 16, 2008. Ultimately, the City Council decided to increase the contribution limit to \$500.00 with a CPI adjustment each election cycle.

A handwritten signature in black ink that reads "Jennifer McGrath".

JENNIFER McGRATH
City Attorney

JM/ab

ATTACHMENT #7

October 31, 2009

To: City of Huntington Beach Charter Reform Commission
From: Raphael Sonenshein, Consultant
Subject: Campaign Finance

Local governments often make regulations regarding campaign finance. These provisions may appear in the charter, in the municipal code, or in both. These regulations set boundaries for such activities as raising money, contributing funds, reporting contributions, avoiding conflict of interest and many other matters.

Some larger cities have even more extensive rules. Los Angeles voters wrote into their charter a fully developed campaign finance system, an Ethics Commission to enforce it, and a system of partial public financing for local elections. This massive project emerged out of financial scandals at city hall in the late 1980s.

Cities in the medium population range, like Huntington Beach, are likely to have campaign finance rules but generally will not have either an Ethics Commission or public financing.

In most cities, the provisions for regulating campaign finance do not appear in the charter, as you can see from the list of cities compiled by Pat Dapkus. Glendale is unusual among medium sized cities, in that its system appears in the charter. Anaheim, Modesto, and Irvine have nothing in their charters, but rules appear in their municipal codes.

The campaign finance rules may appear to be rather standard, but there are quite a few differences among cities. For example, some restrict the use of surplus (leftover) campaign funds, while others do not. Some address conflict of interest involving contributors, while others do not.

All local campaign finance laws are subject to the Political Reform Act of 1974, the most important state law on this subject. Ordinances generally reference the Political Reform Act, and ensure compliance with its provisions.

One area of great variety is the contribution limit for campaigns. Population size does not seem to have much to do with the size of the limit. For Anaheim, it is \$1,500, but for Chula Vista only \$300. Fremont picks \$500, while Glendale uses \$1,000. Los Angeles, the largest city in the state, limits contributions in council races to \$500 per person. A

number of cities include provisions to make adjustments in the contribution limit, often based on the cost of living index.

Huntington Beach and Campaign Finance

The Huntington Beach charter is silent in the area of campaign finance. The municipal code, however, has an extensive section on the subject. The limit for contributions is \$500, an amount that had been increased from \$300 based on changes in campaign costs and cost of living.

The Huntington Beach code includes provisions regarding transfers between campaign accounts, loans, and forbids the delivery or acceptance of campaign contributions within city buildings.

Possible Recommendations by the Commission

The Commission may consider some changes to the charter regarding campaign finance. One possibility is to place broad language into the charter that sets forth the goals of the campaign finance system. Chula Vista has a small section that directs the council to “adopt reasonable regulations related to campaign contributions which shall be contained in the City Code.” Other cities express broader values, such as the importance of maintaining public access and fairness in elections.

While this may seem to be an insignificant action, the Charter is more than just a legal guide. It is also an educational document. When ordinances are the only vehicles to inform the public of important values and rules, there may be a gap in public understanding.

You may consider placing the contribution limit and the methods of adjusting the limit into the charter. This dollar amount is probably the most visible element of campaign finance. If you take this path, you will enhance the ability of the voters to control the finance system, but you also restrict the flexibility of ordinance to make appropriate adjustments. Huntington Beach is right in the normal range with the dollar amount now, and there has been no indication that this is about to radically change.

Charters and ordinances in other cities have provisions that do not appear in the Huntington Beach municipal code. You may wish to consider specific prohibitions against conflict of interest based on campaign contributions, or new provisions limiting the use of surplus campaign funds. However, these changes will add detail to a charter that currently has nothing at all about campaign finance. Whatever goes in the charter is assumed to have a higher priority than what is in ordinance, and therefore your decision would weigh the relative value of each of these provisions.

ATTACHMENT #8

CAMPAIGN FINANCE SUMMARY HIGHLIGHTS

Anaheim	Charter	Nothing in Charter	<ul style="list-style-type: none"> • Limits Contributions to \$1500 adjusted biennially by the CCPI. • State mailers sent out by a third are not subject to this limitation under certain conditions.
Chula Vista	Charter	Charter calls for limitations to be set in the City Code.	<ul style="list-style-type: none"> • Limits contributions to \$300 per person to a candidate. Limitation applies to organizations established solely to support a specific candidate. • Contributions cannot be made in the name of another person. • Funds can only be accepted 11 mos. prior to the election. • Candidate is limited to \$5,000 of their personal funds.
CITY	CHARTER/ GENERAL LAW	CHARTER	MUNICIPAL/CITY CODE
Fontana	General Law		Follow state limitation.
Fremont	General Law		<ul style="list-style-type: none"> • Limits contributions to \$500 increased biennially by CPI • Limit applies to committees which exclusively support or oppose a candidate. • Limitation does not apply to candidates personal funds. • Limits aggregate contributions. • Limits loans to a candidate. • Regulates debt retirement committee contributions.
Glendale	Charter	<ul style="list-style-type: none"> • Limits contribution to \$1,000 per person multiplied by the number of council seats on the ballot. Adjusted even years by CPI. • Treats contributions from husband & wife as separate. • Contributions by minor children count against the parent. • Contributions to candidate and committees for the candidate aggregated must not exceed limit. • Loans considered as contributions • Loans by the candidate or their spouse to the campaign cannot exceed \$5,000. • No persons who contracts with the city for an amount greater than \$25,000 can make a contribution to a city elected official 	Not in Municipal Code

Huntington Beach	Charter	Not in Charter	<ul style="list-style-type: none"> • Contributions to candidate or controlled committee limited to \$500 adjusted each October by CPI. • Limits candidates to one campaign committee. • Prohibits transferring funds from one candidates campaign to that of another candidate. • Loans to a campaign are treated as contributions. • Campaign contributions prohibited in city office buildings.
Irvine	Charter	Not in Charter	<ul style="list-style-type: none"> • Campaign contributions limited to \$300 adjusted each Mayor election local CPI. • Treats independent expenditures on behalf of a candidate as a contribution with the above limit. • Personal funds contributed by a candidate to their own campaign are exempt.
Los Angeles	Charter	<ul style="list-style-type: none"> • Contributions to Council candidate or their controlled committee are limited to \$500 per person. • Contributions to candidates for Mayor, City Attorney or Controller or their controlled committee are limited to \$1,000 per person for a single election or \$500 per calendar year. • Requires signing a code of ethics • The personal funds of a candidate are exempt. • Limits the aggregate amount donated by any person. • Funds cannot be transferred from one candidate to another. • Loans are treated as contributions. • Personal funds in excess of \$30,000 have to be deposited in the candidate's campaign 30 days before the election. • Independent organizations must file a disclaimer. 	<ul style="list-style-type: none"> •
Modesto	Charter		<ul style="list-style-type: none"> • Conflict of Interest & Disclosure requirements • Limits on Contributions section was repealed
Moreno Valley			<ul style="list-style-type: none"> • Not found
Oceanview			<ul style="list-style-type: none"> • Repealed except for contributions by lobbyists.
Orange	General Law		<ul style="list-style-type: none"> • Contributions to candidate for all elected offices or their controlled committee are limited to \$1,000 per person. • Limitation applies to committees formed in support or opposition to the recal of an elected City Officer. • Exempts personal funds contributed by a

			<p>candidate to their own campaign or those from a spouse.</p> <ul style="list-style-type: none"> • A majority of the officers of a committee in support or opposition of a candidate cannot serve on any other committee in support or opposition to that candidate. • Contributions by minor children are aggregated with those of their parent. • Aggregates non-monetary contributions
San Bernardino	Charter		<p>San Bernardino does not have expenditure limits at the present time. Information below is taken from their 'suspended code.'</p> <ul style="list-style-type: none"> • Voluntary limit of \$1.00 per each resident in the District or Ward or • \$1.00 for each resident in the city of city-wide offices. • Candidates must file a statement accepting or rejecting the voluntary ceiling. • If they reject the ceiling they are subject to the limitations set forth in the Government Code • IF an independent expenditure committee or committees in aggregate in support or opposition to a candidate for office spends more than 50% of the voluntary expenditure ceiling, the voluntary expenditure ceiling shall be three times the limit specified for any candidate running for the same office.
Santa Ana	Charter	<ul style="list-style-type: none"> • Mayor & Council required to disqualify themselves from decision if the decision relates to a recent campaign contributor. • No contribution or loan can exceed \$1,000 per person, per election cycle. • Limits candidates to one campaign committee and one campaign account. • Allows adjustment by ordinance 	<ul style="list-style-type: none"> • Prohibits use of the city emblem or a facsimile for purposes of supporting or opposing a nominee for election to a city or public office.
Westminster	General Law	<ul style="list-style-type: none"> • Not found in Municipal Code 	<ul style="list-style-type: none"> •

ATTACHMENT #9

REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 11/03/2009

SUBMITTED TO: HB Charter Review Commission

SUBMITTED BY: Mark D. Bixby, Charter Review Commissioner *MDB*

SUBJECT: Add new charter section to require electronic filing & Internet publication of Statements of Economic Interests and campaign finance disclosures from elected city officials

Statement of Issue: Require key disclosure documents to be filed electronically to improve legibility, usability, and timeliness. Require Internet publication of these documents for easy public access.

Recommended Action: Motion to:

Add new Huntington Beach charter section as follows:

Statements of Economic Interests and campaign finance disclosures for elected city officials, candidates, and committees shall be filed electronically with the City Clerk and published via the Internet.

Analysis:

Statements of Economic Interest are currently filed in paper form with the City Clerk and are *not* published via the Internet. The City Clerk's department will promptly e-mail scanned copies to members of the public who know to ask for such things.

Campaign finance disclosures may currently be filed with the City Clerk in either paper form or electronic form. The City Clerk's department manually scans paper filings into the electronic filing system (NetFile). This manual scanning process is labor-intensive and many filings for the final weeks of the 2008 election were not entered into the electronic filing system until long after the election was over. Once disclosures are entered into the electronic filing system, they become publicly available via the Internet. The City Clerk's department will also promptly e-mail scanned copies to members of the public who know to ask for such things.

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As part of 2009/2010 budget cuts, funding for the campaign finance disclosure electronic filing system was eliminated. But the system vendor is currently allowing the city to continue to use the system for free.

My recommended action above requires the use of electronic filing for both sets of documents. There are still candidates for elected office who file their disclosures in handwritten paper form, with varying degrees of illegibility. Other candidates file typewritten paper forms. But these paper filings, regardless of being handwritten or typewritten, cannot easily be converted into machine-readable formats suitable for bulk analysis. Thus the exhaustive campaign finance analysis that I perform for every election requires me to undertake the herculean, time-consuming and physically exhausting effort of manually typing the data from dozens of pages of paper filings into machine-readable form.

Requiring electronic filing of this information eliminates the most awful part (manual data entry) of the analysis process by members of the public and press. It also reduces the workload of the City Clerk and improves timely access to the information by the public. Candidates also benefit from automated error checking of the electronic data at the time of entry into the filing system, thus reducing the need to submit subsequent error-correction amendments. In short, everybody wins.

But filing the information electronically is just half of what needs to be done. The information also needs to be published via the Internet for easy access by members of the public so the public can gain critical insights into their elected officials. There is no better way to distribute information city-wide than the Internet. Publishing these documents via the Internet will also save City Clerk staff time from having to respond to information request queries from the public.

There was some reluctance on the part of the charter commission about using the word "Internet" in some of my previous proposals. Based on my 33 years of professional information technology work experience, plus my being on the Internet for nearly 20 years, I feel that such reluctance is unwarranted. The Internet has achieved virtually-metastatic critical mass and is here to stay. The underlying technologies will continue to evolve over time, but the entire global network as a whole will still be called the "Internet" for decades to come.

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Other city charters are not shy about using “Internet” and other technological words, particularly cities located in the greater Silicon Valley region. The following city charters all mention “electronic”, “Internet”, “online”, and “web” in an information publishing context:

- Folsom
- Los Angeles
- Merced
- Oakland
- Pasadena
- Pomona
- Redondo Beach
- San Francisco
- San Mateo
- Santa Cruz
- Sunnyvale

Good transparency should be considered on a par with holding elections in terms of priority and funding, i.e. mandatory, not discretionary. Only by incorporating strong transparency requirements into the charter can the public be assured that the transparency required for healthy democracy will be a priority for the city.

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MEETING DATE(S): 11/03/2009

SUBMITTED TO: HB Charter Review Commission

SUBMITTED BY: Mark D. Bixby, Charter Review Commissioner *MDB*

SUBJECT: Add new charter section to provide safe harbor for prompt refund of improper campaign contributions

Statement of Issue: Current Huntington Beach Municipal Code (HBMC) 2.07 campaign reform ordinances do not provide any means of “curing” inadvertent violations. This proposed charter amendment creates a “safe harbor” time period whereby improper contributions may be refunded promptly without penalty.

Recommended Action: Motion to:

Add new Huntington Beach charter section as follows:

Any candidate who receives either personally or through an agent a contribution in violation of this charter or any applicable ordinance(s) shall have ten (10) days from the date of receipt of the contribution violating this charter or said ordinance(s) to return the entire contribution to the donor or donors thereof to avoid prosecution hereunder.

Analysis:

During the 2007 revision of HBMC section 2.07 on campaign finance reform, it was pointed out that there is no provision in these ordinances for “curing” a violation. The lack of such a provision acts as a disincentive for candidates to self-report inadvertent violations.

The recommended action above creates a “safe harbor” provision whereby candidates may cure violations without penalty if the improper contributions are refunded within 10 days of receipt. This creates a positive incentive for candidates to scrutinize their contributions and promptly do the right thing if any problems are found.

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This proposed amendment is derived from Merced charter section 1056(C) and has been modified to include ordinance violations in addition to charter violations.

References:

- Merced charter section 1056(C) - <http://library2.municode.com/default-test/DocView/16096/1/4/14>

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MEETING DATE(S): 11/03/2009

SUBMITTED TO: HB Charter Review Commission

SUBMITTED BY: Mark D. Bixby, Charter Review Commissioner *MDB*

SUBJECT: Add new charter section to regulate surplus campaign funds

Statement of Issue: Prevents elected office holders from carrying forward surplus campaign funds that could be used to gain an unfair advantage when running for re-election.

Recommended Action: Motion to:

Add new Huntington Beach charter section as follows:

All funds that exceed election campaign expenses for public office, or the repayment of campaign loans, known as "surplus campaign funds" or "surplus funds," shall be turned over to the City's General Fund within ninety (90) days after withdrawal, defeat, or election to office.

Analysis:

Presently there is nothing to prevent a candidate for elected office from raising funds far in excess of campaign expenses in order to create a large "war chest" of surplus funds that could be used to gain unfair advantage when running for re-election. Instead I think it would be preferable for the money in re-election contests to be based on the candidate's track record in office rather than on prior-term fundraising prowess.

My recommended action above does not place any limits on how much money a candidate can raise or spend. But you must spend everything you raise or else any surplus will be turned over to the city's general fund, which ensures that all candidates for the next election cycle will start fundraising from the same zero base.

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This proposed amendment is derived nearly word-for-word from Pomona charter section 1402.

References:

- Pomona charter section 1402 - <http://library2.municode.com/default-now/DocView/13712/1/3/17>

ATTACHMENT #10

REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 01/05/2010

SUBMITTED TO: HB Charter Review Commission

SUBMITTED BY: Mark D. Bixby, Charter Review Commissioner *MDB*

SUBJECT: Add new charter section to require the city council to determine at least once every 10 years whether charter review is warranted.

Statement of Issue: Over time, current city practice has diverged from strict charter compliance as needs have changed in the decades between major charter revisions. This proposal will require the city council to determine at least once every 10 years whether charter review is warranted.

Recommended Action: Motion to:

Amend Huntington Beach charter to add new section requiring the city council to hold a public hearing and city council vote at least once every 10 years to determine whether charter review is warranted. If a majority of the council votes that review is warranted, such review will proceed in a manner of the council's choosing.

Analysis:

City practice has slowly diverged from strict charter compliance in a number of areas in the decades since the last comprehensive charter revision. Given that the likelihood of divergence increases as the time between comprehensive charter revisions increases, I propose amending the current charter to require the city council to periodically determine whether comprehensive charter review is warranted. Such review on a regular basis will help to keep city practice more in sync with the charter.

At least once every 10 years the city council shall hold a public hearing and council vote to determine whether charter review is warranted. If the council votes that review is warranted, the review will proceed in the manner of the council's choosing. This could be via council subcommittee, full council discussion, appointed charter revision commission, elected charter revision commission, etc.

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The review process may or may not result in any ballot measures being submitted to the voters.

Such regular, periodic review should help to prevent the charter from becoming stale, as well as to provide opportunities for “scanning the horizon” to make proactive charter amendments to enable the city to cope better with looming future issues.

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MEETING DATE(S): 01/05/2010

SUBMITTED TO: HB Charter Review Commission

SUBMITTED BY: Mark D. Bixby, Charter Review Commissioner *MDB*

SUBJECT: Prohibit the use of eminent domain to transfer propriety from one private owner to another private owner for commercial profit-making purposes.

Statement of Issue: In the past the city has used eminent domain in redevelopment projects to transfer property from one private owner to another for the purposes of furthering community-wide economic growth. In *Kelo v. City of New London*, 125 S. Ct 2655 (2005), the US Supreme Court by a split vote of 5-4 upheld such use of eminent domain. Public backlash was swift, and many states and municipalities reacted by passing laws prohibiting Kelo-style eminent domain. I propose a similar prohibition for Huntington Beach.

Recommended Action: Motion to:

Amend Huntington Beach charter to add new section prohibiting the use of eminent domain for the purpose of acquiring property from a private owner for transfer to another private owner for for-profit purposes.

Analysis:

A brief chronology of Kelo and its aftermath follows below.

Kelo v. City of New London, June 23, 2005

Quoting from Wikipedia

(http://en.wikipedia.org/wiki/Kelo_v._City_of_New_London):

“Kelo v. City of New London, 545 U.S. 469 (2005) was a case decided by the Supreme Court of the United States involving the use of eminent domain to transfer land from one private owner to another to further economic development. The case arose from the condemnation by New London, Connecticut, of privately owned real property so that it could be used as part of a comprehensive

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redevelopment plan. The Court held in a 5–4 decision that the general benefits a community enjoyed from economic growth qualified such redevelopment plans as a permissible "public use" under the Takings Clause of the Fifth Amendment.

The case was appealed from a decision by the Supreme Court of Connecticut in favor of the City of New London. The state supreme court held that the use of eminent domain for economic development did not violate the public use clauses of the state and federal constitutions. The court held that if an economic project creates new jobs, increases tax and other city revenues, and revitalizes a depressed urban area (even if not blighted), then the project qualifies as a public use. The court also ruled constitutional the government delegation of its eminent domain power to a private entity.

...

The decision was widely criticized. Many of the public viewed the outcome as a gross violation of property rights and as a misinterpretation of the Fifth Amendment, the consequence of which would be to benefit large corporations at the expense of individual homeowners and local communities.

...

In November 2009, Pfizer, the beneficiary of the eminent domain action, announced that it would leave New London.”

City Council Meeting, October 3, 2005

In California, efforts to prohibit Kelo-style eminent domain began immediately in the Sacramento legislature in the wake of Kelo. This issue came before the city council on October 3, 2005, in the form of an Intergovernmental Relations Committee item asking the council to oppose SCA 15 (McClintock/Florez) and ACA 22 (La Malfa), which were nearly identical senate and assembly constitutional amendments to restrict local governments' use of eminent domain.

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Instead of opposing SCA 15 and ACA 22 as recommended, the council ended up supporting both measures to prevent further Kelo abuses.

Quoting from the minutes of the October 3, 2005 city council meeting:

“Councilmember Hansen stated his reasons for supporting SCA 15 (McClintock & Florez) and ACA 22 (La Malfa) including abuses by government of private citizens and their property.

Councilmember Bohr stated his reasons for opposing SCA 15 and ACA 22, including what he stated is a lack of eminent domain abuse in Huntington Beach.

Councilmember Cook stated her support for SCA 15 and ACA 22, citing what she perceives as instances of eminent domain abuse in the City.

Councilmember Coerper and Mayor Pro Tem Sullivan stated their support for SCA 15 and ACA 22, citing other examples of perceived eminent domain abuses.

Councilmember Bohr spoke regarding fair market value paid to property owners.

Mayor Hardy stated her reasons for opposing SCA 15 and ACA 22, including her opinion that the legislation is too restrictive.

A motion was made by Hansen, second Green to SUPPORT SCA 15 (McClintock & Florez) as amended on 8/23/05 and ACA 22 (La Malfa) as introduced – Restricting local governments’ use of eminent domain. The motion carried by the following roll call vote:

AYES: Hansen, Coerper, Sullivan, Green, Cook

NOES: Hardy, Bohr

ABSENT: None”

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Redevelopment of Under-performing Shopping Centers, June 2007

In January 2007, council member Hansen brought forth an H item directing staff to prepare an inventory of under-performing shopping centers for possible inclusion into an expanded Merged Redevelopment Area. This was approved by a vote of 7-0.

At a June 2007 study session on the subject, staff was directed by council to proceed without considering the use of eminent domain.

Proposition 99, June 3, 2008

On June 3, 2008, California voters passed Proposition 99 ([http://ballotpedia.org/wiki/index.php/California_Proposition_99_\(2008\)](http://ballotpedia.org/wiki/index.php/California_Proposition_99_(2008))) with 62% of the vote to prohibit the use of eminent domain for acquiring an owner-occupied residence for the purpose of conveying it to a private person. This effectively prohibited Kelo-style eminent domain, but only for owner-occupied residences.

Critics of this proposition rightfully complained that renters and business owners would still be unprotected from Kelo-style eminent domain.

Redevelopment of Under-performing Shopping Centers, March 2009

A preliminary survey of “blighted” shopping centers was presented at the March 2, 2009 city council study session. There was again discussion of eminent domain, but according to the minutes, “Councilmembers provided support to proceed, with the option to discuss inclusion of eminent domain authority later in the process”.

So it appears the council has backed off slightly on their commitment to avoid using eminent domain for this plan.

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Eminent Domain and Other Charter Cities

Several charter cities contain charter provisions to prohibit Kelo-style eminent domain; see References below for a partial list. Note that most of these restrictions were implemented in the year after the Kelo decision. The Anaheim measure passed with 80.3% of the vote, and the Newport Beach measure passed with 76.4% of the vote. It is clear that restricting this type of eminent domain is wildly popular with the voters.

The Anaheim and Newport measures share much common language. However, an OC Register news article (<http://www.ocregister.com/news/law-43862-measure-newport.html>) points out several flaws in the Newport measure, and concludes that the Anaheim measure is the stronger of the two.

Huntington Beach Charter Proposal

I propose that the Huntington Beach charter be amended with an Anaheim-style restriction on eminent domain, but ***without*** the mitigation exception clause. I feel there is sufficient wiggle-room in that clause to allow for gaming the system, and so an amendment without such a clause will offer stronger protections against abuse.

References:

Anaheim - November 7, 2006 city council measure

From http://www.anaheim.net/docs_agend/charter.pdf:

Section 402. LIMITATIONS ON USE OF EMINENT DOMAIN.

Neither the City of Anaheim nor any City-affiliated agency may exercise the power of eminent domain to acquire any property from any private owner thereof, without such owner's consent, when the purpose of the acquisition is the intended conveyance of the property so acquired to any other private party, for the conduct of any for-profit commercial activity or for-profit residential development, sales or

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leasing. Nothing contained in this section shall be deemed to prohibit acquisitions of property interests by eminent domain for the purpose of either (i) conveying such acquired interests to the owner of other property affected by a public acquisition of property in order to mitigate impacts of the acquisition or the project to be constructed on such other property, or (ii) the development of any facilities to be operated by the City or any facilities of which the City is or shall be an owner.

As used in this section, the following terms shall have the following ascribed meanings:

“Owner” means the owner of the fee title interest in the property to be acquired, as shown on the last equalized assessment roll, or other more current proof of vesting the City may have.

“Property” shall mean any interest in real or personal property otherwise subject to acquisition through the use of eminent domain.

“City-affiliated agency” shall mean the Anaheim Redevelopment Agency, Anaheim Housing Authority, and any other entity possessing the power of eminent domain the governing board of which is solely composed of, or is solely appointed by, the members of the City Council of the City of Anaheim. (Added November 7, 2006, filed by the Secretary of State February 13, 2007.)

Chula Vista – June 6, 2006 citizen initiative

From

http://www.chulavistaca.gov/City_Services/Administrative_Services/City_Clerk/PDFs/CVCharter.pdf:

Sec. 305.5 Limitations on Powers of Eminent Domain

Eminent domain is not to be used to further private economic development. The City of Chula Vista shall not initiate or participate in any proceedings, or take any action to condemn private property for the purpose of making such property available for private development, nor shall the City participate, directly or indirectly, in such takings. “Participation” means contributing, lending, providing, pledging, or foregoing, any funds, property, credit, in-kind services, or incurring

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any debt or lease obligation, or providing any other thing of value to any agency, organization, or project. Notwithstanding these prohibitions, the City of Chula Vista may participate in proceedings to condemn private property for the purpose of making such property available for private development if such participation is approved by a majority of the voters in the City.

Sec. 305.6 Minimum Public Use Period

Property acquired by the City of Chula Vista through the use of eminent domain after the effective date of this charter amendment must be held or used for a public use by the City for a minimum ten year period prior to sale, lease, transfer or other disposition by the City.

Monterey – predates Kelo?

From <http://www.codepublishing.com/ca/Monterey/html/MontereyCH.html#2.7>:

Sec. 2.7 Voter Approval Required for Eminent Domain Actions to Acquire Property for Re-Sale in Redevelopment Projects.

In any Redevelopment Project adopted or substantially amended after May 1, 1983, neither the City nor Redevelopment Agency shall by eminent domain proceedings acquire property within a Redevelopment Project for the purpose of re-sale for private redevelopment without first submitting to and receiving the approval of the electorate.

This section shall not prohibit either the City or Redevelopment Agency from acquiring property by eminent domain proceedings for any other public purpose nor shall it prohibit either the City or Agency from acquiring property within a Redevelopment Project from a willing seller for any purpose.

The proposal to acquire property within a Redevelopment Project for re-sale to private redevelopers shall be placed before the electorate at either a general election or special election called for that purpose.

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Newport Beach – November 7, 2006 city council measure

From

<http://www.codepublishing.com/CA/NewportBeach/html/NewportBeachCH.html#04.424>:

Section 424. Limitations on Use of Eminent Domain.

The City of Newport Beach and/or any City-Affiliated Agency shall not exercise the power of eminent domain to acquire any property from the owner of the property, without the owner's consent, for the sole purpose of transferring the property to another person to further private economic development.

As used in this section of the Charter, the following terms shall have the following ascribed meanings:

“Owner” means the owner of the fee title interest in the property to be acquired, as shown on the last equalized assessment roll, or other more current proof of vesting the City may have.

“Property” shall mean any interest in real or personal property otherwise subject to acquisition through the use of eminent domain.

“City-Affiliated Agency” shall mean the City of Newport Beach and/or any other entity possessing the power of eminent domain, the governing board of which is solely composed of, or is solely appointed by, the members of the City Council of the City of Newport Beach. (Added by amendment effective January 12, 2007)

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MEETING DATE(S): 01/15/2010

SUBMITTED TO: HB Charter Review Commission

SUBMITTED BY: Mark D. Bixby, Charter Review Commissioner *MDB*

SUBJECT: Implement Monterey-style Neighborhood Improvement Program (NIP) to allow residential neighborhoods to share the benefits of tourist-oriented development

Statement of Issue: Monterey and Huntington Beach both share a common history of being transformed from sleepy coastal towns into major tourist destinations in relatively short periods of time. In addition to bringing in money, tourism also brings negative impacts which reduce residential quality of life. Monterey's solution to restoring balance between tourism and the residential neighborhoods was to implement a Neighborhood Improvement Program that dedicates a portion of the Transient Occupancy Tax (TOT) to funding neighborhood capital improvements selected by residents appointed to a Neighborhood Improvement Program Committee. I propose a similar solution for Huntington Beach.

Recommended Action: Motion to:

Amend Huntington Beach charter to create a new section as follows:

- a) Purpose: The purpose of the Neighborhood and Community Improvement Program is to insure that a minimum portion of the City's annual budget is expended to improve the residential neighborhoods of the City and to provide for capital projects of community-wide benefit.
- b) Capital Projects Defined: Capital Projects include, but are not limited to, streets, storm drains, sewers, sidewalks, lighting, traffic control devices, landscaping and beautification, parks, recreational facilities and other public buildings. Capital Projects do not include ordinary services.
- c) Annual Budget: As part of the annual budget, the City Council shall appropriate at least ten percent (10%) of the Transient Occupancy Tax estimated to be collected during the fiscal year to be expended on

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Neighborhood and Community Improvements. If the Council determines that there are insufficient funds available to provide for the ordinary and necessary services in any budget year, they may, by an affirmative vote of five (5) members of the City Council, reduce the amount to be appropriated for Neighborhood and Community Improvements.

- d) Neighborhood Improvement Program Committee: The City Council shall appoint at least one (1) resident from each residential neighborhood to the Neighborhood Improvement Program Committee. The Committee shall recommend a list of capital improvements desired to be accomplished in each neighborhood. Recommendations may include multi-year projects and funding.
- e) Council Action: From the recommendations of the Neighborhood Improvement Program Committee the Council shall include a Neighborhood Improvement Program in the annual budget. The determination of the projects, priorities and expenditures shall be within the sound discretion of the City Council.

Analysis:

Please read pages 4 and 5 of the attached Monterey NIP manual (Section II A, Program History) to understand the origins of the program. The program was launched in 1985 and after several years of implementation it was enshrined as a charter amendment in 1988.

I propose the same program for Huntington Beach. My recommended action above copies Monterey charter section 6.6 verbatim with the addition of the following modifications:

- Percentage of the TOT is set at 10% to symbolically match the 10% of TOT currently used to fund the HB Marketing and Visitors Bureau.
- In Monterey, it takes a supermajority vote of a least 4 out of their 5 council members to reduce the TOT appropriation. Given that Huntington Beach has 7 council members, I have modified the supermajority vote requirement to be at least 5 council members.

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The adopted 2009/2010 HB budget estimates TOT for the current fiscal year at \$5.4 million dollars. Thus if an HB NIP were implemented today, the appropriation would be a little over half a million dollars.

Presumably the TOT that currently enters the city general fund does fund residential neighborhood improvements, but due to the general nature of the general fund, it is impossible to point this signal or that park and say “that project was built thanks to tourist dollars”. A TOT-funded NIP would create direct visibility for the residents of the benefits that tourists can provide.

The recent and ongoing bitter debate about the new Downtown Specific Plan has exposed deep fault lines between the tourist-dependent sectors of our local economy and the residents who have to put up with the negative impacts of the tourists. An HB NIP could go a long way towards ameliorating this division by giving the residents some direct say in how tourist dollars will be spent.

Note that this proposal does not raise taxes, and that the city council can reduce NIP appropriations during tough economic times. The city council also retains final discretion on the projects to be funded.

I realize that this is a non-trivial proposal. But I consider it to be a valuable, innovative idea, and I urge the commission to give it thoughtful consideration.

References:

- Monterey Neighborhood Improvement Program web page - <http://www.monterey.org/planningengineering/nip/>
- Monterey charter section 6.6 - <http://www.codepublishing.com/ca/Monterey/html/MontereyCH.html#6.6>

Attachment(s):

Monterey Neighborhood Improvement Program web page
Monterey Neighborhood Improvement Program manual

PLANNING & ENGINEERING

NIP

Neighborhood Improvement Program

What is the NIP?

Established in 1985, the Neighborhood Improvement Program (NIP) directs tourist-generated dollars directly back into the City's residential neighborhoods. Under a Charter Amendment, at least 16 percent of the money collected through hotel taxes (Transient Occupancy Tax) must be spent on neighborhood and community improvements. Each fiscal year, a [committee](#) consisting of residents considers all submitted projects and recommends which projects should be funded. Several community wide [meetings](#) are held and finally voted on by the NIP committee.

The program begins each year in the fall with the mailing of the [City Focus newsletter](#) to all residents of Monterey. In the newsletter, there is an NIP Nomination Form for residents to propose neighborhood or citywide improvements. These forms are mailed back to the Construction Management office who collects and sorts all the proposed projects. All projects are cost estimated and totaled.

What is a Project?

A NIP project is any public improvement (not on private property) that improves streets, storm drains, sewers, sidewalks, walkways, lighting, traffic control devices, landscaping and beautification, parks, recreational facilities and other public building improvements. The picture on this page shows a retaining wall added to a corner in the Fisherman's Flats neighborhood.

What happens to projects that are submitted?

All nomination cards are sorted by type of improvement and neighborhood.

Valid project submissions are cost estimated and voted on by the NIP Committee, composed of residents. In fiscal year 2008-09, 38 [NIP projects](#) were approved. So look around, see what needs improving and submit a project during the project cycle, see the project submittal form below.

Voting on proposed projects usually occurs in April. NIP Committee recommendations are then forwarded to the City Council for approval.

Community members are encouraged to propose projects each winter. The deadline to enter submissions is usually the second Friday each February. [Click here for a NIP Project Nomination Form.](#)

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580 Pacific St., Room 7
Monterey, CA 93940
831.646.3921
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[news & updates](#)

[NIP Projects Approved FY 2009/10](#)

[quick links](#)

[NIP Committee](#)

[Members](#)

[Meetings & Schedule](#)

[Agendas & Minutes](#)

[Video archives from past meetings](#)

[Project Nomination Form](#)

[PDF to complete & submit online](#) 

[PDF to print and send in](#) 

[Procedures Manual](#)

[Projects](#)



Who coordinates the program?

The Planning, Engineering & Environmental Compliance Division (PEEC) defines the scope of NIP construction projects, giving feedback on unusual projects and designing projects once they are approved by the City Council, where they then go to the Capital Projects Division for implementation. For more information contact the Engineering Office of PEEC at 831.646.3921, or reeves@ci.monterey.ca.us.

[NIP Main Page](#) | [NIP Form](#) | [NIP Projects](#) | [NIP Meeting Schedule](#)
[Planning & Engineering Division](#) | [Capital Projects Division](#) | [Boards & Commissions](#)
[PLANS & PUBLIC WORKS HOME](#)

[City of Monterey](#)

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NEIGHBORHOOD IMPROVEMENT PROGRAM



POLICIES AND PROCEDURES MANUAL

NEIGHBORHOOD IMPROVEMENT PROGRAM

POLICIES AND PROCEDURES MANUAL

COUNCIL APPROVED EDITION, February 2009

CITY OF MONTEREY

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I. PURPOSE OF THIS MANUAL

The purpose of this manual is to provide the background, policies and procedures of Monterey's innovative Neighborhood Improvement Program. Publication of this document will provide the members of the Neighborhood Improvement Program Committee ("NIP Committee"), as well as all citizens interested in the Neighborhood Improvement Program, with a set of guidelines in order to understand the functions and rules under which the Neighborhood Improvement Program is planned and implemented throughout each fiscal year.

Like any policy and procedures manual, it is a "living document." This means that the document can be revised, altered, or amended at any time upon recommendation of the NIP Committee. All such alterations/amendments will be by affirmative minute action of the Monterey City Council.

II. BACKGROUND AND INTENT OF THE PROGRAM

- A. Program History. For many years, the City of Monterey, like most cities in the State of California, did not have a very large discretionary income. While being one of the most beautiful as well as historical locations in the Western United States, Monterey was a working person's city. This was illustrated by the sardine canneries, which operated from the turn of the century through the 1950's.

While Monterey became a tourist destination in 1879 with the establishment of the Hotel Del Monte, tourism did not cause the city government to thrive. In fact, for many years, tourism was in direct conflict with the flourishing fishing/cannery industry. Operating canneries did not provide an enticing backdrop until they were depicted by John Steinbeck and later turned into the hostelrys, shops and focal points, which they are today. Monterey was a basic service city that catered to local businesses while providing minimal services to residents.

With the construction of the Monterey marina in the early 1960's, Monterey became a tourist destination in its own right. However, the California Coastal Act of 1972 limited the supply of coastal facilities for tourists throughout the 1970's, creating a pent-up demand for construction in the City.

From 1981 through 1985, various elements of Monterey's local coastal land-use plans were adopted, breaking the logjam of tourist-oriented development. As a result, Monterey's tourist industry experienced explosive growth during that period.

We in Monterey experienced a tremendous influx of tourist dollars as well as tourists because of the following factors: (1) the State of California

allows local governments to charge a transient occupancy tax on the gross receipts of hotel and motel rooms; (2) the number of such rooms in Monterey doubled from 2500 in 1981 to almost 5000 in 1985; and (3) the occupancy rates for these rooms is quite high.

This situation led to a counter-reaction. Many felt that leaving this fragile environment to the action of the free market could destroy the very reason for the market's growth in the first place. Many citizens felt that the City of Monterey had to preserve what was so appealing about it, now.

By 1984 this situation reached a climax. The opening of the Monterey Bay Aquarium in October of that year created monumental traffic and parking problems, which no one had been able to predict. Leading a City Council dedicated to preserving the uniqueness of Monterey, then-Mayor Clyde Roberson recommended creating a system that would funnel funds from revenues created by tourism directly into residential neighborhoods while searching for ways to deal with tourism impacts. He hoped that these funds could meet significant and long-standing needs that existed due to the lack of money in the City treasury. This would deal with one side of the problem while the physical impacts of the growth in tourism were being reevaluated.

Eventually the transient-occupancy tax was raised from 8% to 10%, creating an additional \$2 million per year. (This occurred after an advisory vote was taken in the election of May 1985.) This advisory ballot measure was approved by a two-thirds majority of the voters. (Note: the exact ballot language follows Section B. Charter Amendment, on page 7. Ballot arguments for and against appear in Appendix I attached hereto.)

The interest in and approval of this concept as evidenced by this vote, was the underpinning of our Neighborhood Improvement Program funding.

To carry out the program, the City Council authorized the formation of a Neighborhood Improvement Program Committee. This NIP Committee was comprised of the various residential neighborhood association presidents or their representatives and was assisted by a City staff member. This group first met in early 1986. At that time, more than \$2 million had been set aside for the program. The NIP Committee worked out some rough policies and procedures and commenced constructing a sophisticated tool for improving the quality of life in residential neighborhoods. That tool is Monterey's Neighborhood Improvement Program.

The program has grown and become more formal and complicated over the years. This manual is reflective of this maturity.

- B. Charter Amendment. In the general election of November 8, 1988, Measure B was approved by voters of the City of Monterey. This measure was an amendment to the Monterey City Charter and incorporates the Neighborhood Improvement Program into it.

The title of the measure was "Monterey City Charter Amendment Neighborhood and Community Projects Program Measure B." The body of the measure was as follows: "Shall Section 6.16 entitled, Neighborhood Improvement and Community Projects Program, be added to the Monterey City Charter to provide that at least 16% of the annual Transient Occupancy Tax revenue be budgeted for capital projects to improve the residential neighborhoods or projects of community-wide benefit, provided that the City Council may, by a four-fifths vote, reduce said budget below 16%? The Council shall select the specific projects from recommendations of a Neighborhood Improvement Program Committee composed of at least one representative from each residential neighborhood. The Committee shall be appointed by the City Council."


E

OFFICIAL BALLOT

CONSOLIDATED GENERAL ELECTION

MONTEREY COUNTY NOVEMBER 8, 1988

This ballot stub shall be torn off by precinct board member and handed to the voter.

MEASURES SUBMITTED TO VOTE OF VOTERS					
CITY					
CITY OF MONTEREY					
MONTEREY CITY CHARTER AMENDMENT NEIGHBORHOOD AND COMMUNITY PROJECTS PROGRAM MEASURE B					
<p>B Shall Section 6.16 entitled "Neighborhood Improvement and Community Projects Program" be added to the Monterey City Charter to provide that at least 16% of the annual Transient Occupancy Tax revenue be budgeted for capital projects to improve the residential neighborhoods or projects of community wide benefit, provided, that the City Council may, by a four-fifths vote, reduce said budget below 16%? The Council shall select the specific projects from recommendations of a Neighborhood Improvement Program Committee composed of at least one representative from each residential neighborhood. The Committee shall be appointed by the City Council.</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">YES</td> <td style="width: 20px; text-align: center;">-</td> </tr> <tr> <td style="padding: 2px;">NO</td> <td style="width: 20px; text-align: center;">-</td> </tr> </table>	YES	-	NO	-
YES	-				
NO	-				

This amendment was adopted by a wide majority of voters. The resultant codification of the measure, and what currently charters the Neighborhood Improvement Program Committee and the Neighborhood Improvement Program in the Monterey City Charter is as follows:

Section 6.16 Neighborhood and Community Improvement Program.

- a) Purpose: The purpose of the Neighborhood and Community Improvement Program is to insure that a minimum portion of the City's annual budget is expended to improve the residential neighborhoods of the City and to provide for capital projects of community-wide benefit.

b) Capital Projects Defined: Capital projects include, but are not limited to, streets, storm drains, sewers, sidewalks, lighting, traffic control devices, landscaping and beautification, parks, recreational facilities and other public buildings. Capital projects do not include ordinary services.

c) Annual Budget: As part of the annual budget, the City Council shall appropriate at least 16% of the Transient Occupancy Tax estimated to be collected during the fiscal year to be expended on neighborhood and community improvements. If the City Council determines that there are insufficient funds available to provide for the ordinary and necessary services in any budget year, they may, by an affirmative vote of four (4) members of the City Council, reduce the amount to be appropriated for neighborhood and community improvements.

d) Neighborhood Improvement Program Committee: The City Council shall appoint at least one resident from each residential neighborhood to the Neighborhood Improvement Program Committee. The Committee shall recommend a list of capital improvements desired to be accomplished in each neighborhood. Recommendations may include multi-year projects and funding.

e) Council Action: From the recommendations of the Neighborhood Improvement Program Committee, the City Council shall include a Neighborhood Improvement Program in the annual budget. The determination of the projects, priorities, and expenditures shall be within the sound discretion of the City Council.

"Neighborhood and Community Improvement Program" and "Neighborhood and Community Improvement Committee" has been shortened by usage and history to Neighborhood Improvement Program and Neighborhood Improvement Program Committee. The Charter Amendment indicates that community-wide and neighborhood projects can be nominated and recommended to the City Council for approval in each fiscal year's program.

C. What is a Neighborhood/Community-wide Improvement?
As indicated in the Charter excerpt above, a neighborhood/community-wide improvement must be a capital project which has a public benefit. Section 6.16.b contains a description of the types of projects envisioned in the program. The program provides for capital projects only and not for the burden of the maintenance and operations costs those projects impose. For example, under the Charter, funds could not be used for police services to a particular neighborhood nor could they be used for park maintenance or beach cleaning. The City Council has, however, accepted the reforestation/landscaping/tree planting (but not maintenance) of City greenbelts and open spaces as capital projects. This was confirmed by minute motion at a City Council meeting.

D. Neighborhood Improvement Program Committee Formation.
The Charter specifies the composition and functions of the Neighborhood Improvement Program Committee. The NIP Committee itself will be formed under the following rule:

Prior to January of each year, the neighborhood associations will submit the names of their Presidents, representatives, and/or designated alternates to the Neighborhood Improvement Program Committee designated staff coordinator ("NIP Coordinator"). The NIP Coordinator will forward these recommendations to the City Council for their recognition and approval. If the City Council wishes to reject any of the names on the list, the NIP Committee recommends that the Council not substitute names but rather request other names from the applicable neighborhood. The City Council shall approve any change of NIP Committee members during the calendar year. After approval, new representatives and alternates must file all applicable forms with the City Clerk within 10 days of their first meeting. The list of all NIP Committee members and their phone numbers will be distributed to the balance of the Committee.

III. PROGRAM FUNDING

A. Transient Occupancy Tax (TOT). The Charter indicates that a "minimum" of 16% of the annually estimated TOT will be allocated to the "Neighborhood and Community Improvement Program."

These funds are transferred to a Neighborhood Improvement Fund which

is a separate fund of the City and administered by the Finance Director. While not so stated in the Charter, accrued interest on the balance of these funds, as indicated by the average percent return on investments accrued through the City's overall investment portfolio, may be credited to the fund as well.

- B. Neighborhood Base Allocation. The Neighborhood Improvement Fund will have an element called the "Neighborhood Base Allocation." This will be a separate revenue account for each neighborhood. The neighborhood base allocation will consist of an amount equal to \$7.50 per capita per year. These neighborhood base allocations will accrue interest in the same manner as indicated above. The formula for the base allocation can be changed from year to year by the City Council upon a recommendation of the Neighborhood Improvement Committee ("NIP Committee"). Neighborhoods may use their base allocation to provide funding for any Neighborhood Improvement project. The NIP Committee shall vote on each project separately that is proposed for full funding from Neighborhood Base Allocation.
- C. Base Allocation Carryover. The Neighborhood Base Allocation for any neighborhood that has an active neighborhood association may be carried over for no more than two years unless approved by the NIP Committee. Base allocations may not accumulate for unrepresented areas.
- D. Per Capita Formula. The population for each neighborhood will be calculated by the Monterey Community Development Department. United States Census figures will be used. Major additions/deletions to a neighborhood, such as new subdivision/apartments that greatly affect these population figures, will cause a population adjustment. Any neighborhood can submit proposed revisions in their population figures to the NIP Committee for consideration and concurrence between census periods.
- E. Contingency Fund. Unanticipated costs within the original scope of the project (i.e. costs that were unknown when project cost was estimated) are covered by the "Contingency Fund." The NIP Committee will consider the creation and maintenance of a Contingency Fund annually. The goal is 10% of the budget, but the NIP Committee has the right to adjust this amount as applicable each year. City staff is allowed to use the Contingency Fund for individual project construction cost estimate overruns of a maximum of 10% and land acquisition cost estimate overruns of a maximum of 5%.

If an individual project cost exceeds these contingency authorizations, staff must get authority from the NIP Committee and the City Council to commence work. The NIP Committee can set a dollar cap on individual

land acquisitions exclusive of the 5% contingency. If it does so, the motion approving the land acquisition will indicate the same.

- F. Preliminary Project Development Fund. Costs associated with NIP project development at the preliminary estimate phase prior to account numbers being assigned. Preliminary Project Development may include, but is not limited to, cost of preparing project estimates, neighborhood consensus meetings, field visits, budget set-up, general staff support and other project related expenses. Overhead or Administrative costs not directly attributable to submitted NIP projects are not charged to the Preliminary Project Development fund.

The NIP Coordinator shall submit to the NIP Committee an amount for the Preliminary Project Development Fund based on the current balance in the fund, the prior year's activities and anticipated costs for the next year.

The NIP Committee shall discuss and recommend an amount for the Preliminary Project Development Fund that becomes part of the NIP budget that is recommended to the City Council.

Any increase to the recommended or approved Preliminary Project Development Fund amount shall be brought back to the NIP Committee for approval prior to incurring those expenses.

- G. Projects Charged to the Fund. All projects charged to the Neighborhood Improvement Fund or any sub-element of it (Neighborhood Base Allocation) must have the prior approval of the NIP Committee. Proposed changes to project cost estimates previously approved by NIP Committee, Contingency Fund, or Preliminary Project Development Fund are subject to this requirement.

IV. NEIGHBORHOOD IMPROVEMENT PROGRAM COMMITTEE

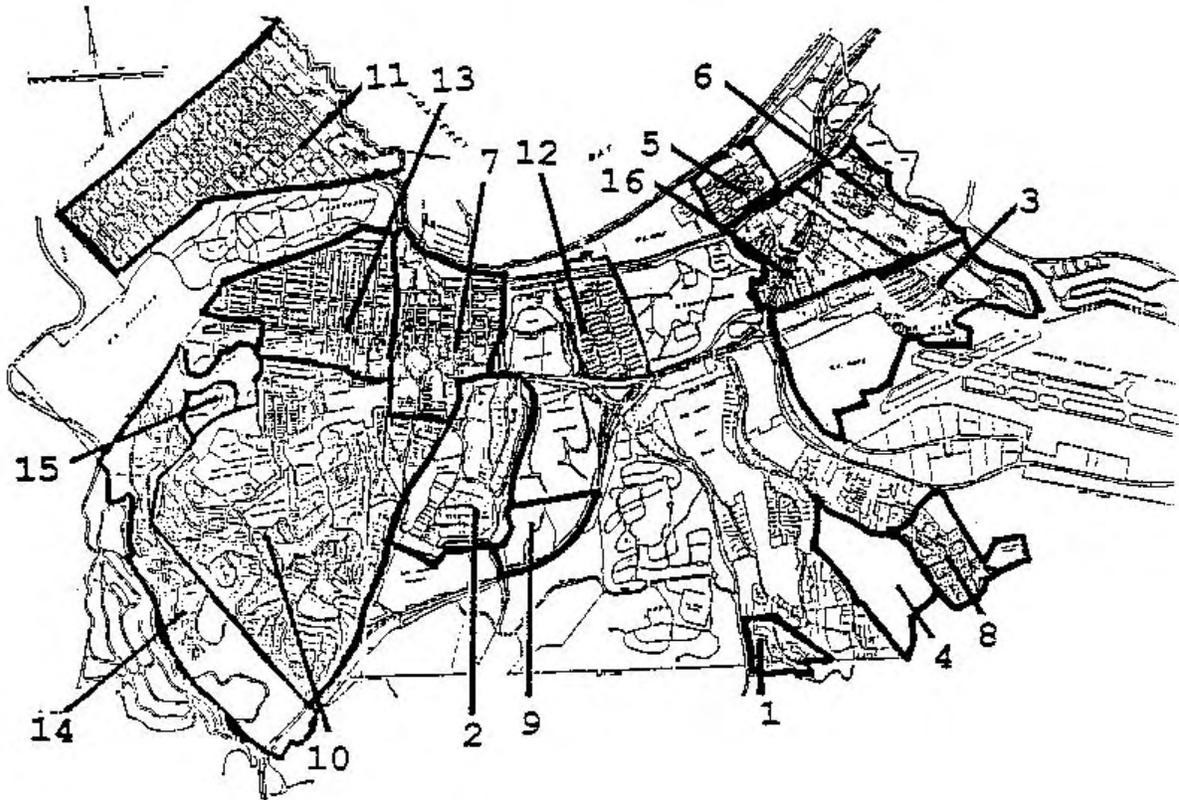
- A. What is a Neighborhood? Webster defines a neighborhood as "the people living near one another" or "a section lived in by neighbors and usually having distinguishing characteristics." **For NIP purposes, an area must be eligible for NIP-funded projects within its boundaries to qualify as a neighborhood.** Currently, Monterey has sixteen (16) distinctive neighborhoods. These neighborhoods are:

	<u>NEIGHBORHOOD</u>	<u>POPULATION - 2000</u>
1	Aguajito Oaks	102
2	Alta Mesa	337
3	Casanova-Oak Knoll	1852
4	Deer Flats	540
5	Del Monte Beach	523
6	Del Monte Grove-Laguna Grande	1276
7	Downtown	158
8	Fisherman's Flats	481
9	Glenwood	1246
10	Monterey Vista	4116
11	New Monterey	5320
12	Oak Grove	1658
13	Old Town	3220
14	Skyline Forest	786
15	Skyline Ridge Estates	166
16	Villa Del Monte	911

* Revised FY00/01

A map showing the above neighborhoods follows on the next page.

CITY OF MONTEREY NEIGHBORHOODS



- | | |
|----------------------------------|---------------------|
| 1. Aquajito Oaks | 9. Glenwood |
| 2. Alta Mesa | 10. Monterey Vista |
| 3. Casanova-Oak Knoll | 11. New Monterey |
| 4. Deer Flats | 12. Oak Grove |
| 5. Del Monte Beach | 13. Old Town |
| 6. Del Monte Grove-Laguna Grande | 14. Skyline Forest |
| 7. Downtown | 15. Skyline Ridge |
| 8. Fisherman's Flats | 16. Villa Del Monte |

With the exception of Downtown and Glenwood, these neighborhoods all have some form of neighborhood or homeowners association.

B. Association Registration. Each calendar year all neighborhoods are required to have on file in the City Clerk's office a current copy of neighborhood association bylaws and a list of the officers selected for that year. By the third Friday of September, each neighborhood association must submit a letter signed by an officer of the association board to the NIP Coordinator with the names of proposed representatives and alternates and the date of the General Meeting or Board Meeting when the nominations were formally acted upon by the Association. Nominees may be interviewed by a subcommittee of the City Council prior to formal City Council approval of the NIP Committee and alternates in December. New and returning representatives and alternates must have Conflict of Interest Forms 700 on file with the City Clerk prior to participation on the NIP Committee. Completed forms and documentation are maintained by the City Clerk and by the NIP Coordinator of the Neighborhood Improvement Program.

C. Role of the Neighborhood Improvement Program Committee. The role of the Neighborhood Improvement Program Committee is to "recommend a list of capital improvements desired to be accomplished in each neighborhood" (MCC 6.16d) to the City Council. The role of the NIP Committee is advisory in nature. The City Council is responsible for all final decisions.

Each member of the NIP Committee represents the interests of all residents and property owners within their neighborhood. They do not represent their neighborhood association.

D. Role of the NIP Coordinator, Spokesperson and Alternates. The NIP Committee has no Chairperson. Meetings are conducted by the designated Monterey City NIP Coordinator, who is appointed by the Monterey City Manager. The NIP Coordinator acts as a neutral facilitator and not a project advocate.

The NIP Spokesperson and alternates are selected by the NIP Committee by vote at the January Kick-off Meeting for a one-year term. The role of Spokesperson/Alternate is to attend City Commission and City Council meetings, the Mayor's Lunch, and any related City gatherings to clarify NIP Committee actions and to raise policy issues as directed by majority vote of the NIP Committee.

E. Rules of Proceeding/Changes. Roberts Rules of Order will be used at all NIP Committee proceedings.

The NIP Coordinator ensures that minutes are taken at all meetings and that a written record is maintained in City archives. Additionally, each

meeting is taped and the tapes stored for future reference (at least two years).

Policy Manual Subcommittee. Two or more members are selected by the NIP Committee by vote at the January Kick-off Meeting for a one-year term. The Policy Manual Subcommittee is responsible for drafting revisions and additions to the NIP Policies and Procedures Manual as directed by the NIP Committee.

Possible changes to the NIP Policy Manual are discussed by the NIP Committee after the NIP budget has been adopted. Recommendations to add or change any rule or procedure contained in this manual may be noted at NIP meetings or submitted in writing.

All revisions and additions are discussed and voted on by the NIP Committee as a recommendation to City Council for adoption. NIP-Committee-approved revisions and additions are taken to the City Council NIP Subcommittee for discussion prior to being taken to full City Council.

- F. Special Meetings/Agenda Items. Any Representative of the NIP Committee can call a special meeting by sending a written request to the NIP Coordinator. The NIP Coordinator will do everything possible to ensure an appropriate date is scheduled to occur within fourteen (14) days of receiving the request and then inform the membership, in writing, of the time, date, place and subject of the meeting. Any NIP Committee member can place an item on the agenda by communicating with the NIP Coordinator at least two weeks prior to any meeting. Requests for discussion of general topics, other than change of scope, deappropriation or opportunity buying, will be brought to the NIP Committee for approval to agendaize at a future meeting.

V. THE NEIGHBORHOOD IMPROVEMENT PROCESS

- A. Orientation Meeting. An orientation meeting shall be conducted within the first forty-five days of each calendar year. New representatives will be advised of the existence of Area Plans, Traffic Calming Studies and other relevant City documents and told that they may request copies. At that meeting, the NIP Committee will also adopt a proposed schedule for the annual program and conduct a mid-year review of previously approved projects and current 'cut-off' projects.
- B. Project Nomination. Nominations for projects may be made by individuals, organizations or City staff. Nominations may be submitted to neighborhood associations or directly to the NIP Coordinator. The proposer's name, address and/or telephone number must appear on the

nomination form for the project to be considered. The project nomination form includes a separate section for neighborhood comments. Use this space to note if the project is to be funded in phases. It is preferred that the name of an individual contact person be given on the Proposal Form, rather than an organization.

Forms: Nomination forms are prepared by staff and distributed at the orientation meeting. Additionally, nomination forms are made available to the general public through the City Focus newsletter; projects may be nominated throughout the year. Staff may prepare preliminary cost estimates on valid NIP projects throughout the year.

Submittal Deadline: The period for making project nominations closes in mid-February. Any project submitted after that time will be considered for the following year. The deadline for nomination of projects is published in local newspapers.

Consensus: NIP representatives are required to determine to what extent projects have support within their neighborhood. For projects in the public right-of-way, NIP representatives determine the extent of support from property-owners/residents whose properties are adjacent to or within 300 lineal feet of the physical changes proposed. Neighborhood Association recommendations are encouraged for projects of broader neighborhood impact (e.g. parks). Representatives record the extent of support and the geographic area surveyed, if applicable, on the nomination forms. Support documentation (phone logs, petitions, letters of support from adjacent owners/residents and/or affected owners/residents within 300 lineal feet of the project) shall be provided to the NIP Committee by the "Review of the Projects" meeting (April). For staff-nominated projects in unrepresented neighborhoods, staff shall confirm neighborhood support.

Traffic and Traffic-Related: Neighborhoods are urged to contact the City Traffic Engineering Division about proposed roadway configuration or direction changes at the earliest possible date. Traffic Committee and/or Planning Commission may need to review proposals. City Council shall approve proposed changes prior to being eligible for NIP funding. The review process may take several months.

A "Traffic Calming Study," conducted in accordance with the policies and procedures of the City of Monterey and the Traffic Division, shall be completed and the resulting "Neighborhood Traffic Calming Plan" shall be approved by City Council prior to any neighborhood traffic calming project being approved by the NIP Committee. A Traffic Calming Study studies traffic circulation within an identified area (an entire neighborhood or part thereof), allowing all owners and residents to work with a traffic consultant to develop a Neighborhood Traffic Calming Plan for that area. The goal of

the Traffic Calming Study and resulting Neighborhood Traffic Calming Plan is to increase safety and reduce speed within that area. NIP may fund a Traffic Calming Study and resulting Neighborhood Traffic Calming Plan. Only neighborhood traffic calming-related projects included in a Neighborhood Traffic Calming Plan, defined herein, can be funded by NIP.

For any traffic-related project, all properties that front onto the project and any properties within 300 lineal feet are the 'affected owners/residents.' A petition signed by a majority of "affected owners/residents" is required to show consensus of support. The petition format is available from the NIP Coordinator.

Staff will conduct an informational meeting to which all affected owners and residents are invited. That meeting will be held prior to the NIP vote in April. Once a conceptual design has been agreed upon by owners directly adjacent to the project, owners will be asked to sign the design.

Assessment Districts: Projects that require the formation of an assessment district, such as undergrounding utilities, are required to have a petition signed by a majority of the affected property owners, showing that they are willing to financially support the project. The petition format may be obtained from the NIP Coordinator.

Out of Jurisdiction Projects: When projects are proposed for property not within the jurisdiction of the City of Monterey or outside the city limits of Monterey, the person or entity submitting the project shall provide documentation as required below:

- a. If the property is owned by county, state, or federal governments, the submitter shall provide documentation of conceptual approval of the controlling jurisdiction as well as information stating that shared funding has been considered by said board.
- b. If the property is under the jurisdiction of an independent agency, such as the Monterey Peninsula Unified School District or Airport District, submitter shall provide documentation that the proposed project has received conceptual approval of the board of directors of said agency and joint funding has been considered by said board.

Prior to start of construction on projects described in the paragraph above, there must be executed a comprehensive Joint Use Agreement, Funding Agreement and/or Lease to protect the City's investment and ensure use of the completed project by Monterey City residents.

Projects on Private Property: Any capital improvement on privately owned property requires a dedicated public easement before funds can be expended.

NIP/Council Communication: Whether by joint session with NIP, by Council NIP subcommittee, or by staff, the City Council shall let the NIP Committee know of its project priorities to be undertaken during the upcoming budget cycle, if any. If the City Council has project priorities, the City Council's discussions and communication to the NIP Committee will take place not later than the second (2nd) City Council meeting in January and prior to the project submittal date in mid-February.

In March, the preliminary list of proposed projects is taken to the City Council for review. The City Council, at its discretion, may review the list and, by Council NIP subcommittee or by staff, provide the NIP Committee with an advisory list of projects designated as "City Council Priority Projects."

Responsibilities of the NIP Coordinator include but are not limited to:

- 1) ensure that NIP Committee members and alternates have completed all State-required paperwork (Form 700)
- 2) see that nominations are screened for duplication and consistency
- 3) ensure that each neighborhood representative receives a complete set of nominations for his/her neighborhood as soon as possible. This allows the neighborhood association the opportunity to gather public comment for prioritizing all projects proposed for their neighborhood.
- 4) facilitate and coordinate NIP meetings
- 5) coordinate development and execution of the NIP program.

- C. Preliminary Project Screening Meeting Soon after the close of the nomination period, staff sends copies of neighborhood project submittals to NIP Committee members for refinement. The NIP Committee then meets to weed out duplicates, projects already funded, proposals that are not capital projects, etc. Early revisions to project scope are noted. Proposals ordinarily funded by other City programs may be referred to those departments.

Responsibilities of Representatives:

- 1) transfer and clarify projects from City Focus newsletter cards onto Project Nomination Forms

- 2) clarify incomplete Project Nomination Forms

Cost estimates are based on the scope (the stated purpose or goal) of the project described on the Project Nomination Forms.

THE FORMS MUST BE COMPLETED AND PROJECTS FULLY DESCRIBED BY THE PRELIMINARY PROJECT SCREENING MEETING.

- D. Cost/Information Formulation by Staff. Staff computes preliminary cost estimates and reviews the physical feasibility of projects. Cost estimates are included in the complete set of nominations sent to each neighborhood association. Preliminary cost estimates are extremely important because they influence the voting for final prioritization.

Staff will contact the nominator(s) of projects if there are questions. In addition, as the cost estimate process proceeds, staff will gather as much information on each project as possible, including design, construction, and administrative overhead consistent with project requirements. A videotape showing each project will be prepared by staff.
- E. NIP Committee Meeting to Review Project Nominations. The NIP Committee meets at least once for the purpose of reviewing project nominations. At this meeting, the staff videotape is shown. If there are more than 120 projects nominated, the review will be done in two evenings. Each neighborhood representative may briefly discuss their neighborhood's projects, stating neighborhood priority, describing the degree of consensus for each project and base allocation information if known.
- F. Van Tour and Committee Discussion Meeting. The NIP Committee may decide by consensus to have a van tour of selected projects. It is strongly encouraged that a representative or alternate from each neighborhood participate. An evening session for NIP Committee discussion and clarification of project scope follows.
- G. Public Discussion Meeting. A meeting is dedicated for members of the public to address the NIP Committee concerning projects proposed for funding. The NIP Committee may choose to divide projects into two public discussion meetings if there are a large number of projects proposed for that year. It is advisable that Neighborhood Representatives tell the NIP Committee of their Neighborhood's voting priorities at this meeting.

H. Committee Meeting to Rank Projects and Prepare Recommendations for the City Council. This is the most important meeting of the NIP budget cycle. Individual neighborhood representatives can vote only if that representative or alternate (the one voting) attended the April Project Review meetings **or reviewed the video and tape-recorded proceedings of missed meetings.** The NIP Committee has approved the following check list as a guide for project ranking (This is not to be construed as priority order.)

- Project is consistent with City or neighborhood plans.
- Project has confirmed neighborhood support.
- Project is feasible and can be completed in a reasonable time.
- Project provides a health and safety benefit for residents.
- Project reduces potential property damage.
- Project promotes improvement in traffic/safety flow.
- Project addresses a documented neighborhood deficiency.
- Project completes or ties together an existing improvement.
- Degree of neighborhood improvement and beautification.
- Project promotes neighborhood self-help efforts.
- High benefit compared to cost.
- Water and energy conservation project.
- Project reduces operation and maintenance costs of capital assets.
- Neighborhood is willing to spend its base allocation on the project.
- Availability for public use.

To determine relative merit of traffic-related projects, NIP Committee members are urged to refer to the Staff Criteria for Traffic Related Projects.

The following procedures will be followed:

- a. All submitted projects will be considered in the voting process regardless of whether the representative from a given neighborhood is present.
- b. Each neighborhood representative indicates on the form, as well as in person, whether any part of a neighborhood's base allocation can be used toward the project.
- c. There are no proxy votes.
- d. Each registered neighborhood has one vote.
- e. Any change in the voting method shall be decided by a majority of the NIP Committee prior to the beginning of the next programming cycle.

- f. Members of the public remain seated during the voting process. The public is encouraged to comment upon any projects prior to voting.
- g. Only Staff counts the votes. Two Staff members check the tally.
- h. A record of the vote on each project is kept. It includes recording the vote count and neighborhoods voting to ensure a neighborhood has not inadvertently put two or more votes on one project.
- i. After the votes are all recorded, the neighborhood representatives retrieve their voting cards for the next round of votes. Voting continues until available funds are voted.
- j. The NIP Committee has the discretion to recommend additional unfunded “Cut-off” projects to City Council. As funding becomes available during the fiscal year, staff shall come back to the NIP Committee for approval before proceeding with “Cut-off” projects. City Council approval is also required. Any “Cut-off” projects not funded by the January kick-off meeting will be resubmitted by staff for consideration by the NIP Committee the following year.
- k. The NIP Program that is recommended for Council approval is comprised of the following:
 - a list of recommended projects that includes cost estimates for each project,
 - estimated cost of ongoing Operations & Maintenance where applicable,
 - Contingency Fund, and
 - Preliminary Project Development Fund.

Council may choose not to fund one or more projects. Any change to NIP recommended dollar amounts must go back to the NIP Committee for approval prior to adoption by the City Council.

NIP representatives are responsible for amending any of their neighborhood’s project nomination forms to reflect revisions to scope of project.

- l. Recommendations from the NIP Committee Prioritization Meeting.
The NIP Committee recommendations are presented by the NIP Coordinator to the City Council at the next appropriate Council meeting for comment/discussion. As part of the budget review process and in accordance with California State Law and the City Charter, the prioritized

list of recommended NIP projects is sent by the NIP Coordinator to the Planning Commission and Parks and Recreation Commission for conformity with the City's adopted General Plan, Area Plans, Parks Master Plan and other policy documents before being forwarded to the City Council. The NIP Coordinator incorporates the recommendations into the City proposed budget or budget amendment.

Throughout the budget review process, the NIP Spokesperson presents relevant information on the project list as a whole and on individual projects which require clarification. Details about a neighborhood project may also be provided by the neighborhood's NIP representative.

The NIP fiscal year begins no sooner than July 1 and only after the City Council acts on the final budget. The complete list of the NIP approved projects will be published in the City Focus or a local newspaper for review by the community.

J. Project Implementation/Construction.

All citizens should understand that the implementation of the projects approved by the City Council under the Neighborhood Improvement Program will occur in conjunction with the balance of the City's Capital Improvement Program (CIP). This will provide for economies of scale and is also the most efficient way to implement the NIP.

- Projects approved in one fiscal year should be completed by the conclusion of that year. This will not always be possible and, in fact, the City Charter Amendment allows for multi-year funding of projects.
- The City staff will use every opportunity to keep the NIP Committee as well as the citizens informed of construction progress.

Change of Scope: The NIP Committee shall meet and discuss requests to change the original intent of the scope, to significantly alter the project beyond its initial description, or to significantly increase the cost of an approved/funded project. Prior to that meeting, staff notifies the neighborhood representative who notifies affected neighborhood residents and original submitter, if possible.

- a. If the project is not feasible as originally approved, the NIP Committee will review the details and documentation with Staff.
- b. If neighborhood residents want the project scope changed, the neighborhood representative will discuss to what extent there is neighborhood consensus to revise the scope. No action will be taken unless the neighborhood representative or alternate is present for the meeting.
- c. If a citywide project is brought to the NIP Committee for change of scope, staff will discuss relevant details.

- d. If a petition signed by affected residents and property owners has been submitted, the petition will be provided to the NIP Committee. Any significant change of scope will be taken back to original supporters.
- e. If the proposed change of scope is significant enough, the NIP Committee may choose to deappropriate the project.
- f. The NIP Committee's vote may need to be forwarded as a recommendation to the City Council.

The NIP Committee may choose to put a deadline on a specific project, triggering follow-up NIP Committee review and action. City Staff may also bring back for review any project that has encountered unanticipated problems or extenuating circumstances that threaten to delay the project for an extended period of time.

Plaques or other modest signage that identifies Neighborhood Improvement Program funding for projects is desired where feasible.

- K. Schedule of Time Lines with City Budget Process.
The following schedule is a proposed time line for the Neighborhood Improvement Program. Please note that these are targeted time lines and general in nature.

NIP GENERAL ANNUAL SCHEDULE
TENTATIVE

The following general schedule is tentative. Each year the NIP Committee sets a specific schedule.

- 1. SEP 15 Representatives/Alternates Submitted. Names of neighborhood representatives and alternates are submitted to NIP Coordinator.
- 2. OCT Council NIP Subcommittee may interview nominees for representative and alternates
- 3. JAN 2
1st
Council Meeting Council Approval of Representatives and Alternates. Council NIP subcommittee recommends names of neighborhood representatives and alternates to City Council for approval.
- 4. JAN 15 Submittal of Form 700 to City Clerk's Office. In order to participate, new representatives and alternates must have turned in all required forms to City Clerk's office.

5. JAN 16 Council Discusses Budget Priorities Whether by joint session with NIP, by Council NIP subcommittee, or by staff, Council lets NIP know of priority projects being undertaken in the upcoming budget cycle.

6. JAN 22 Orientation Meeting. The NIP Committee holds an orientation each year for members and alternates. The schedule of NIP Meetings is adopted at this meeting. Status of projects is reviewed.

7. FEB 15 Project Nomination Deadline. Project nominations must be submitted to the City directly or through neighborhood associations by this date.

8. FEB 25 Preliminary Project Screening Meeting. Projects are reviewed and discussed between NIP Coordinator and NIP Committee to "weed out" projects that are not capital improvement projects or are duplicates, violate area or use plans, or are withdrawn by the project submitter.

9. MAR 15 Council Project Review Council receives the preliminary list of projects. Council comments are taken back to the NIP Committee.

10. MAR 31 Project Review Deadline. Projects nominated for funding have been reviewed by staff, neighborhood associations, Traffic Committee and Planning Commission (as appropriate) and the Parks and Recreation Commission (parks-related items only). Rough cost estimates have been formulated.

11. APR 15 NIP Committee Review Deadline. The NIP Committee will have met to review all projects by this date. A staff produced video and NIP representative presentations are included in the review. More than one meeting may be needed. Projects may be eliminated or reduced in scope at this time.

12. APR 22 Van Tour. A van tour is held to visit specific projects. A meeting following the van tour is held to discuss the projects. Answers to questions from the April 15th meeting are addressed by staff or NIP representatives as appropriate.

13. APR 24 Public Discussion. The NIP Committee hears comments from the public in an informal discussion format.
14. MAY 1 Project Selection Process. The NIP will rank order all projects and compose their final recommendation to the City Council.
15. MAY/JUNE Council Presentation. The NIP Committee recommendation is presented to the City Council along with comments from the Planning Commission and Parks and Recreation Commission as part of the budget process.

L. Deappropriation of Approved Projects. In the event that an approved project is not feasible or is no longer wanted, the following procedure shall be followed:

1. The NIP Committee will meet and discuss the project. Prior to that meeting, staff will notify the neighborhood representative who will notify affected neighborhood residents and the original submitter, if possible. If a citywide project, staff will notify the original submitter.
 - a. If the project is not feasible, the NIP Committee will review the details and documentation with Staff.
 - b. If a neighborhood project is no longer wanted, the neighborhood representative will discuss to what extent there is neighborhood consensus to deappropriate the funds. No deappropriation action will be taken if the neighborhood representative or alternate is absent from the meeting.
 - c. If a citywide project is not feasible or no longer wanted, staff will discuss the pertinent facts.
 - d. If a petition signed by “affected residents and property owners” has been submitted, the petition will be provided to the NIP Committee.
2. A vote of the NIP Committee is required to deappropriate funds. The End-of-Year Close-Out List of completed projects is not to include any deappropriated projects.
3. The NIP Committee's vote is to be forwarded as a recommendation to the City Council.
4. Funds deappropriated are transferred to the NIP Ending Balance

and neighborhood base allocation, if appropriate.

5. To reinstate a deappropriated project, a nomination form shall be resubmitted for consideration through the standard project nomination process.

VI. PROPERTY ACQUISITION PROCEDURES

- A. General. The acquisition of property for public use is complicated and time consuming. Timeliness, budget, the far-ranging effect on surrounding property owners, and intracommission/committee coordination and communication are all-important elements.
- B. Methods. There are two basic methods for property purchases under the Neighborhood Improvement Program. These are:
 1. Regular Cycle. Properties can be purchased under the regular rules of the NIP Committee as indicated above and in the same manner as for any other project. Additional steps are required, such as appraisal, preliminary title search and usually input from the Parks and Recreation Commission. Nevertheless a property could be nominated for purchase during the regular cycle of events.
 2. Opportunity Purchase. Due to the fast-moving real estate market in the City of Monterey, an NIP opportunity purchase is more likely than a regular cycle property purchase. In the past, the NIP Committee has set aside a large sum to be used for opportunity purchases throughout the year. If funds have been budgeted for opportunity purchases, this type of purchase should follow the procedure below.
 - a. An NIP Committee member submits a written nomination for a property purchase to the NIP Coordinator. The written nomination will indicate whatever the neighborhood representative knows about the property's zoning, related discussion in an area plan and/or the Parks Master Plan, and any other pertinent facts or planning issues. The submittal of the project will constitute a request for a Special Meeting as outlined above.
 - b. An NIP meeting will be scheduled by the NIP Coordinator within two weeks of the request. Simultaneously, the NIP Coordinator will forward copies of the nomination to the City Council and Parks and Recreation Commission for review and comment on their next Agendas. Parks & Recreation

Commission will review the proposed use and consider its conformity to the Parks Master Plan, City General Plan, and adopted area plans. Operational and maintenance costs are to be identified. It is desirable that the Parks & Recreation comments be available for the NIP meeting and City Council preliminary review, but the process should not be delayed for them.

- c. The NIP Coordinator will ask the City's real estate consultant to contact the owner or sales agent to determine the asking price and do a preliminary investigation into the ownership of the property, including easements and other conditional aspects that relate to it. The NIP Coordinator will review related zoning and planning issues, identifying any special considerations.
- d. The NIP Committee shall hold its Special Meeting and determine by vote whether staff is to proceed with the acquisition process.
- e. The City Council does a preliminary review of the NIP Committee's recommended purchase to be certain that the City is interested in owning the property. A negative vote stops the acquisition process.
- f. The Property/Housing Manager will obtain a letter of appraisal from the City's real estate consultant for the property.
- g. The NIP Committee's nomination, the letter of appraisal, and the Parks & Recreation Commission recommendation will be forwarded to the City Council for approval.
- h. If the City Council approves the purchase, the Property/Housing Manager will request that the real estate consultant begin negotiations for the property.
- i. The property will be purchased if the negotiations are successful and the City Council approves.
- j. The acquisition will be placed into the City-owned inventory and be utilized as directed by the City Council.

C. Time Model. A theoretical best time model of this approach is listed below:

1. August 27 (Thursday). NIP Committee member contacts the NIP Coordinator and recommends an opportunity purchase. As soon thereafter as possible:
 - a. NIP Coordinator will:
 - 1) Ask the real estate consultant to Contact sales agent or owner for asking price and other available information.
 - 2) Contact Planning Department for conformity to the City General Plan, adopted Area Plans and Zoning.
 - 3) Contact City Manager's Staff to insure item is placed on next City Council Agenda for preliminary review.
 - 4) Parks and Recreation Commission Staff to insure item is placed on next agenda for discussion/input.
 - 5) Arrange for video of site, time permitting.
 - 6) Set emergency NIP meeting date prior to City Council preliminary review.
 - b. Concurrently Neighborhood Association will:
 - 1) Prepare written proposal for use of parcel and forward to NIP Coordinator immediately. Identify any zoning/planning issues associated with this parcel.
 - 2) Prepare objective survey on the degree of support that exists for the purchase in the entire neighborhood and in the area immediately adjacent to the parcel and state whether the property is a part of the approved Neighborhood Plan.
2. September 1 (Tuesday). Parks and Recreation Commission will review the proposed use and consider its conformity to the Parks Master Plan, City General Plan, and adopted Area Plans. Operational and maintenance requirements of the proposal will be considered. Forward review and recommendation to City Council.
3. September 2 (Wednesday). NIP Committee holds emergency

meeting to discuss acquisition and prepare recommendation to the City Council.

4. September 15 (Tuesday). City Council does a preliminary review of the proposed purchase. If the City Council opposes this purchase, the acquisition process is halted.
5. September 16 (Wednesday). The NIP Coordinator notifies Property/Housing Manager to obtain a letter of appraisal from the City's real estate consultant.
6. October 6 (Tuesday). City Council considers the NIP recommendation, the letter of appraisal, and the Parks & Recreation Commission recommendation in deciding whether to purchase the property.
7. October 7 (Wednesday). Property/Housing Manager authorizes the City's real estate consultant to make an offer on the property.

D. Additional Comment.

All property acquisitions require some type of future cost to the City. An active park (such as a tot lot) or recreation center may require development costs and upkeep in addition to its acquisition costs. Open space will be maintained by the Parks Division. These additional "life-cycle" costs will be identified by the Parks and Recreation Commission and forwarded to the City Council for its consideration.

VII. FINAL COMMENT ON THE NEIGHBORHOOD IMPROVEMENT PROGRAM

The Neighborhood Improvement Program is an extremely innovative and substantive program and unique in its nature. There are very few cities which can afford to fund this kind of program anywhere in the United States. However, money is not the only unique aspect of our NIP. Requesting input from various citizen groups and neighborhood associations on matters of capital improvements, to the degree accomplished in this program, is also very unusual. We in the City of Monterey are extremely proud of this program and will work extremely hard to see that it is a continuing success.

APPENDIX 1

**MONTEREY CITY CHARTER AMENDMENT
NEIGHBORHOOD AND COMMUNITY PROJECTS PROGRAM
MEASURE B
(Full Text of Measure)**

Add Section 5.12 "Neighborhood Improvement and Community Projects" to Article 5 "Fiscal Administration" of the Monterey City Charter to read as follows:

"Section 5.12 Neighborhood Improvement and Community Projects Program.

a. Purpose: The purpose of the Neighborhood Improvement and Community Projects Program is to insure that a minimum portion of the City's annual budget is expended to improve the residential neighborhoods of the City and to provide for capital projects of community-wide benefit.

b. Capital Projects Defined: Capital Projects include, but are not limited to, streets, storm drains, sewers, sidewalks, lighting, traffic control devices, landscaping and beautification, parks, recreational facilities and other public buildings. Capital Projects do not include ordinary services.

c. Annual Budget: As part of the annual budget the City Council shall appropriate at least 16% of the Transient Occupancy Tax estimated to be collected during the fiscal year to be expended on Neighborhood and Community Improvements. If the Council determines that there are insufficient funds available to provide for the ordinary and necessary services in any budget year, they may, by an affirmative vote of four (4) members of the City Council, reduce the amount to be appropriated for Neighborhood and Community Improvements.

d. Neighborhood Improvement Program Committee: The City Council shall appoint at least one representative from each residential neighborhood to the Neighborhood Improvement Program Committee. The Committee shall recommend a list of capital improvements desired to be accomplished in each neighborhood. Recommendations may include multi-year projects and funding.

e. Council Action: From the recommendations of the Neighborhood Improvement Program Committee the Council shall include a Neighborhood Improvement Program in the annual budget. The determination of the projects, priorities and expenditures shall be within the sound discretion of the City Council."

**IMPARTIAL ANALYSIS BY CITY ATTORNEY
MEASURE B**

This measure was placed on the ballot by the City Council. It proposes to amend the Monterey City Charter by adding Section 5.12 entitled "Neighborhood Improvement and Community Projects". This will place in the Charter an existing program to construct capital improvements in residential neighborhoods, such as sidewalks, parks, improved storm drain and sanitary sewer systems, and projects of special benefit to the residential neighborhoods as well as projects of general benefit to residents such as recreational facilities and other public buildings.

Each budget year, 16% of the Transient Occupancy Tax will be allocated to the program. A committee composed of at least one representative from each neighborhood will be appointed by the City Council. This committee will recommend to the City Council the projects for which these funds should be spent. From these recommendations the City Council will select the projects to be constructed with the available funds.

This does not preclude the City Council from spending other available City funds on additional capital improvements. If in any budget year, other City funds are not sufficient to meet the operating expenses of the City, the Council may reduce the 16% suggested from the Transient Occupancy Tax to a lesser amount.

Respectfully submitted,
s/ Wilbur C. Marsh
City Attorney
City of Monterey

ARGUMENT IN FAVOR OF MEASURE B

The Neighborhood Improvement Fund was established in 1963 following an advisory vote which the residents overwhelmingly approved. The measure states that a portion of the increase in the hotel/motel tax would be used "for such purposes as neighborhood and park improvements, the preservation of open-space and the waterfront, and other municipal public facility improvements."

Since then, about \$1 million a year has been spent, above normal City capital expenditures, for walkways and sidewalks, street improvements, and park expansion. WITH NO TAX INCREASE TO RESIDENTS. Whenever we look in Monterey, we see the wonderful results of the neighborhood improvements.

The Charter Amendment will make the Neighborhood Improvement Fund a permanent part of the city budget and insure that a portion of the hotel/motel tax will go directly to our neighborhoods. As exclaimed in 1963, "since visitors use city facilities and services, it is only appropriate that they pay their fair share for police and fire protection, streets and road maintenance, recreation opportunities, and other City functions."

The Charter Amendment will help us preserve our City, maintain a high level of service to our citizens, and keep Monterey a beautiful place to visit as well as work and live.

s/ Dlyce Roberson
Councilmember
s/ Dan Acert
Mayor
s/ Ruth Vreeland
Councilmember
s/ Carl Cramer
Councilmember
s/ Teresa Canedo
Councilmember

REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 01/05/2010

SUBMITTED TO: HB Charter Review Commission

SUBMITTED BY: Mark D. Bixby, Charter Review Commissioner *MDB*

SUBJECT: Require park in-lieu fees to be spent on parkland development whenever the per-capita park acreage ratio is below the requirement specified in the General Plan.

Statement of Issue: The city's General Plan requires 5 acres of parks (including beaches) for every 1,000 residents. In 1992 the city exceeded this requirement by 49 acres, but by 2009 the city fell short of the requirement by 4.2 acres, and the Beach-Edinger Corridor Specific Plan is poised to dramatically worsen the deficit. My proposal would require that whenever the current per-capita ratio falls short of the General Plan, park in-lieu fees shall only be spent on parkland development.

Recommended Action: Motion to:

Amend Huntington Beach charter to add new section as follows:

Whenever the current city-wide ratio of park land per 1,000 people is less than the city standard established under the Quimby Act (Gov Code Section 66477), park in-lieu fees collected under the Act shall only be spent to develop new neighborhood or community park or recreational facilities, and the time limit for committing such fees shall be extended by the amount of time that the park ratio is less than the city standard.

Analysis:

As noted in my attached letter dated August 9, 2009, the city has swung from a surplus of parkland to a deficit of parkland (my letter cites a deficit of at least 10 acres, but the city's subsequent DTSP Final EIR response to my letter cites a revised deficit of 4.2 acres).

The reason for this is a city reluctance to require residential developers to provide sufficient on-site parkland for the new residents, in combination with a tendency to

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spend the resulting park in-lieu fees on maintenance of existing parks rather than developing new parkland to meet the recreational needs of the new residents.

The Quimby Act (Gov Code Section 66477) allows cities to require the dedication of parkland or the payment of fees in lieu thereof, or a combination of both, as a condition to the approval of residential developments. For Huntington Beach, the General Plan requires the amount of parkland to be dedicated to be in the ratio of 5 acres per thousand residents pro-rated to the expected population of the new subdivision.

Quimby allows developers who do not wish to provide the required amount of on-site parkland to instead pay in-lieu fees. The city can then use the fees either for off-site parkland development or maintenance of existing parks (that would serve the new residents of the subdivision). Any such in-lieu fees must be committed within 5 years (to either development or maintenance) or else be refunded to the residents of the subdivision.

As the city approaches build-out, opportunities to develop new parkland become increasingly harder to find. So any in-lieu fees that are collected tend to be spent on maintenance (rather than park development) before the 5 year time limit would force a refund. The end result is that the city slowly falls further and further behind the ratio of parkland the General Plan deems necessary for residential quality of life.

My recommended action would require the city to spend park in-lieu fees on park development as long as the current parks ratio is below the ratio required by the General Plan. In recognition that park development may take some time in a city that is nearing build-out, my proposal also stops the 5-year refund clock from ticking during parkland deficits. This will allow the city to bank collected fees until the cumulative amount is enough to develop new parkland.

Huntington Beach was once progressive about requiring sufficient parkland to ensure good residential quality of life. My proposal will help us to end the parks deficit and to make sure that we stay on track as the city grows in the future.

Attachment(s):

- August 9, 2009 DTSP DEIR comment letter re parks acreage

August 9, 2009

City of Huntington Beach
Planning Department
ATTN: Jennifer Villasenor
2000 Main St.
Huntington Beach, CA 92648

Re: Downtown Specific Plan DEIR No. 08-001 park acreage accuracy

Dear Ms. Villasenor,

The General Plan requires 5 acres of parks (including beaches) per every 1,000 Huntington Beach residents as referred to on page 4-170 of the DEIR.

According to the General Plan on page III-RCS-6 at http://www.surfcity-hb.org/files/users/planning/recreation_element.pdf, the city's total cumulative park acreage in 1992 exceeded the 5 acres per 1,000 people standard by 49 acres. But according to the DEIR page 4-170, in 2009 the city now falls short of the standard by 10 acres.

The shortfall may be considerably greater than 10 acres. Recently I spot-checked some of the park acreage figures at http://www.surfcity-hb.org/Residents/parks_facilities/parks/index.cfm against city-supplied GIS parks layer data and manual Google Earth area measurements. I only checked a handful of the larger parks, and most of them have actual acreages less than what is reported on the city web page.

For example, see attached Exhibit A for a Google Earth Pro screenshot of Greer Park. The city web site says 15 acres, but the other data tell a different story. The yellow boundary line and white shape attributes come from the official city GIS parks layer. According to the GIS data, the two parcels that comprise Greer Park total to a little over 11 acres.

But look closer. The north Greer parcel actually extends to the centerline of McFadden, Melbourne, Yorkshire, and Brunswick streets. That street acreage comes to approximately 0.65 acres. So the usable recreational acreage of Greer Park is more like 10.35 acres, NOT the 15 acres on the web site. Note that the web site acreage is about 45% greater than the usable acreage.

The web site acreage figures are demonstrably incorrect and this strongly suggests that both the page 4-170 DEIR park acreage total of 1001.16 acres and the 10 acre shortfall amount are also incorrect.

I would like to see the response to comments section of the DTSP Final EIR provide the following information:

1. An itemized list of all parks and beaches in the city and the individual acreages for each location verified against city or independent GIS data (i.e. Google Earth or any other GIS

tool) that only counts usable recreational space and which excludes parcel acreage extending into public streets. The current city-wide park shortfall should be computed against this acreage total.

2. DEIR page 4-170 asserts without substantiation that “The City has met park requirements within the DTSP”. Please provide an itemized list of the park/beach acreage being claimed for the DTSP area, as well as the current population of the DTSP area. DEIR Section 4.9 (Population and Housing) only gives the anticipated DTSP population increase, not the current base population.

Sincerely,

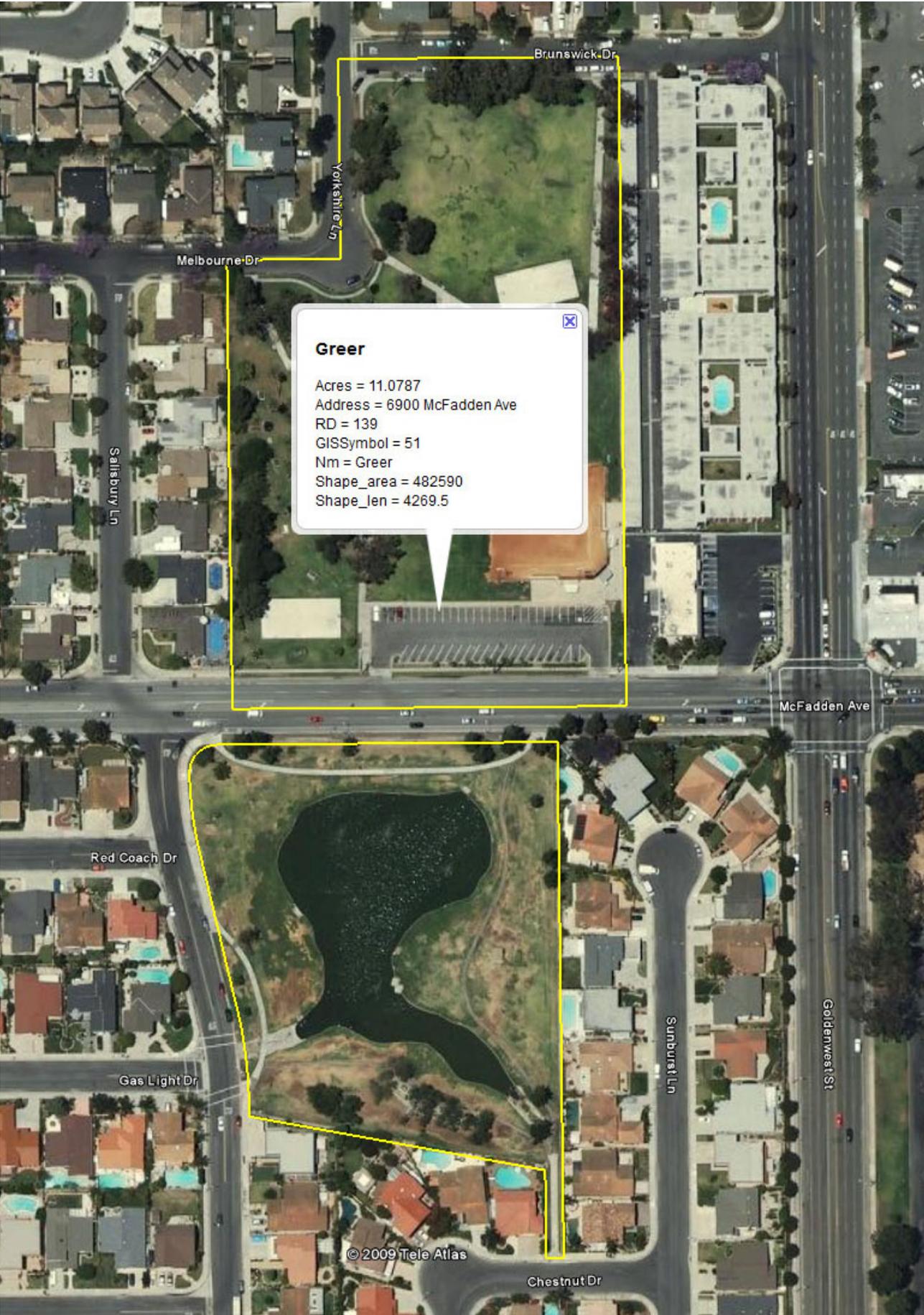
Mark D. Bixby

Mark D. Bixby
17451 Hillgate Ln
Huntington Beach, CA 92649-4707
714-625-0876
mark@bixby.org

Attachment:

Exhibit A – Greer Park acreage measurements

Exhibit A – Greer Park



REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 01/05/2010

SUBMITTED TO: HB Charter Review Commission

SUBMITTED BY: Mark D. Bixby, Charter Review Commissioner *MDB*

SUBJECT: City-owned tidelands

Statement of Issue: City-owned tidelands provide important, valuable public benefits and should be subject to protections similar to Measure C.

Recommended Action: Motion to:

Add Huntington Beach charter section(s) as follows:

It shall be unlawful to grant, sell, convey, alienate, transfer or otherwise dispose of, except as herein provided, any part of or any interest in tidelands, or submerged lands thereto belonging, owned, controlled, possessed, held or hereafter acquired by the City; provided that grants of such lands may be made to the State of California, or to the United States of America, for public purposes, when authorized by a majority vote of the qualified voters of the City, voting upon the question of authorizing any such grant at an election.

The Council may lease tidelands or submerged lands belonging, owned, controlled, possessed, held or hereafter acquired by the City for public recreational purposes for a term not exceeding ten (10) years. The Council may lease such property for any other purpose and for such term as it deems reasonable if the proposed lease provisions are approved by a majority vote of electors voting thereon.

REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 01/05/2010

Analysis:

The city owns various tideland parcels in Huntington Harbour. Most of these parcels are located adjacent to Sunset Beach as shown from city GIS data imported into Google Earth:



REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 01/05/2010

And there are two additional city-owned tideland parcels in the vicinity of the Huntington Harbour Yacht Club:



There are three additional city-owned parcels in the harbor (Seabridge Park/Beach, Humboldt Beach, Davenport Beach) that extend into tidelands (maps omitted from this proposal for brevity).

The first paragraph of my recommended action is a modified subset of Long Beach charter section 1207(a), and the second paragraph a modified version of Ventura charter section 1301.

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Note that my proposal does not conflict with Measure C for the park/beach parcels. Measure C would apply to dry land and the beach, and my proposal would apply to the tidelands and submerged lands beyond the beach.

My proposal also does not conflict with the Huntington Harbour Yacht Club. The yacht club contract approved by the city council on July 20, 2009, leases the city-owned docks to the club, not the tidelands themselves.

There was some brief discussion at a previous charter commission meeting about whether the residential docks in the city-owned tideland parcels constituted illegal encroachment. Further research I have conducted since then suggests that these docks are not encroachments but rather deed conditions from when the tidelands were conveyed to the city.

For example, consider the Tract 4677 map for Gilbert Island (attached). Lots A, B, C, and D are designated "City of Huntington Beach Channel". These lots were deeded to the city (see attached deed) and accepted at the December 17, 1962 city council meeting. As the deed notes, easements and rights of way have been reserved for constructing, maintaining, and using docks and related structures. Thus none of the docks you see on the Tract 4677 city-owned parcels are illegal encroachments.

The same situation applies for the Admiralty Island Tract 4499. Lots B and C on the tract map (attached) were deeded to the city (see attached deed) and accepted at the June 4, 1962 city council meeting. As this deed notes, easements and rights of way have been reserved for constructing, maintaining, and using docks and related structures. Thus none of the docks you see on the Tract 4499 city-owned parcels are illegal encroachments.

The main city-owned tideland parcel fronting the yacht club also fronts some adjacent residential properties with docks. As of this writing I have not yet been able to obtain either a tract map or a deed that references this parcel.

If any illegal encroachments are present on these city-owned parcels, my proposal does not obligate the city to take action regarding the encroachments. My proposal would however prevent the city from selling the parcels to the encroachers, as well as to require a public vote if the tidelands were to be leased to the encroachers.

REQUEST FOR CHARTER REVIEW COMMISSION ACTION

MEETING DATE(S): 01/05/2010

City-owned tidelands are valuable recreational (and habitat) resources. I urge the commission to approve my recommended protections.

References:

- Long Beach charter section 1207(a) - <http://library2.municode.com/default-test/DocView/16854/1/19#TOC.8>
- Ventura charter section 1301 - http://www.cityofventura.net/files/city_manager/city_clerk/resources/citycharter.pdf

Attachment(s):

I recognize that these tract maps will be impossible to read without a powerful magnifying glass when printed on 8.5 x 11 paper. Therefore the reader is encouraged to view this document in electronic form in the agenda packet posted on the city web site at http://www.surfcity-hb.org/government/boards_commissions/charter_review_commission.cfm.

- Tract 4677 map (Gilbert Island)
- Tract 4677 deed for city parcels
- Tract 4499 map (Admiralty Island)
- Tract 4499 deed for city parcels

ORIGINAL

TRACT No 4677

IN THE CITY OF HUNTINGTON BEACH COUNTY OF ORANGE, CALIFORNIA

SCALE 1" = 50'
110 RESIDENTIAL LOTS
26.169 ACRES

BEING A SUBDIVISION OF A PORTION OF FRACTIONAL SECTION
19, TOWNSHIP 5 SOUTH, RANGE 11 WEST, AS PER M. M. 51 - 13,
RECORDS OF COUNTY OF ORANGE, CALIFORNIA.



JOHN T. GUTHRIE R.C.E. 8348
JULY, 1962

We the undersigned, being all parties having any record title interest in the land covered by this map do hereby consent to the preparation and recordation of said map as shown within the blue colored border line and we hereby offer for dedication (1) To the public use for street purposes Channel Lane, Gilbert Drive, Somerset Lane, Peale Lane, Malden Circle, Melville Circle, Mariana Circle and Wellington Drive (2) To the City of Huntington Beach the vehicular access rights from Lots 84 to 94 along the perimeter of Somerset Lane and Lots 96 to 106 along the perimeter of Peale Lane; The 5' easement in Lot 14 for water purposes, the 5' easements in Lots 30 and 51 for storm drain purposes, the 5' easement in Lot 107 for sewer purposes, the domestic water and sewer systems together with their appurtenances as shown on the improvement plans, and the subsurface water rights.

I, John T. Guthrie, hereby certify that I am a Registered Civil Engineer No. 8348 of the State of California, and that this map consisting of 5 sheets correctly represents a true and complete survey made under my direction May 1962; that the monuments are of the character and occupy the positions indicated or will be set in position within two years from the date of recording and that said monuments are sufficient to enable the survey to be retraced.

John T. Guthrie
Registered Civil Engineer No. 8348

Huntington Harbour Corporation
L.W. Douglas Jr.
L.W. Douglas Jr., President

George Potter, Jr.
George Potter, Ass't. Secretary

I, James R. Wheeler, City Engineer of the City of Huntington Beach, California, do hereby certify that I have examined this map and have found it to be substantially the same as the tentative map as filed, amended and approved by the Huntington Beach Planning Commission; that all provisions of the Subdivision Map Act and City Subdivision Regulations have been complied with and I am satisfied said map is technically correct.

Dated this 14th day of July 1962. James R. Wheeler
City Engineer

State of California }
County of Orange } S.S.

On this 29th day of June, 1962, before me G. William Grundy a Notary Public in and for said County and State, personally appeared L.W. Douglas Jr., known to me to be the President, and George Potter, Jr. known to me to be the Ass't. Secretary of Huntington Harbour Corporation, the corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of said corporation therein named, and acknowledged to me that such corporation executed the same.

State of California }
County of Orange } S.S.

I, L.B. Wallace, County Clerk of Orange County, do hereby certify to the County Recorder of Orange County that the provisions of the Subdivision Map Act have been complied with regarding deposits to secure payment of taxes and special assessments on the land covered by this map.

Dated this 18th day of Sept 1962. L.B. Wallace
County Clerk

My commission expires June 1, 1964 G. William Grundy
Notary Public in and for Los Angeles County, California

State of California }
County of Orange } S.S.
City of Huntington Beach }

I, Paul C. Jones, City Clerk of said City of Huntington Beach, do hereby certify that this map was presented for approval to the City Council of said City of Huntington Beach at a regular meeting thereof held on the 16th day of July, 1962, and that thereupon said Council did, by an order duly passed and entered, approve said map and did accept on behalf of the Public the offer for dedication (1) To the public use for street purposes Channel Lane, Gilbert Drive, Somerset Lane, Peale Lane, Malden Circle, Melville Circle, Mariana Circle and Wellington Drive. (2) To the City of Huntington Beach the vehicular access rights from Lots 84 to 94 along the perimeter of Somerset Lane and Lots 96 to 106 along the perimeter of Peale Lane; The 5' easement in Lot 14 for water purposes, the 5' easements in Lots 30 and 51 for storm drain purposes, the 5' easement in Lot 107 for sewer purposes, the domestic water and sewer systems together with their appurtenances as shown on the improvement plans, and the subsurface water rights.

I, W.C. Warner, Planning Director of the City of Huntington Beach, California, do hereby certify that I have examined this map and have found it to be substantially the same as the tentative map as filed, amended and approved by the Huntington Beach Planning Commission.

Dated this 16th day of July 1962. W.C. Warner
Planning Director of the City of Huntington Beach

Dated this 17th day of July 1962. Paul C. Jones
City Clerk of the City of Huntington Beach
By Emetria Di Galio
Deputy

State of California }
County of Orange } S.S.

I, Don S. Mozley, County Tax Collector and Redemption Officer of said County of Orange, do hereby certify that according to the records of my office there are no liens against the land shown on this map or any part thereof for unpaid State, County or City taxes or special assessments collected for taxes, except taxes and special assessments collected as taxes not yet due and payable.

Dated this 20th day of July 1962. DON S. MOZLEY
County Tax Collector and Redemption Officer
By: W. E. Markle
Deputy

Signature Omissions:

The signature of California Bank, Trustee, and others, owners of subsurface mineral rights as reserved in Book 5456, Page 410, of Official Records of Orange County, was omitted pursuant to Section 11587 of the Business and Professions Code.

Monument Notes:

- All 2" I.P.s shown as set are 12" below ground surface, filled with concrete, bear metal tags stamped R.C.E. 8348, with metal cover at finished surface.
- All leaded tacks shown as set in bulkhead wall are set 0.40 ft. in from bulkhead line.
- 1" I.P.s filled with concrete and bearing metal tags stamped R.C.E. 8348 to be set at all lot corners except where corners fall on bulkhead line. In such cases the lot line has leaded tack and tagged R.C.E. 8348 on top of adjacent bulkhead wall.
- 2" I.P.s will be set 12" below ground surface, filled with concrete, bear metal tags stamped R.C.E. 8348, with metal cover at finished surface at all centerline intersections, beginning and ending of curves, termination of streets, unless otherwise noted. Sketches of their ties will be furnished to the City Engineer's office prior to the acceptance of the street improvements.

Examined and approved on this 19th day of Sept 1962. W. E. Markle
Deputy County Surveyor

Basis of Bearings:-

The Bearing N 60° 08' 44" E of the Southeasterly Line of Lots 72 to 76, inclusive, in Tract 4499, M.M. 161, 11-15 incl., was used as the basis of bearings for this map.

SCALE: 1" = 100'

ORIGINAL

SHEET 2 OF 5 SHEETS

TRACT No 4677

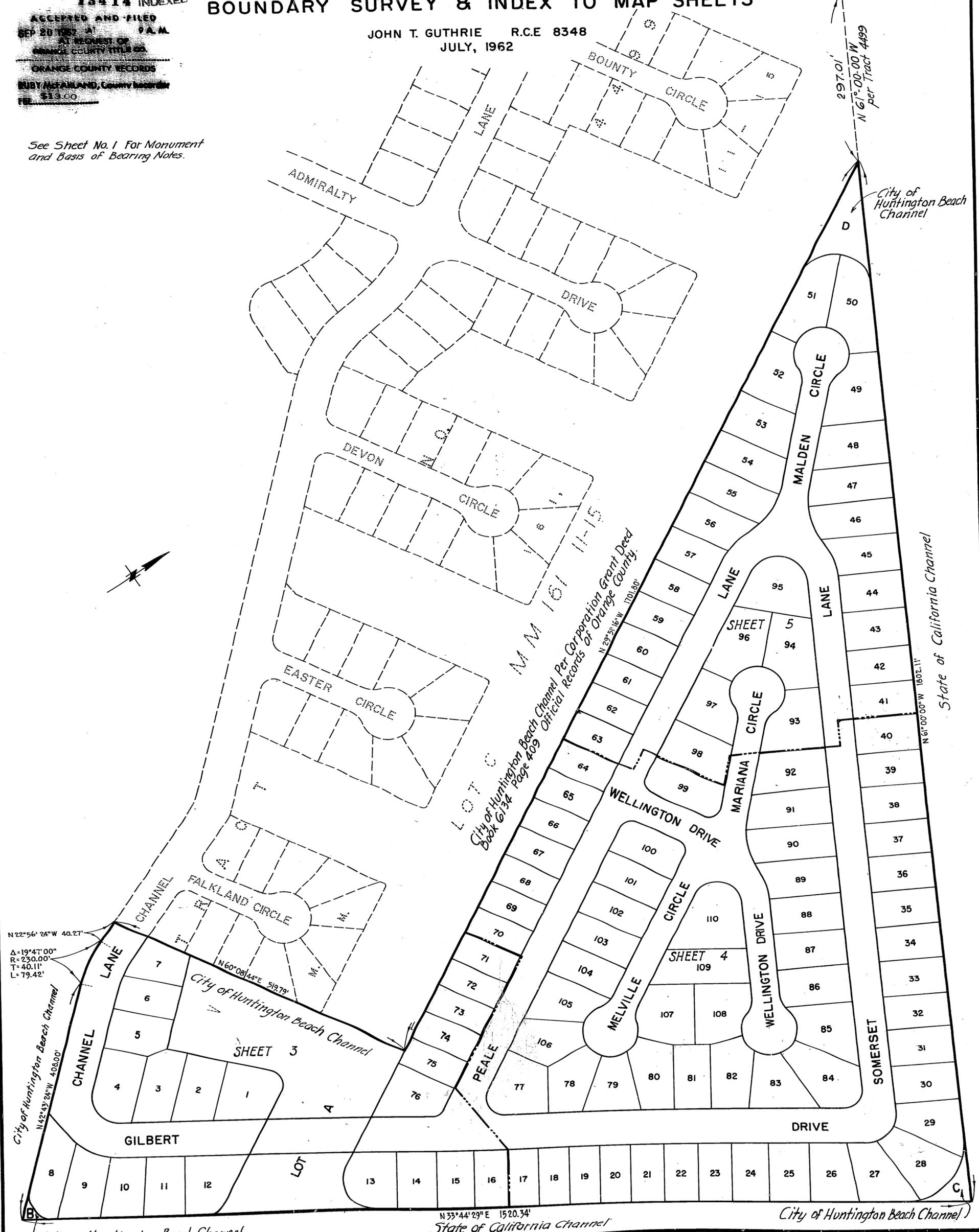
IN THE CITY OF HUNTINGTON BEACH, CALIFORNIA

BOUNDARY SURVEY & INDEX TO MAP SHEETS

18414 INDEXED
 ACCEPTED AND FILED
 SEP 20 1962 A.M.
 AT REQUEST OF
 ORANGE COUNTY TITLE CO.
 ORANGE COUNTY RECORDS
 RUBY McFARLAND, County Recorder
 \$13.00

JOHN T. GUTHRIE R.C.E. 8348
 JULY, 1962

See Sheet No. 1 For Monument
 and Basis of Bearing Notes.



$N 22^{\circ} 56' 24'' W 40.27'$
 $\Delta = 19^{\circ} 47' 00''$
 $R = 250.00'$
 $T = 40.11'$
 $L = 79.42'$

$N 33^{\circ} 44' 29'' E 1520.34'$
 State of California Channel

City of Huntington Beach Channel

City of Huntington Beach Channel

State of California Channel

City of Huntington Beach Channel

LOT C
 City of Huntington Beach Channel Per Corporation Grant Deed
 Book 6734 Page 409 Official Records of Orange County
 $N 23^{\circ} 51' 16'' W 1701.80'$

$297.01'$
 $N 61^{\circ} 00' 00'' W$
 per Tract 4499

ORIGINAL

SCALE: 1"=50'

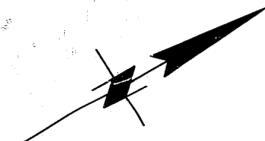
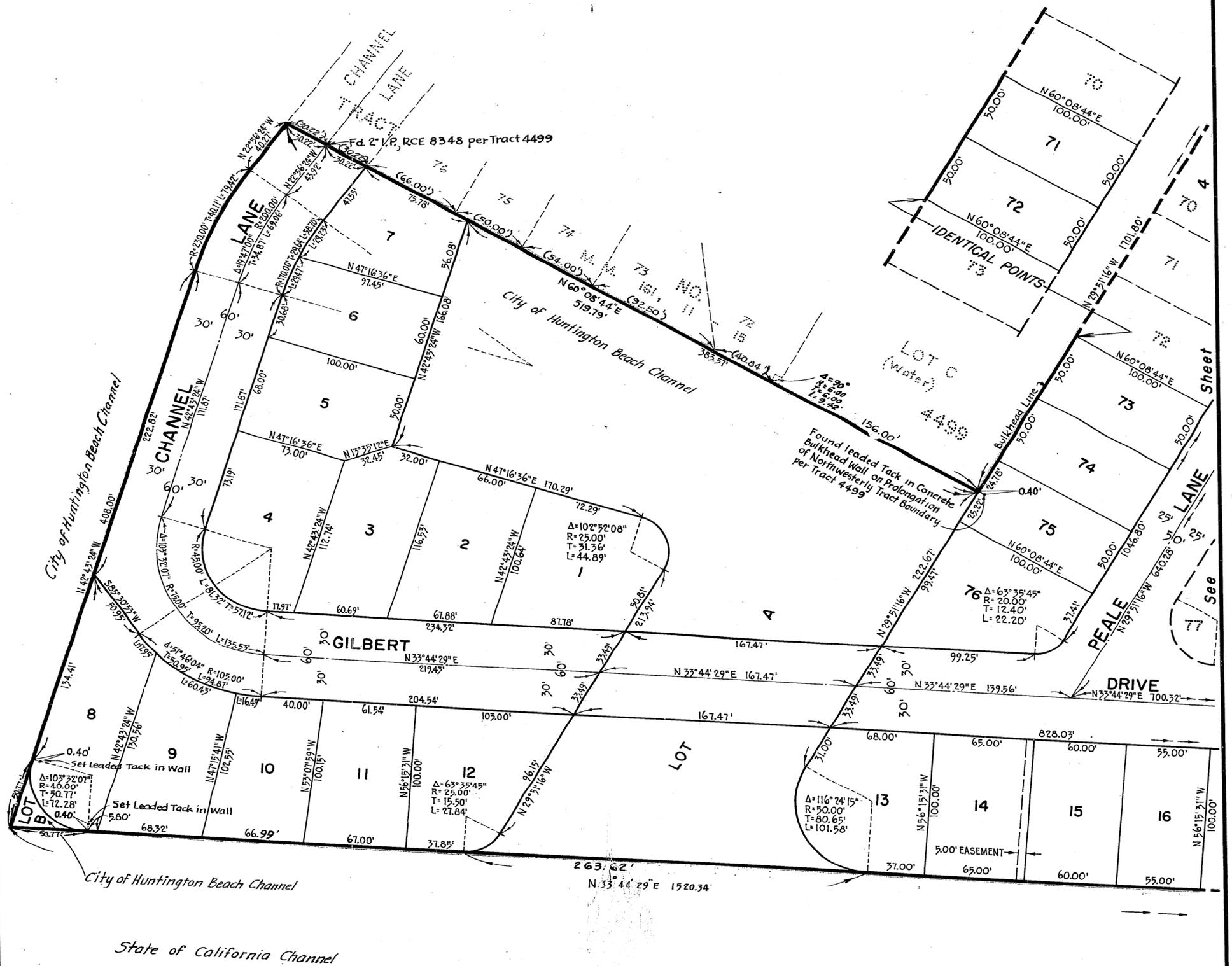
TRACT No 4677

IN THE CITY OF HUNTINGTON BEACH, CALIFORNIA

JOHN T. GUTHRIE R.C.E. 8348
JULY, 1962

18414 INDEXED
ACCEPTED AND FILED
SEP 20 1962 9 A.M.
AT REQUEST OF
ORANGE COUNTY TITLE CO.
ORANGE COUNTY RECORDS
RUBY McFARLAND, County Recorder
FEE \$13.00

See Sheet No. 1 For Monument
and Basis of Bearing Notes.



ORIGINAL

SCALE: 1" = 50'

TRACT NO 4677

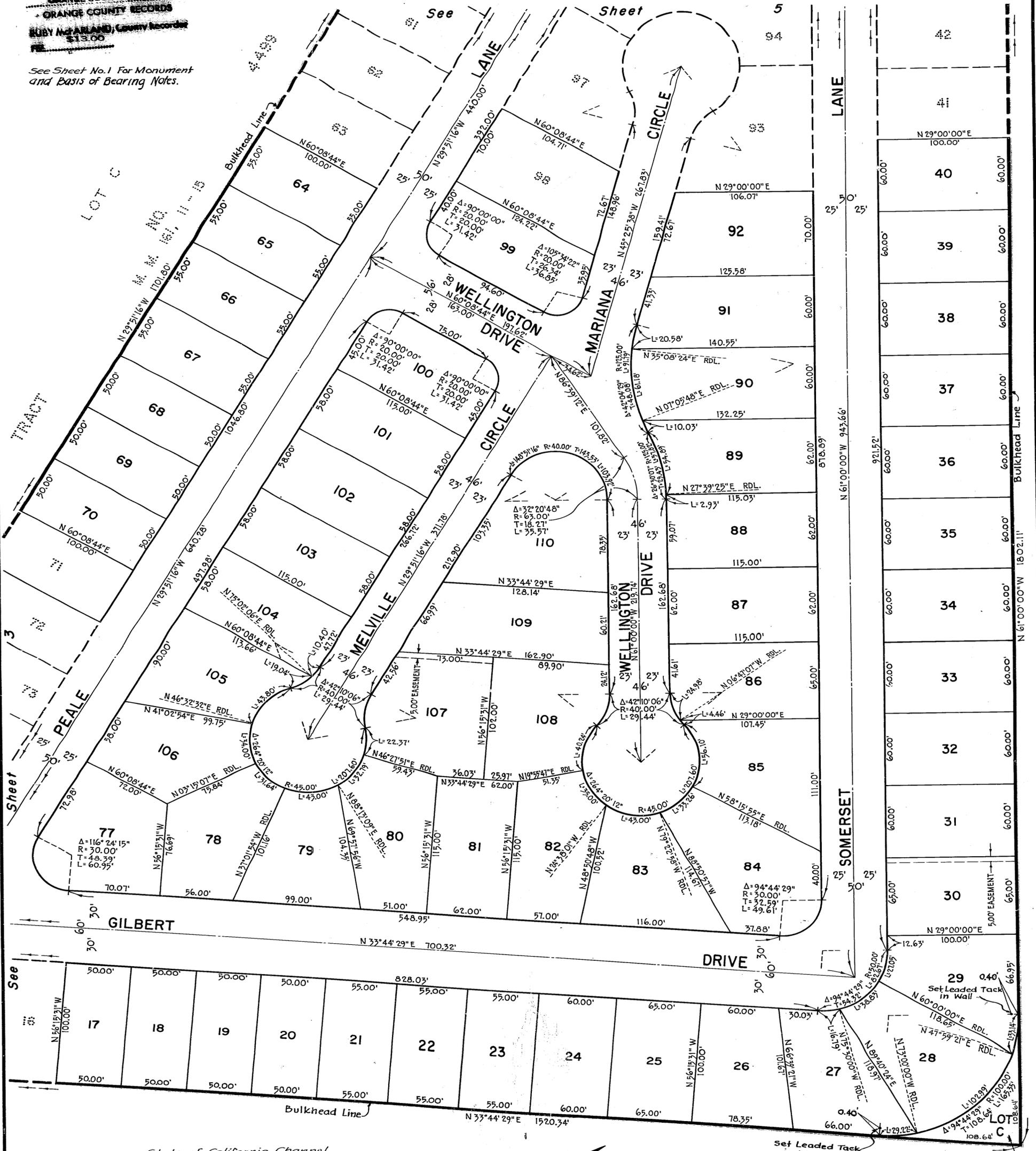
IN THE CITY OF HUNTINGTON BEACH, CALIFORNIA

18414 INDEXED
ACCEPTED AND FILED
SEP 20 1962 A P.M.
AT REQUEST OF

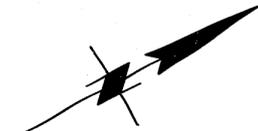
JOHN T. GUTHRIE R.C.E. 8348
JULY, 1962

ORANGE COUNTY TITLE CO.
ORANGE COUNTY RECORDS
LUBY McFARLAND, County Recorder
\$13.00

See Sheet No. 1 For Monument
and Basis of Bearing Notes.



State of California Channel



City of Huntington Beach Channel.

SCALE: 1"=50'

ORIGINAL

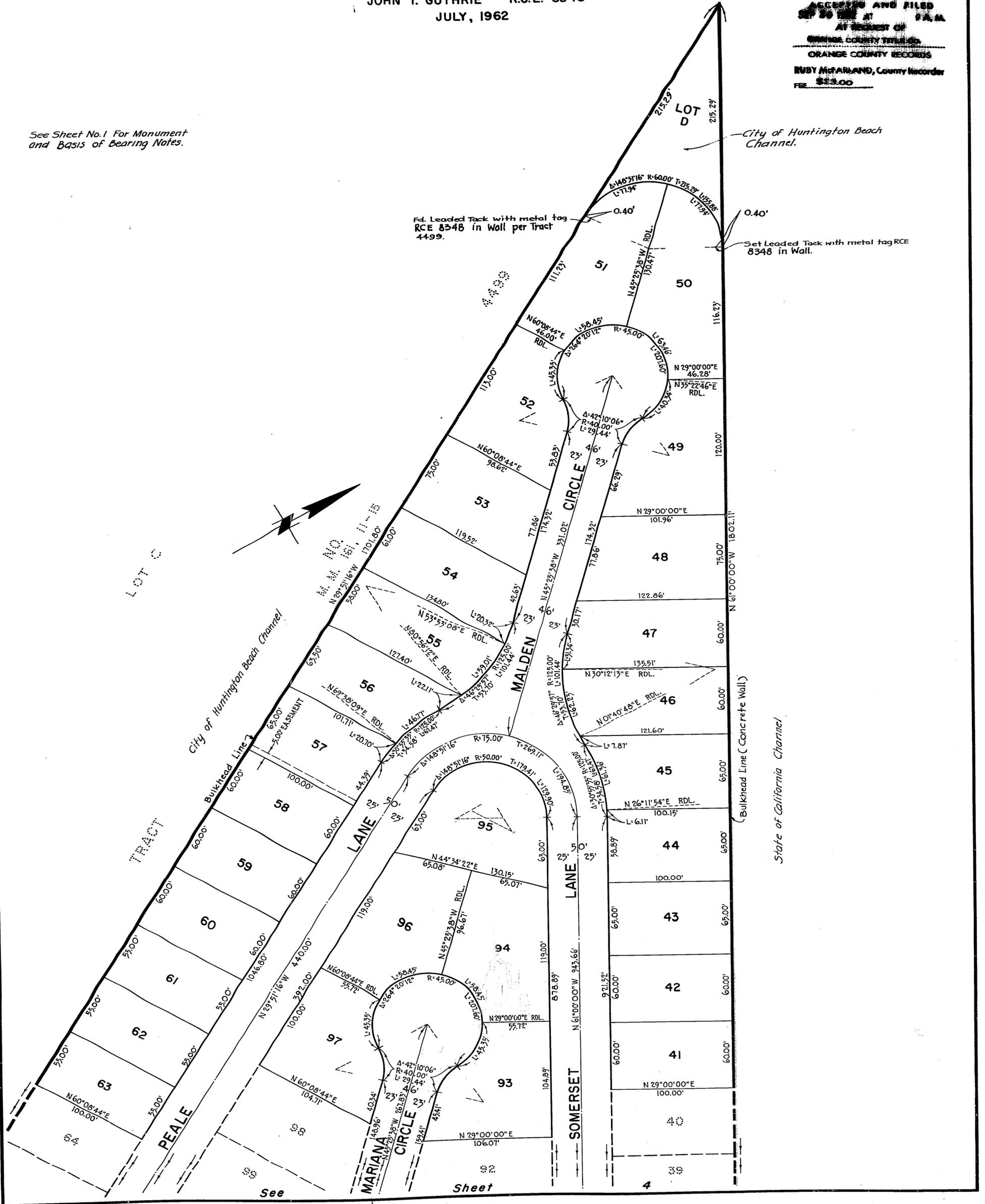
TRACT NO 4677

IN THE CITY OF HUNTINGTON BEACH, CALIFORNIA

JOHN T. GUTHRIE R.C.E. 8348
JULY, 1962

INDEXED
ACCEPTED AND FILED
SEP 20 1962
AT REQUEST OF
ORANGE COUNTY TITLE CO.
ORANGE COUNTY RECORDS
RUBY McFARLAND, County Recorder
FEE \$13.00

See Sheet No. 1 For Monument
and Basis of Bearing Notes.



en Recorded Mail To:
ty Clerk, P. O. Box 190
ntington Beach, California

15183

RECORDED AT REQUEST OF CITY OF HUNTINGTON BEACH
IN OFFICIAL RECORDS OF ORANGE COUNTY, CALIF.
1:00 P.M. DEC 19 1962
RUBY McFARLAND, County Recorder

Waterways
Huntington Harbour

CORPORATION GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby **FREE** acknowledged, HUNTINGTON HARBOUR CORPORATION, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, hereby grants to the City of Huntington Beach in the County of Orange, State of California all of its right, title and interest in and to that certain real property (hereinafter referred to as "said real property") situated in the County of Orange and described and shown as Lots A, B, C and D on that certain final map for Tract 4677 in the City of Huntington Beach recorded September 20, 1962 in Book 168 at Pages 14-18, inclusive, of the Miscellaneous Map Records of the County Recorder, Orange County, California, for use only as a public and navigable channel, and no other purpose whatsoever, together with all of Grantor's right, title and interest in and to bulkheads located within bridge and right of way lines shown on said final map.

EXCEPTING AND RESERVING, however, unto Grantor, its successors and assigns, easements and rights-of-way in, over, across, upon and through that portion of said real property shown in hatching on the plat of said Tract 4677 appended hereto as Exhibit A, which Exhibit is by this reference incorporated herein for all purposes, for the purpose of constructing, maintaining and using without rental by the City of Huntington Beach the same for docks, wharves, slips, ramps, floats and other mooring structures, and for footings, pilings and ancillary structures for bulkheads located on adjacent property of Grantor. The easements and rights-of-way herein excepted and reserved shall be severable by Grantor and shall within such boundaries as shall be designated by Grantor

BOOK 6366 PAGE 687

373

BOOK 6366 PAGE 688

in writing and recorded in the Official Records of Orange County, California be appurtenant to and run with the ownership of the lot to which the same is adjacent.

This Grant is made subject to the following:

- (1) General and special county taxes and city taxes, if any, for the fiscal year 1962-1963;
- (2) Limitations, covenants, restrictions, reservations, encumbrances, easements, conditions, rights, rights-of-way, exceptions and other matters of record; and
- (3) Limitations, covenants, conditions, restrictions, reservations, exceptions and terms affecting said real property set forth in that certain declaration dated October 5, 1962 and recorded in the Official Records of Orange County, California on October 9, 1962, the provisions of which are by this reference incorporated herein as though set forth in full.

Said City of Huntington Beach by its acceptance of this deed agrees to be bound by and take title subject to all of the provisions hereof, but reserves all of its right and privilege which it now or may hereafter have under applicable laws to levy or impose taxes, assessments, permits and other charges against lots in said Tract 4677 or the owners thereof for the maintenance and control of the lands transferred to said City hereby.

IN WITNESS WHEREOF, Grantor has caused its corporate name and seal to be affixed hereto and this instrument to be executed by corporate officers thereunto duly authorized.

DATED: October 9, 1962.

HUNTINGTON HARBOUR CORPORATION

ATTEST:

Gray Potter
Assistant Secretary

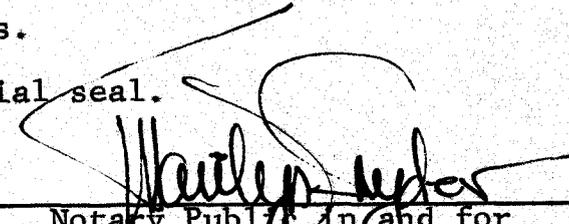
By [Signature]
President

APPROVED FOR ENTRY
Dec 4 1962
[Signature]
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss

On this 15th day of October, 1962, before me, the undersigned, a Notary Public in and for said County and State, personally appeared L. W. DOUGLAS, JR., known to me to be the President and GEORGE POTTER, JR., known to me to be the Assistant Secretary of HUNTINGTON HARBOUR CORPORATION, the corporation that executed the within instrument, known to me to be the persons who executed the within instrument pursuant to its By-laws or a resolution of its Board of Directors.

WITNESS my hand and official seal.



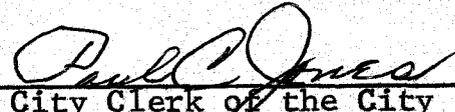
Notary Public in and for
said County and State.

MARILYN J. SNYDER
My Commission Expires Aug. 30, 1964

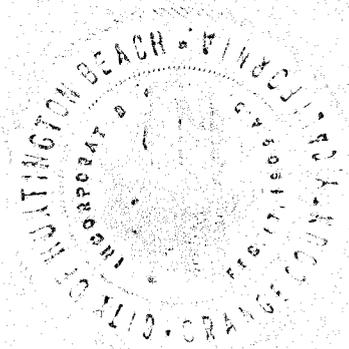
STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF HUNTINGTON BEACH) ss

This is to certify that the interest in real property conveyed by the deed or grant dated October 9, 1962 from Huntington Harbour Corporation to the City of Huntington Beach, a political corporation and/or governmental agency, is hereby accepted by order of the City Council of said City of Huntington Beach on the 17th day of December, 1962, ~~by the undersigned~~
~~officials of the City of Huntington Beach, California, and the~~
~~Grantee of the within instrument, known to me to be the persons who~~
~~executed the within instrument pursuant to its By-laws or a~~
~~resolution of its Board of Directors, and the Grantee consents to the~~
~~recordation thereof by duly authorized officials.~~
and the Grantee consents to the recordation thereof by duly authorized officials.

DATED: December 19, 1962.

By 

City Clerk of the City
of Huntington Beach.



ORIGINAL

SHEET 1 OF 5 SHEETS

TRACT No 4499

IN THE CITY OF HUNTINGTON BEACH COUNTY OF ORANGE, CALIFORNIA

2786 INDEXED
ACCEPTED AND FILED
MAY - 3 1962 AT 2:38 P.M.
AT THE OFFICE OF
THE COUNTY CLERK
ORANGE COUNTY, CALIFORNIA
COUNTY RECORDS
BOOK 143 PAGE 100
FEE.....

SCALE 1" = 50'
76 RESIDENTIAL LOTS
30.624 ACRES

BEING A SUBDIVISION OF A PORTION OF THE WESTERLY ONE-HALF OF
FRACTIONAL SECTION 19, TOWNSHIP 5 SOUTH, RANGE II WEST, AS PER M.M.
51-13, RECORDS OF COUNTY OF ORANGE, CALIFORNIA.

JOHN T. GUTHRIE R. C. E. 8348
FEBRUARY, 1962

We the undersigned, being all parties having any record title interest in the land covered by this map do hereby consent to the preparation and recordation of said map as shown within the blue colored border line and we hereby offer for dedication (1) To the public use for street purposes Admiralty Drive, Channel Lane, Bounty Circle, Devon Circle, Easter Circle and Falkland Circle (2) To the City of Huntington Beach the 5' storm drain easement in Lot 8, the domestic water and sewer systems together with their appurtenances as shown on the improvement plans, and the subsurface water rights.

I, John T. Guthrie, hereby certify that I am a Registered Civil Engineer No. 8348 of the State of California, and that this map consisting of 5 sheets correctly represents a true and complete survey made under my direction February 1962; that the monuments are of the character and occupy the positions indicated or will be set in position within two years from the date of recording and that said monuments are sufficient to enable the survey to be retraced.

Huntington Harbour Corporation
L.W. Douglas Jr.
L.W. Douglas Jr., President

George Potter Jr.
George Potter, Ass't. Secretary

John T. Guthrie
Registered Civil Engineer No. 8348

I, James R. Wheeler, City Engineer of the City of Huntington Beach, California, do hereby certify that I have examined this map and have found it to be substantially the same as the tentative map as filed, amended and approved by the Huntington Beach Planning Commission; that all provisions of the Subdivision Map Act and City Subdivision Regulations have been complied with and I am satisfied said map is technically correct.

State of California
County of Orange

On this 10 day of April, 1962, before me Marilyn J. Snyder a Notary Public in and for said County and State, personally appeared L.W. Douglas, Jr., known to me to be the President, and George Potter, known to me to be the Ass't. Secretary of Huntington Harbor Corporation, the corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of said corporation therein named, and acknowledged to me that such corporation executed the same.

Dated this 16 day of April 1962.

James R. Wheeler
City Engineer

My commission expires AUG. 30, 1964

Marilyn J. Snyder
Notary Public in Los Angeles
County, California
Marilyn J. Snyder

State of California
County of Orange

I, L.B. Wallace, County Clerk of Orange County, do hereby certify to the County Recorder of Orange County that the provisions of the Subdivision Map Act have been complied with regarding deposits to secure payment of taxes and special assessments on the land covered by this map.

State of California
County of Orange
City of Huntington Beach

I, Paul C. Jones, City Clerk of said City of Huntington Beach, do hereby certify that this map was presented for approval to the City Council of said City of Huntington Beach at a regular meeting thereof held on the 16th day of April 1962, and that thereupon said Council did, by an order duly passed and entered, approve said map and did accept on behalf of the Public the offer for dedication (1) To the public use for street purposes Admiralty Drive, Channel Lane, Bounty Circle, Devon Circle, Easter Circle and Falkland Circle (2) To the City of Huntington Beach the 5' storm drain easement in Lot 8, the domestic water and sewer systems together with their appurtenances as shown on the improvement plans, and the subsurface water rights.

Dated this 16th day of May 1962.

L.B. Wallace
County Clerk
By: Wayne A. Prager
Deputy

Dated this 17th day of April, 1962.

Paul C. Jones
City Clerk
of the City of Huntington Beach

I, W.C. Warner, Planning Director of the City of Huntington Beach, California, do hereby certify that I have examined this map and have found it to be substantially the same as the tentative map as filed, amended, and approved by the Huntington Beach Planning Commission.

Dated this 16th day of April 1962.

W.C. Warner
Planning Director
of the City of Huntington Beach

State of California
County of Orange

I, Don S. Mozley, County Tax Collector and Redemption Officer of said County of Orange, do hereby certify that according to the records of my office there are no liens against the land shown on this map or any part thereof for unpaid State, County or City taxes or special assessments collected for taxes, except taxes and special assessments collected as taxes not yet due and payable.

Dated this 18th day of April 1962.

DON S. MOZLEY
County Tax Collector and
Redemption Officer
By: W. E. Markle
Deputy

Examined and approved on this 30th day of Apr 1962.

John L. Smith
Deputy County Surveyor

Basis of Bearings:
The bearing of N. 42° 43' 24" W. for the northeasterly line of Block 415 per map of Tract No. 21, M.M. 9-22 as per Record of Survey 55-44 was used as the basis of bearings for this map.

Monuments:
All 2" I.P.s shown as set are 12" below ground surface, filled with concrete and bear metal tags stamped R.C.E. 8348.
1" I.P.s filled with concrete and bearing metal tags stamped R.C.E. 8348 to be set at all lot corners except where corners fall in the water. In such cases the lot line is chiseled marked on top of adjacent bulkhead wall.
Centerline monuments will be set as noted and sketches of their ties will be furnished to the City Engineer's office prior to the acceptance of the street improvements.

SCALE 1"=100'

ORIGINAL

TRACT No 4499

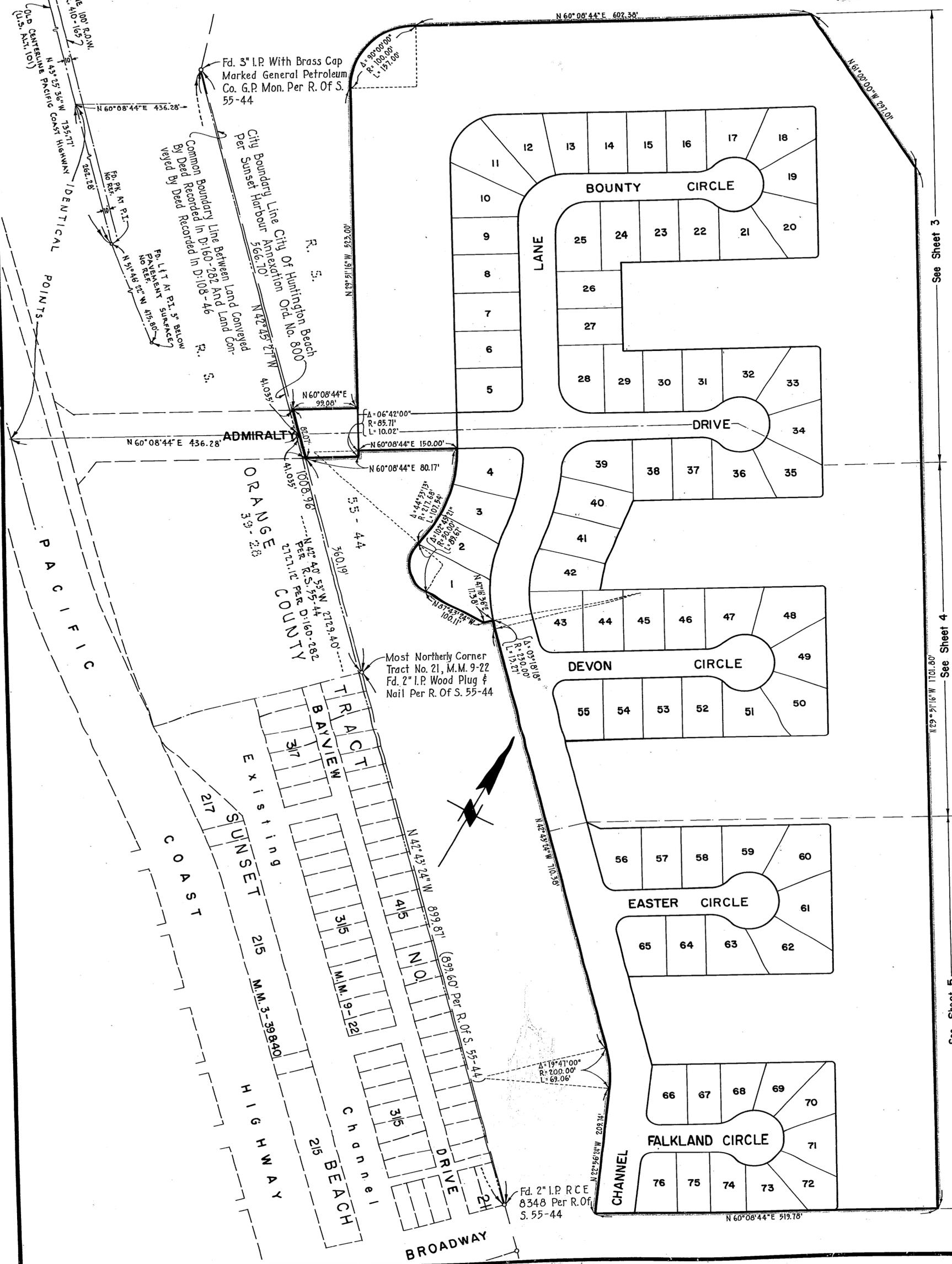
IN THE CITY OF HUNTINGTON BEACH, CALIFORNIA

2786 INDEXED

BOUNDARY SURVEY & INDEX TO MAP SHEETS

JOHN T. GUTHRIE R. C. E. 8348
FEBRUARY, 1962

ACCEPTED AND FILED
MAY - 3 1962 AT 2:38 P.M.
AT RECORDS OF
ORANGE COUNTY TITLE CO.
ORANGE COUNTY RECORDS
RUBY NEARLAND, County Recorder
FEE \$13.00



See Sheet 3

See Sheet 4

See Sheet 5

SCALE 1"=50'

ORIGINAL

TRACT No 4499

IN THE CITY OF HUNTINGTON BEACH, CALIFORNIA

JOHN T. GUTHRIE R. C. E. 8348
FEBRUARY, 1962

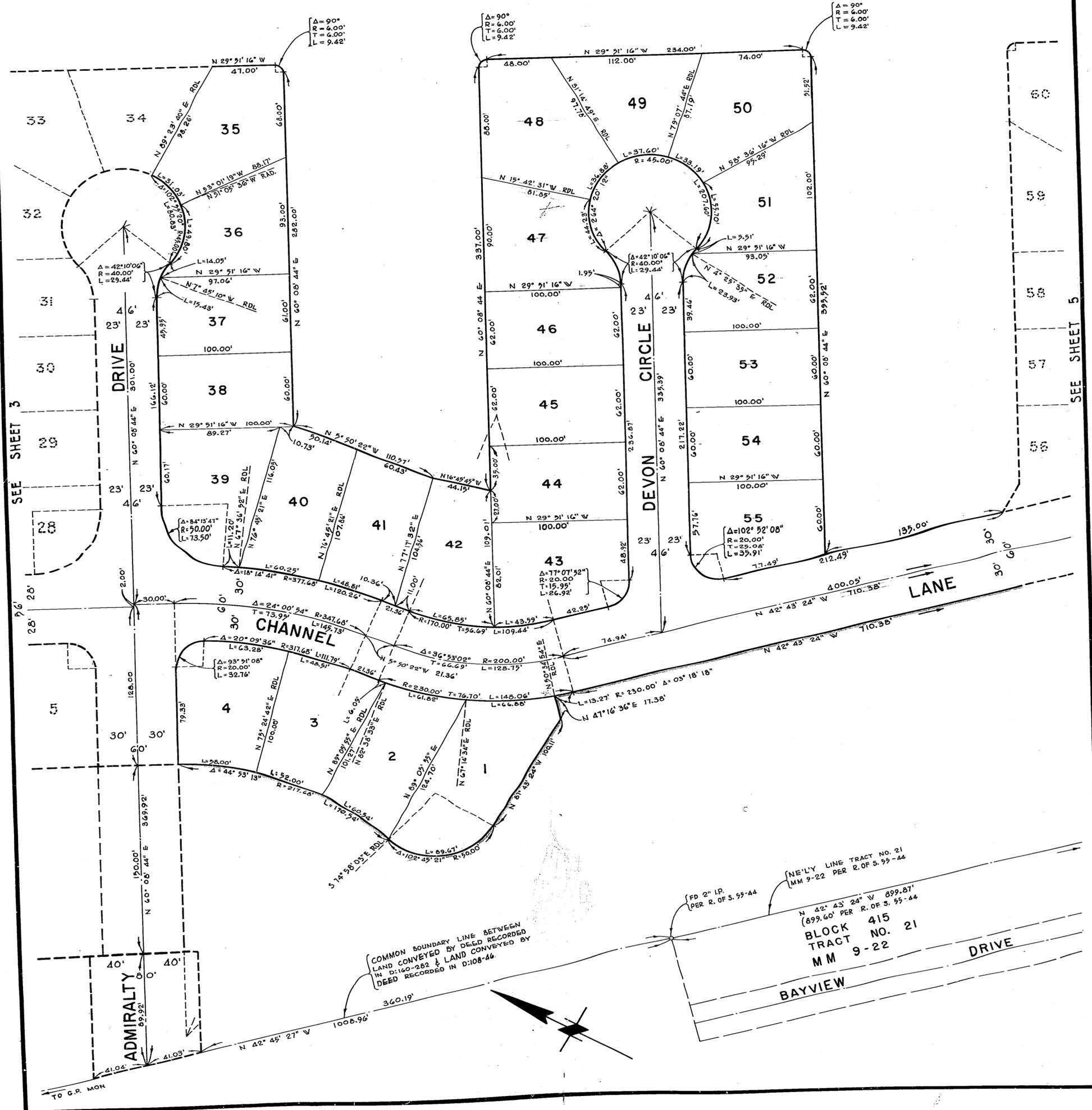
2786 INDEXED

ACCEPTED AND FILED
MAY - 3 1962 AT 2:38 P.M.
AT REQUEST OF
ORANGE COUNTY TITLE CO.
ORANGE COUNTY RECORDS
RUBY McFARLAND, County Recorder
FEE \$13.00

BASIS OF BEARING:
N 42° 43' 24" W FOR THE NORTHEASTERLY LINE OF
BLOCK 415, TRACT NO. 21, MM 9-22 AS PER

N 29° 51' 16" W 1701.00'

LOT "C"



SEE SHEET 5

SCALE 1" = 50'

ORIGINAL

SHEET 5 OF 5 SHEETS

TRACT NO 4499

IN THE CITY OF HUNTINGTON BEACH, CALIFORNIA

JOHN T. GUTHRIE R. C. E. 8348
FEBRUARY, 1962

2786 INDEXED

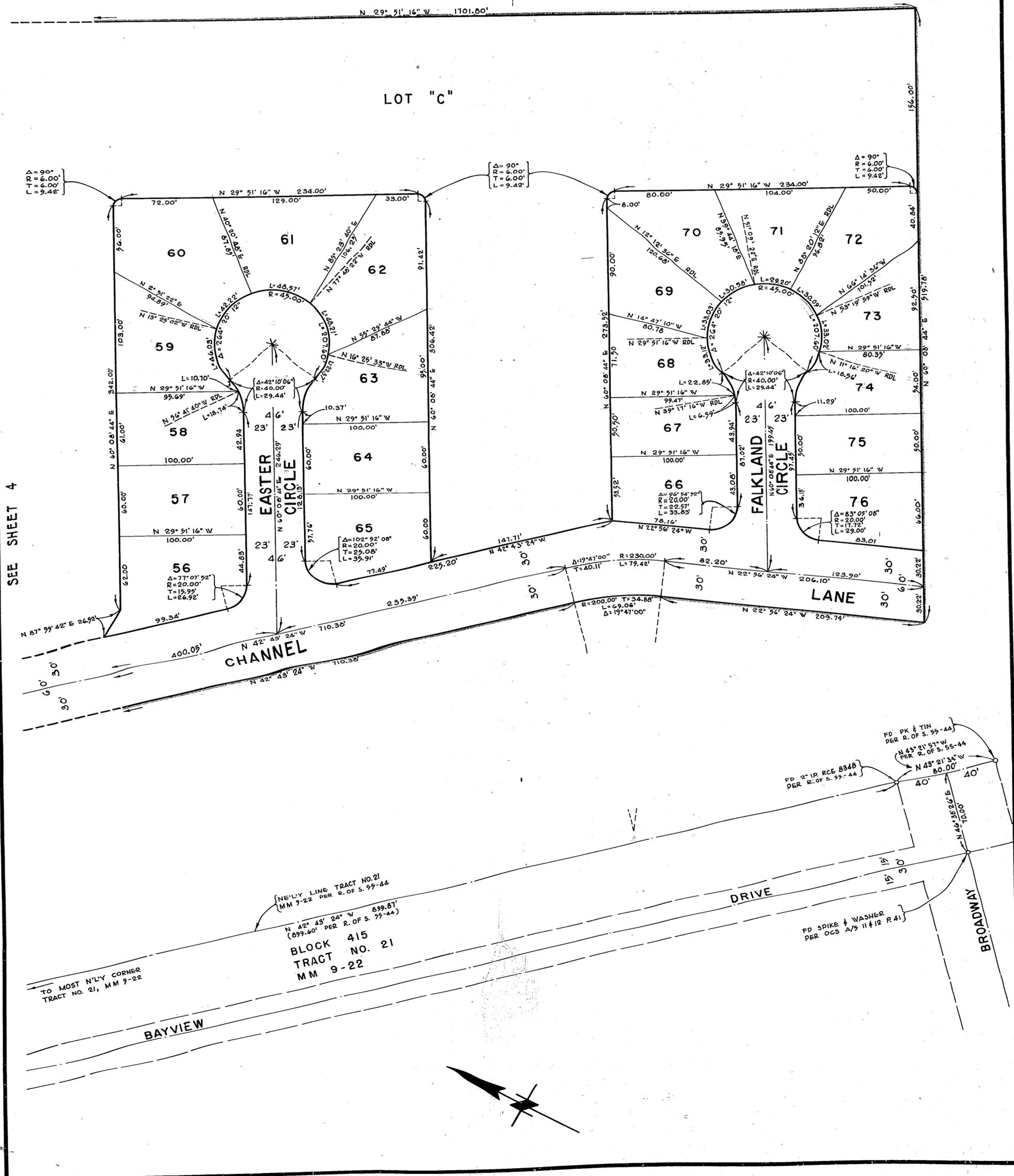
ACCEPTED AND FILED
MAY - 3 1962 AT 2:38 P.M.
AT REQUEST OF
ORANGE COUNTY TITLE CO.
ORANGE COUNTY RECORDS
RUBY McFARLAND, County Recorder
FEE \$13.00

BASIS OF BEARINGS:

N 42° 43' 24" W FOR THE NORTHEASTERLY LINE OF
BLOCK 415, TRACT NO. 21, MM 9-22 AS PER R. OF S. 55-44

N 29° 51' 16" W 1701.00'

LOT "C"



Deed # 372

3654

No Revenue

BOOK 6134 PAGE 409

CORPORATION GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, HUNTINGTON HARBOUR CORPORATION, a corporation, duly organized and existing under and by virtue of the laws of the State of Delaware, hereby grants to the City of Huntington Beach, in the County of Orange, State of California, all of its right, title and interest in and to that certain real property (hereinafter referred to as "said real property"), situated in the County of Orange and described and shown on Lots B and C on that certain final map for Tract 4499 in the City of Huntington Beach, dated May 3, 1962, and recorded in Book 161, at Pages 11-15, inclusive, of the Miscellaneous Map Records of the County Recorder, Orange County, California, for use only as a public and navigable channel and for no other purpose whatsoever, together with all of Grantor's right, title and interest in and to bulkheads located within bridge and right of way lines shown on said final map.

EXCEPTING AND RESERVING, however, unto Grantor, its successors and assigns, easements and rights of way in, over, across, upon and through that portion of said real property shown in hatching on the plat of said Tract 4499 appended hereto as Exhibit A, which Exhibit is by this reference incorporated herein for all purposes, for the purpose of constructing, maintaining and using without rental by said City of Huntington Beach the same for docks, wharves, slips, ramps, floats and other mooring structures, and for footings, pilings and ancillary structures for bulkheads located on adjacent property of Grantor. The easements and rights of way herein excepted and reserved shall be severable by Grantor and shall within such boundaries as shall be designated by Grantor in writing and recorded in the Official Records of Orange County, California, be appurtenant to and run with the ownership of the

lot to which the same is adjacent.

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This Grant is made subject to the following:

- (1) General and special county taxes and city taxes, if any, for the fiscal year 1962-1963;
- (2) Limitations, covenants, restrictions, reservations, encumbrances, easements, conditions, rights, rights of way, exceptions and other matters of record; and
- (3) Limitations, covenants, conditions, restrictions, reservations, exceptions and terms affecting said real property recorded in the Official Records of Orange County, California, concurrently herewith.

Said City of Huntington Beach by its acceptance of this deed agrees to be bound by and take title subject to all of the provisions hereof, but reserves all of its rights and privileges which now has or may hereafter have under applicable laws to levy or impose taxes, assessments, permits and other charges against the lots in said Tract 4499, or the owners thereof, for the maintenance and control of the lands transferred to said City hereby.

IN WITNESS WHEREOF, Grantor has caused its corporated name and seal to be affixed hereto and this instrument to be executed by corporate officers thereunto duly authorized.

DATED: May 29, 1962.

HUNTINGTON HARBOUR CORPORATION,

By

L. Douglas
President

ATTEST:

George Potter
Assistant Secretary

FREE

RECORDED AT REQUEST OF
ORANGE COUNTY TITLE CO.
IN OFFICIAL RECORDS OF
ORANGE COUNTY, CALIF.
9 AM JUN 6 1962
RUBY McFARLAND, County Recorder

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF HUNTINGTON BEACH)

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This is to certify that the interest in real property conveyed by the deed or grant dated May 29, 1962 from Huntington Harbour Corporation to the City of Huntington Beach, a political corporation, and/or governmental agency, is hereby accepted by order of the City Council of said City of Huntington Beach on the 4th day of JUNE, 1962, by the undersigned officer or agent on behalf of said City Council pursuant to authority conferred by resolution of said City Council adopted on April 16, 1962, and the Grantee consents to the recordation thereof by duly authorized officials.

DATED: May 29, 1962.

ok of city atty

By Paul C. Jones
City Clerk of the City of
Huntington Beach.

STATE OF CALIFORNIA)
COUNTY OF) ss
LOS ANGELES)

On this 1st day of June, 1962, before me, the undersigned, a Notary Public in and for said County and State, personally appeared L. W. DOUGLAS, JR., known to me to be the President and GEORGE POTTER, JR., known to me to be the Assistant Secretary of HUNTINGTON HARBOUR CORPORATION, the corporation that executed the within instrument, known to me to be the persons who executed the within instrument pursuant to its By-Laws or a resolution of its Board of Directors.

WITNESS my hand and official seal.

Alice M. Hamilton
Notary Public in and for said
County and State.

My commission expires
March 1963

NOTARY PUBLIC STATE OF CALIFORNIA
My Commission Expires March 11, 1963

ATTACHMENT #11

September 14, 2009
20061 Colgate Circle
Huntington Beach CA 92646

Charter Review Commission
City of Huntington Beach
2000 Main St.
Huntington Beach CA 92648

Subject: Section 607(b)2 Retirement Tax Provision deletion

The 1978 charter update contained an item that provided for property owners to be taxed to pay for pre-1978 retirement system benefits. Voters were unaware in 1978 that by approving the charter update they would also be taxing themselves.

There are only a handful of the 470 California cities that fund the retirement system in this manner.

The city estimates this tax burden will reach 26 million dollars by the year 2013.

This tax obligation has been a controversial irritant to the citizens and council members for years. This is the time to bite the bullet and take care of this unfair property tax.

It is recommended this obligation be funded from the general fund rather than the property tax.

Thank you for your consideration of this matter.

Edward Kerins

ATTACHMENT #12

**INFORMATION SUBMITTED BY DAVID RICE
12/23/09**

**PROPOSED CHARTER AMENDMENT TO REQUIRE VOTER APPROVAL OF
SPECIFIED CHANGES IN ALLOWABLE LAND USE
(SUMMARY)**

This initiative would change the City's Charter by adding new procedural requirements regarding certain land use decisions. This proposed initiative would amend the Charter to require that the voters approve what it terms "major changes in allowable land use" as defined in the initiative.

Under the initiative, a "major change in allowable land use" would mean any proposed amendment to the City's General Plan, Specific Plans or specified City zoning ordinances that would have one or more of the following effects:

- 1) A "significant increase" (as defined in the initiative) in traffic, density or intensity of use above the existing condition in the neighborhood where the major change is proposed;
- 2) A change from a public land use to a private land use, or
- 3) A change from non-residential use to residential or mixed uses with a density of greater than 8.8 dwelling units per acre.

A "significant increase" in traffic, density or intensity of use, as defined in the initiative includes:

- 1) The traffic generated by the project produces more than 150 additional peak hour trips;
- 2) The density increase generated by the project produces more than 50 additional residential dwelling units;
- 3) The intensity of use generated by the project produces more than 50,000 additional square feet of residential, office or other nonresidential floor area.

If the City Council, after a full public process, approves a land use change it would not take effect unless a majority of the voters of the City vote in favor of the change at the next general municipal election, or at a special election paid for by the applicant.

Land use changes not falling within the categories described above would be considered "minor changes" not subject to the voter approval requirements. However, the proposed measure would group together all approved minor and major land use changes within a "neighborhood," defined as properties within 1000 feet of each other, approved by the City within an eight-year period to determine whether those approvals together with a new application would be subject to the requirements of the initiative.

The initiative states it would apply to all "major changes in allowable land use" approved by the City Council after the date the proponents publish a Notice of Intent to Circulate an Initiative Petition but would not apply to changes approved by the City Council prior to the effective date of the initiative, if the holder of the approval has acquired "vested rights" to develop under California law. The initiative contains additional exceptions for public school, hospital, and affordable housing projects and for non-conforming residences that are occupied on the date of publication of the initiative. The initiative also would not apply in circumstances where it would violate state or federal law or the U.S. Constitution.

**PROPOSED CHARTER AMENDMENT TO REQUIRE VOTER APPROVAL OF
SPECIFIED CHANGES IN ALLOWABLE LAND USE
(DETAILS)**

Public participation in workshops and public hearings that often run until after midnight has largely proven to be a waste of the People's time and energy. Lately, the City has been breaking land use changes into smaller actions that often convert commercial zoning to residential zoning while ignoring the cumulative impacts of these changes. While the People by and large do not support these actions, they find it difficult to muster the support to challenge each of these smaller land use changes in court or by referendum. Moreover, when people do rally in opposition, our voices are ignored.

The people of Huntington Beach, being weary of repeatedly fighting the City's land use actions, find an initiative to be the only effective means to protect their quality of life and the character of their neighborhoods. An initiative is necessary to ensure that major changes in land use conform to the will of the people.

The people of Huntington Beach find that:

(a) Environmental quality in Huntington Beach, which directly affects quality of life for its residents, workers and visitors, is significantly impacted by excess development which causes severe traffic congestion and gridlock, as well as air, noise and water pollution;

(b) The city's traffic circulation system is already oversaturated, and at or near gridlock during rush hours, and, as such, is inadequate to support the city's existing level of development;

(c) These existing traffic and traffic circulation system conditions, and their adverse public safety, public health and quality of life consequences, bear testimony to the fact that the city's existing land use and development review and approval procedures do not carefully or accurately consider, nor adequately weigh, the adverse impacts to the local environment and quality of life caused by increased density and congestion resulting from major changes in allowable land use;

(d) The standards by which the city evaluates major changes in allowable land use are ill-defined and inadequate to avoid or effectively minimize the adverse effects of those changes; and

(e) The people of Huntington Beach, whose quality of life and property rights are at stake, should have the power to decide, after careful, independent evaluation by the city of the adverse environmental effects of major changes in allowable land use, based on clear and consistently applied standards, whether a proposed major change in allowable land use is worth the added congestion and density it will cause.

Purpose.

It is the purpose of this amendment to:

(a) Give the voters of Huntington Beach the power to determine whether the city should allow major changes in allowable land use, as defined below, by requiring voter approval

of any such proposed change, and, thereby ensure maximum public participation in major land use and zoning changes proposed in the city;

(b) Ensure that the voters of Huntington Beach receive all necessary and accurate environmental information on proposals for major changes in allowable land use, so that they may intelligently vote on any such proposal;

(c) Ensure that city officials provide timely, accurate and unbiased environmental review of all proposals for major changes in allowable land use, so that they may minimize their adverse traffic and land use impacts and maximize neighborhood compatibility before the voters decide on any such change;

(d) Ensure that all elements of the land use change approved by the voters are implemented; and,

(e) Protect the public health, safety and welfare, and the quality of life, for all citizens living or working in the city, and for all visitors to the city.

Definitions.

The definitions set forth in this section apply to the provisions of this article only and do not affect any other provision of law.

(a) “Aggrieved person” means the proponent of a major change in allowable land use, any property owner or city resident, and any other person entitled to CEQA notice pursuant to Public Resources Code section 21092.2.

(b) “As Built Condition” means the dwelling units, office and other nonresidential units, buildings and baseline traffic conditions existing at the time the city issues the notice of preparation of an environmental impact report for the major change in allowable land use, or, where no such notice is issued, when the city commences environmental analysis for the major change. Illegal dwellings and other conditions that exist in violation of the city’s zoning ordinance or its local coastal program and are subject to the city’s power of abatement, may not be accounted for in the as built condition for the purpose of determining a “significant increase,” as defined in subdivision (c) below.

(c) “Significantly Increase” or “Significant Increase” means any one or more of the following increases over or changes compared to the as built condition of a neighborhood:

(1) The traffic generated by the project produces: (i) more than 150 additional morning or evening peak hour trips; or (ii) an increase in intersection capacity utilization (ICU) of 0.01 or more at any critical intersection operating at a level of service (LOS) of "E" or worse or having an ICU of 0.9 or higher; or (iii) any increase in ICU at any city intersection from less than 0.9 to 0.9 or higher; or (iv) any change in LOS at any critical intersection or on any critical corridor from better than "E" to "E" or worse. For purposes of determining traffic increases attributable to a major change in allowable land use, baseline and projected ICU and LOS conditions shall be determined considering weekday peak hour conditions at such time of the year when local public schools are in session.

(2) The density increase generated by the project produces more than 50 additional residential dwelling units.

(3) The intensity of use generated by the project produces more than 50,000 additional square feet of residential, office or other nonresidential floor area.

The voters declare that dividing a major change in allowable land use that would otherwise require their approval into partial changes that would not by themselves require their approval, frustrates their intent to have control over major changes in allowable land use and is contrary to the purposes of this article. For the purposes of this article, a “significant increase” occurs if the combination of a proposed minor change in allowable land use with one or more other minor or major changes in allowable land use in the same neighborhood approved within eight years preceding issuance of the notice of preparation of an environmental impact report for the proposed minor change, or, where no such notice is issued, within eight years preceding commencement of the city’s environmental analysis for the proposed minor change, meets any increase or change threshold for traffic, density or intensity of use defined in this subdivision.

(d) “General Plan” means the General Plan of the City of Huntington Beach.

(e) “Major Change in Allowable Land Use” means any proposed amendment, change, or replacement of the general plan, of the city’s zoning ordinance (as defined and contained in the Huntington Beach Municipal Code) meeting any one or more of the following conditions:

(1) The proposed change in allowable land use would significantly increase traffic, density or intensity of use above the as built condition in the neighborhood where the major change is proposed.

(2) The proposed change in allowable land use would change a public use to a private use. A major change in allowable land use in this category shall include a change of use on (i) land designated for a public use or a public right-of-way; (ii) land designated as a utility right-of-way; (iii) land donated, bequeathed or otherwise granted to the city; (iv) land used or designated for Huntington Beach school property; (v) land owned, controlled or managed by the city, including all land and water; (vi) the beaches as defined in the Huntington Beach Municipal Code; and (vii) the tidelands and all other public trust lands, as defined in the Huntington Beach Municipal Code.

(3) The proposed change in allowable land use would change a nonresidential use to residential or a mixed use resulting in a density of greater than 8.8 dwelling units per acre whether or not any such unit is used exclusively for residential purposes.

(f) “Peak Hour Trips” means the number of peak hour vehicle trips a major change in allowable land use would generate on a daily basis. Peak hour trips generated shall be calculated by using the most recent version of the Trip Generation Manual of the Institute of Transportation Engineers (ITE) in effect on the date the city issues the notice of preparation of an environmental impact report for a major change in allowable land use, or, where no such notice is issued, when the city commences environmental analysis for the major change.

(g) “Minor Change in Allowable Land Use” means any proposed amendment to the general plan, the city’s zoning ordinance that does not fall within the definition of a major change in allowable land use.

(h) “Neighborhood” means all properties located either entirely or partially within 1,000 feet of any parcel or lot that is subject to a proposed change in allowable land use.

(i) “Proponent” means any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity applying with the city for a change in allowable land use. If the city itself initiates the change, it shall be deemed the proponent for the purposes of this article.

Vote of the People on Major Change in Allowable Land Use.

(a) Each major change in allowable land use shall be put to a vote of the people; provided, however, that no such change shall be submitted to the voters unless the city council has first approved it. A major change in allowable land use shall become effective only after approval by the city council and a majority of the voters of the city voting “YES” on a ballot measure proposing such change at either a regular or special municipal election. An advisory election does not satisfy the voter approval requirement.

(b) The sample ballot materials mailed to the registered voters prior to an election shall describe any major change in allowable land use in a manner that clearly discloses both the scope and main features of the project (including sequencing or phasing, as may be the case) that the major change in allowable land use consists of or depends on, and the location and the acreage of the project site. The description shall include the text of the proposed amendment to the general plan, to the city’s zoning ordinance or to the zoning ordinance for the coastal zone, or of any proposed adoption of, or amendment to, a specific plan. The description shall clearly compare the project and its traffic impacts both to the as built condition, and to existing applicable land use designations and zoning classifications, providing accurate comparative data concerning existing as well as proposed densities (in units per acre) and intensities of use (in square footage, types of use and traffic impacts). If a site-specific development is proposed in connection with a major change in allowable land use, and densities or intensities of use in such site-specific development are less than the densities or intensities the major change proposes, the text of the ballot shall clearly disclose the maximum total residential, commercial, industrial or other nonresidential buildout potential, and traffic impacts under buildout, compared to the as built condition. Easily readable maps shall be used to assist the voters in the project description. All of the information called for by this subdivision shall be posted on the city’s Website no later than 30 days prior to the city council’s action on a major change in allowable land use, and such information shall be updated no later than ten days following the city council’s approval, if the council has changed the project.

(c) For all major changes in allowable land use approved by the city council after the effective date of this article of the city charter, the election required by this article shall be set for the general municipal election next following city council approval of the major change; or, by mutual agreement with the proponent, the city council may call a special municipal election, with the cost of the special election being borne solely by the proponent. For all major changes in allowable land use approved by the city council on

or after the date of publication, pursuant to Elections Code section 9205, of the notice of intention to circulate the initiative petition to add this article to the city charter, but before the effective date of this article, the election required by this article shall be set for the general municipal election next following the effective date of this article; or, by mutual agreement with the proponent, the city council may call a special municipal election, with the cost of the special election being borne solely by the proponent.

(d) The popular vote required by this article shall be in addition to all other applicable review and approval requirements for such major change, including environmental review in compliance with the California Environmental Quality Act (CEQA).

(e) All subsequent city permits and approvals necessary to implement all or part of a major change in allowable land use shall conform to the voter-approved change. Under no circumstances shall any subsequent permit or approval authorize, allow or otherwise accommodate higher densities, intensities of use, or trip generation than the densities, intensities and trip generation approved by the city council and the voters. No certificate of occupancy for any structure built as part of a project that depends on a major change in allowable land use shall issue until all mitigations of traffic impacts, including control signals, increases in right-of-way capacity via widening roads, or other right-of-way or intersection improvements, as may be required by the city council, have been developed and implemented, and the city engineer has certified completion and operation of all traffic impact mitigations in full compliance with the city council's approval action.

Application for Major Change in Allowable Land Use; City Review.

(a) To carry out the purposes of this article, any application for a major change in allowable land use shall contain accurate and up-to-date factual data and information, and the subsequent written city review further shall include the following (in addition to all other disclosures required under CEQA and the Huntington Beach Municipal Code):

(1) A plot plan or diagram, drawn to scale, showing the arrangement of plots and maximum proposed residential or nonresidential unit buildout per plot.

(2) A complete, objective discussion of the potential inconsistencies between the project that consists of, or depends on, the major change in allowable land use, and: (i) surrounding uses in the neighborhood; (ii) the general plan; and (iii) the city's zoning ordinance. To the extent the project differs from existing uses, a full description of the mitigations necessary or recommended for adoption to minimize neighborhood impacts and incompatibility shall be provided.

(4) A complete, objective analysis of the traffic circulation and traffic safety impacts of the project that consists of, or depends on, the major change in allowable land use. The traffic analysis shall be prepared directly by, or under direct contract to, the city. Unless CEQA disclosure provisions, the Huntington Beach Municipal Code, or other city regulations, policies or standards require selection of a larger traffic impact area, ICU and LOS impact analysis shall be provided for all critical corridors and critical intersections within 3,000 feet of any parcel subject to the major change in allowable land use. LOS analyses shall utilize both "Urban Streets" and "Signalized Intersection" methodologies, as defined in the current Highway Capacity Manual published by the Transportation Research Board, a division of the National Research Council. The traffic analysis shall

adequately disclose the direct, the indirect or secondary, and the cumulative impacts of the project, accounting for all relevant factors, such as heavy vehicle traffic, bus stops, intersection and corridor oversaturation (downstream traffic queuing impacts), pedestrian traffic, side street and driveway entrances and exits, ingress stacking and overflowing, and left turn lane queuing and overflow. The traffic analysis also shall identify the mitigations necessary or recommended to reduce the traffic impacts to an ICU below 0.90 or a LOS better than “E” for the corridors and intersections subject to this analysis. The location, nature and adverse construction-phase impacts of the traffic impact mitigations shall be clearly described.

(b) To reduce delay for proponents, the city’s decision making bodies may review and conditionally approve discretionary permit applications required for a project prior to the people’s vote on a major change in allowable land use on which such project depends; provided, however, that no conditional permit approval will become effective unless the related major change in allowable land use is passed by the voters and has itself become effective. If the related major change in allowable land use is rejected by the voters, such change and all conditional permits shall have no force and effect.

Exceptions.

(a) This article shall not apply to any major change in allowable land use that is limited to allowing the development of a public school or a hospital. Nor shall this article apply to preclude completion of a site-specific development that depends on a major change in allowable land use approved before the effective date of this article, if before such date, the holder of any permit or other entitlement for use for such development has lawfully and in-good faith acquired a vested right, under state law, to carry out the development to completion.

(b) The provisions of this article shall not apply to the extent that they would violate state or federal laws.

(c) This article shall not be applied in a manner that would result in the unconstitutional taking of private property.

(d) This article shall not apply to affordable housing projects required by state or federal law.

(e) This article shall not apply to any major change in allowable land use of property with non-conforming residential units that were occupied on the date of publication so long as the proposed change in allowable land use meets the following conditions: the existing residential units are rendered conforming under the proposed change; the proposed change does not allow an increase in the number of residential units on the property; and the proposed change does not create a significant increase in traffic or intensity of use.

(f) This article shall not apply to affordable housing projects for low and moderate income housing as defined by state law.

Relationship to City Charter and Municipal Code.

If any provisions of this article conflict with other provisions of the charter or contained in the Huntington Beach Municipal Code, the provisions of this article shall supersede any other conflicting provision.

Amendments.

No provision of this article may be amended or repealed except by a vote of the people of Huntington Beach.

Judicial Enforcement.

Any aggrieved person shall have the right to maintain an action for equitable relief to restrain any violation of this article, or to enforce the duties imposed on the city by this article.

Construction.

This article shall be liberally construed to accomplish its purposes. Nothing herein shall be construed to make illegal any lawful use being made of any land in accordance with city land use and zoning regulations in force before the effective date of this article.

Consistency with Other Ballot Measures.

If another ballot measure is placed on the same ballot as this measure and deals with the same subject matter, and if both measures pass, the voters intend that both measures shall be put into effect, except to the extent that specific provisions of the measures are in direct conflict. In the event of a direct conflict, the measure which obtained more votes will control as to the directly conflicting provisions only. The voters expressly declare this to be their intent, regardless of any contrary language in any other ballot measure.

Severability.

If any section, subdivision, clause, sentence, phrase or portion of this article is declared invalid by a court of competent jurisdiction, the remaining sections, subdivisions, clauses, sentences, phrases and portions shall remain valid and enforceable. The voters declare that they would have passed all sections, subdivisions, clauses, sentences, phrases and portions of this article without the section, subdivision, clause, sentence, phrase or portion declared invalid by a court of competent jurisdiction.

ATTACHMENT #13



City of Huntington Beach

Charter Review Commission

ACTION MINUTES

Tues., Dec. 15, 2009, 6:00 PM

1. **Roll Call:** Jerry Bame, Ralph Bauer, Mark Bixby, Patrick Brenden, Shirley Dettloff, Dick Harlow, Gregory Hartnett, Marijo Johnson, Gary Kutscher, Joe Shaw, Ray Silver, Sharie Sneddon, Tim Stuart, Dave Sullivan, Shane Whiteside

All present except Hartnett and Whiteside

2. Public Comments:

An opportunity for the public to comment on any item of interest, either in general or specific to this agenda, that is within the subject matter or jurisdiction of the Commission. Comments will be limited to no more than 3 minutes. Speakers are encouraged to submit their comments in writing. Each Commission Member will receive a copy of all the submitted comments.

Public Comments were received as follows:

- Kim Kramer on behalf of the Huntington Beach Downtown Residents Association requesting that the monetary trigger for a Measure C vote be variable based on the size of the park and that it not be raised above \$100,000.
- Joan Flynn in support of strengthen the qualifications for the position of City Clerk.

3. Approval of Minutes from the November 3 and December 1 Commission meetings.

Motion Dettloff, second Brenden to approve the minutes of Nov. 3 and December 1 as submitted. The motion carried 13-0-2.

4. Staff Presentation on Charter Section 612 Public Utilities and Parks and Beaches (Measure C) as Follow-up to the Dec. 1 Public Meeting.

City staff recommended:

1. No change in sale, lease, exchange or transfer of beach or park property,
2. No change in the restriction against improvements such as a golf course or driving range,
3. No change in the building size trigger of 3,000 square feet,
4. The addition of an exclusion for repair, replacement, and/or maintenance of sewer, water, and storm drain facilities, and
5. The addition of an exclusion for underground structures.

5. Discussion and possible action on Charter Section 612 Public Utilities and Parks and Beaches (Measure C)

Following some discussion Commissioner Silver made a motion, seconded by Commissioner Sneddon for staff to come back to the Commission with language for a recommendation to the City Council that they adopt a set of procedures to be followed in determining when a project exceeds the requirements triggering a Measure C vote. The motion carried 13-0-2.

Commissioner Dettloff made a motion, seconded by Commissioner Shaw to add the July 11 1994 minute action language to Section 612 of the City Charter. Following some discussion, Commissioner Dettloff withdrew her motion

* Material related to the Charter Sections to be discussed and submitted prior to the posting of the agenda will be included in the agenda packet. Items received after posting of the agenda will be distributed at the Commission meeting as late communications.

Following further discussion Commissioner Dettloff made a motion to have staff look at the current language in Section 612 and where appropriate take language from the July 11, 1994 minute action and add it to Section 612 of the Charter. Her second, Commissioner Shaw noted that those that spoke at the public meeting on Measure C had indicated that they wanted the minute action incorporated into the Charter. The motion carried 13-0-2.

Commissioner Bauer made a motion to include language in Charter Section 612 based on staff's recommendation to add an exclusion from a Measure C vote repair, replacement, and/or maintenance of sewer, water, and storm drain facilities within the a 3000 square foot limitation. The motion was seconded by Commission Sullivan. Following some discussion, the motion carried 12-1-2 (Shaw No)

Commissioner Sullivan made a motion, seconded by Commission Bauer to have staff return with language for inclusion in Charter Section 612 an exclusion from a Measure C vote for underground structures. The motion carried 13-0-2.

Commissioner Dettloff made a motion, seconded by Commissioner Brenden to instruct staff to come back with an appropriate monetary minimum for triggering a Measure C vote and a potential cost indexing method to keep it current in the future. The motion carried 13-0-2

Commissioner Bixby noted that a recent controversy over the location of a cell tower in a city park brought to light a potential loophole in Measure C when an applicant is requesting a site license as opposed to a lease to locate a structure in the park. To correct this he suggested language requiring a Measure C vote on any agreement that would result in a reduction in recreational opportunities. Following some discussion Commissioner Bixby made a motion, seconded by Commissioner Sullivan to ask staff to return with language to be incorporate in Section 612 that would require a Measure C vote before approval of any agreement that would allow a structure such as a cell tower to be constructed on city parkland or beaches.

Commissioner Silver made a motion, second by Commissioner Shaw to return with language for a recommendation to Council that a written notification be sent to residents within a specified perimeter whenever a project below the thresholds for a Measure C vote is going to be constructed in a city park.

Commissioner Bauer left the meeting.

6. Discussion and possible action on Article III of the City Charter.

- **Section 300 - Elective offices and their terms**

Motion Brenden, second Johnson to add the following language to Section 300 of the Charter: If no candidate who meets the qualifications *shall be elected to the office* of City Clerk, City Treasurer, or City Attorney, the City Council shall fill that position by appointment until the next municipal general election in which a qualified candidate is *elected available to run*. The motion carried 12-0-3

- **Section 309 - City Attorney - Powers and Duties**

Motion Sneddon, second Johnson to incorporate the qualifications for the City Attorney as identified in the recommendations from Chairman Harlow, Vice Chair Dettloff and staff with the addition of 3 years of Municipal law experience and a change in Section (j) so it reads as follows:

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Cooperate with and assist the city manager in carrying out the manager's responsibilities in administering the affairs of the city most efficiently, economically, and harmoniously, consistent with his or her duties as prescribed by law, the City Charter, and ordinances of the city.

- **Section 310 - City Clerk - Powers and Duties**

Motion by Commissioner Sneddon, 2nd by Commission Johnson to incorporate the qualifications into Section 310 of the Charter as identified in the recommendations from Chairman Harlow, Vice Chair Dettloff and staff with a change in the language in (j) so it reads as follows:

Cooperate with and assist the city manager in carrying out the manager's responsibilities in administering the affairs of the city most efficiently, economically, and harmoniously, consistent with his or her duties as prescribed by law, the City Charter, and ordinances of the city.

- **Section 311 - City Treasurer - Powers and Duties**

Motion Sneddon, second Shaw to amend Section 311 to incorporate the qualifications for the City Treasurer as recommended in the memo from Shari Freidenrich and the add a new section (d) to read as follows:

Cooperate with and assist the city manager in carrying out the manager's responsibilities in administering the affairs of the city most efficiently, economically, and harmoniously, consistent with his or her duties as prescribed by law, the City Charter, and ordinances of the city.

7. **Commissioner Requests: Questions, comments, or suggestions for discussion at a subsequent meeting of the Commission**
8. **Adjourn to the next regular meeting scheduled for Tuesday, Jan 5 at 6 PM in City Hall Room B 8.**

* Material Related to the Charter Sections to be discussed and submitted prior to the posting of the agenda will be included in the Agenda Packet. Items received after posting of the agenda will be distributed at the Commission meeting as late communications.