

MINUTES
HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR
Council Chambers - Civic Center
2000 Main Street
Huntington Beach California

WEDNESDAY, OCTOBER 1, 2008 - 1:30 P.M.

ZONING ADMINISTRATOR: Ricky Ramos

STAFF MEMBER: Jennifer Villaseñor, Jason Kelley, Kimberly De Coite
(recording secretary)

MINUTES: March 19, 2008
APPROVED AS SUBMITTED

ORAL COMMUNICATION: **NONE**

**ITEM 1: MITIGATED NEGATIVE DECLARATION NO. 2008-003 (TALBERT LAKE
DIVERSION PROJECT)**

APPLICANT: City of Huntington Beach, 2000 Main Street, Huntington Beach, CA 92648.

PROPERTY OWNER: City of Huntington Beach, 2000 Main Street, Huntington Beach, CA 92648

REQUEST: To analyze the potential environmental impacts associated with the Talbert Lake Diversion Project, a Santa Ana Regional Water Quality Control Board-approved Supplemental Environmental Project (SEP) involving the construction of a natural treatment system in the northeastern corner of Central Park in Huntington Beach, on the eastern side of Goldenwest Street. The proposed project would divert up to 3 million gallons per day (mgd) of dry weather flows from the East Garden Grove Wintersburg Channel (EGGWC) into a newly constructed treatment wetlands system for water quality improvement purposes. Project components include the construction of a diversion structure such as a rubber dam within the EGGWC to divert dry weather flows into an existing water line in Goldenwest Street, or the existing storm drain system within Gothard Street, for transport to the proposed treatment wetlands within Central Park. These treatment wetlands would consist of three linear wetland features encompassing open water and channel areas and channels through which diverted channel flows would move and be subjected to a series of natural treatment processes improving overall water quality. Project objectives include the improvement of water quality and the potential beneficial reuse of treated water on site for park irrigation purposes if sufficient water is available.

LOCATION: 7111 Talbert (between Slater Avenue and Talbert Avenue to the north and south, and Goldenwest Street and Gothard Street to the west and east- approximately 75 acres in the northeast corner of Huntington Central Park)

PROJECT PLANNER: Jennifer Villaseñor

Jennifer Villaseñor, Associate Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing uses of the multiple project sites. Staff presented an overview of the proposed project and the suggested findings and mitigation measures for approval as presented in the executive summary.

Ms. Villaseñor reported that during the mandatory 30 day CEQA public comment period nineteen letters were received from concerned citizens and public agencies. She noted that during the two week public noticing period, prior to this meeting, emails and letters were received and forwarded to the Zoning Administrator.

She stated that, with the inclusion of fourteen mitigation measures, the project would result in a less than significant impact.

THE PUBLIC HEARING WAS OPENED.

Geraldine Lucas, Principal Civil Engineer, stated that she agreed with staff's recommendations. She introduced her fellow staff members.

Tony Olmos, City Engineer, gave a brief overview of the approval process for the project at Mr. Ramos's request. He noted that the project would go before City Council for action near the summer of 2009.

Ray Hiemstra, 214 19th Street, stated that he strongly approves the project and commended staff for their work. He stated that the project would have a positive impact on the wildlife habitat.

Mark Bixby, 17451 Millgate Lane, stated that he approves the project but had some concerns. He asked for specifics on the environmental impacts of returning polished water to the channel. He asked that the project be measured accurately and that money not be spent on excess capacity that will not be used. He stated a strong concern regarding the risk of an increase in odor and asked that this be looked at carefully. He stated that he would urge the California Coastal Commission to require a consistency certification on the project.

Delton Emery, 17452 Lucero Lane, discussed several articles from the Orange County Register regarding standing water and the West Nile virus. He asked if this project would not be covered under Proposition C. He asked why the water should be diverted to Huntington Central Park instead of Huntington Harbor or Anaheim Bay. He expressed concern about water quality and about the proposed site of the project.

David Carlberg, representative of Amigos de Bolsa Chica, urged approval of the project.

Kathy Kurjan, 7151 Nimrod Drive, stated that she disapproves daytime public hearings and felt that the timing prevented people from attending. She stated that she still had questions about

the project and asked what the process was for having those answered. Mr. Ramos indicated that she should pose the questions at this time so that they could be addressed.

Ms. Kurjan stated that she didn't feel there was proper notice to park users. She stated that notice of the request and hearing should have been posted in Central Park. She stated that residents would bear the burden of the costs for the project.

Mr. Ramos inquired if she had any further questions and Ms. Kurjan indicated that she had additional questions in a letter sent in during the public comment period.

Peter Petrellis, 17401 Jepsen Circle, stated that the report was overwhelming and had no summary. He felt that no consideration was given to the people who use the park regularly. He asked which account the funds would be allocated from and for the current cost of the study.

Vic Liepsig, resident, stated that there is currently stagnant water in certain areas of Central Park and that he believes the park will benefit from the project.

Scott Thomas, Sea & Sage Audubon Society, stated that he approves the project but had concerns about the downstream affects, habitats, and Bolsa Chica itself.

James Sun, 7132 Nimrod Drive, stated that he is a frequent visitor to the park and feels that the park is for the whole city, not just nearby residents, and the concerns of the people should be more of a consideration.

Jean Hinke, resident, feels the land designated for this project is being used. She stated that she would prefer the unused acreage near Shipley Nature Center be considered for the project.

THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.

Mr. Ramos asked staff to address Mr. Bixby's concerns regarding the polished water and encouraged staff to address any questions raised during the public comments. He asked Mr. Bixby to repeat his question so that staff could address it appropriately. Mr. Bixby asked what the environmental impacts would be if polished water was returned to the channel or what would prevent this possibility. Geraldine Lucas, Principal Civil Engineer, stated that the cost of transporting the water back to the channel was prohibitive. She stated that the water would have beneficial uses in the park.

Mr. Ramos asked staff to explain the site selection process. Ms. Lucas stated that the whole city was looked at closely but that the area chosen was the only one that could hold the specified amount of water.

Mr. Ramos indicated that most of the other public comments were addressed within the Mitigated Negative Declaration. He indicated that notification for park users should be considered when the project is brought before council.

Mr. Ramos stated that, based on the information provided, he is in agreement with staff's findings and will approve the request as recommended by staff. He stated that he had minor changes to the mitigation measures: Mitigation Measure 12 should be changed to require review by Public Works, and timing should be identified in Mitigation Measure 3, 9, and 10.

MITIGATED NEGATIVE DECLARATION NO. 2008-003 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND MITIGATION MEASURES. STAFF STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR MAY BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.

FINDINGS FOR APPROVAL – MITIGATED NEGATIVE DECLARATION NO. 2008-003

1. Mitigated Negative Declaration No. 2008-003 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of 30 days. Comments received during the comment period were considered by the Zoning Administrator prior to action on the Mitigated Negative Declaration.
2. Mitigation measures avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. Mitigation measures address odor control, construction noise and potential impacts to cultural resources, hazards, geology and soils, traffic and transportation and biological resources. Mitigation measures were generally designed to minimize construction related impacts within and surrounding the project area as well as control odors in the East Garden Grove Wintersburg Channel (EGGWC) that may result from the proposed diversion structure.
3. There is no substantial evidence in light of the whole record before the Zoning Administrator that the project, as mitigated through the attached mitigation measures, will have a significant effect on the environment. The proposed project will create a natural treatment system in Central Park by diverting up to 3 million gallons per day (mgd) of dry weather flows (urban runoff) from the EGGWC with the objective of improving water quality within the downstream receiving waters, including Huntington Harbour and Anaheim Bay. Additional project benefits include enhanced riparian habitat in Central Park, a restored Talbert Lake and potential reuse of treated water on site for park irrigation purposes. Finally, all potential impacts resulting from construction of the project can be adequately mitigated.

MITIGATION MEASURES FOR ENVIRONMENTAL CONCERNS:

1. Prior to initiation of construction, the Project Applicant shall hire a qualified Geotechnical Engineer and/or Engineering Geologist to complete a geotechnical investigation of areas to be excavated by the project and to ensure that all recommendations of the geotechnical investigation are incorporated into the final plans and specifications for the project.

2. Epoleon ® (or similar odor-control measure) shall be applied, as needed, by the City of Huntington Beach Park, Tree and Landscape Division to ponded water behind the diversion structure.
3. Prior to construction, a Traffic Control Plan will be developed for all construction activities proposed within and adjacent to public road rights-of-way that would delay or disrupt local roadway traffic. The Traffic Control Plan shall include, but not be limited to:
 - Limiting road closures to identified portions of Goldenwest Street directly west of the project site to only two lanes in each direction at any given time;
 - Limiting road closures to portions of Gothard Street and Warner Avenue as described in Exhibits 12.6-3 through 12.6-6 for a total of no more than 10 days (only applicable if Diversion Concept 4, 5 or 6 is chosen);
 - Limiting lane closures to between 9:00 AM and 3:00 PM on weekdays and Saturday, with no closures on Sunday;
 - Installing traffic-control devices as specified in the California Department of Transportation's Manual of Traffic Control for Construction and Maintenance Work Zones;
 - Providing alternate routes (detours) as necessary, to route local traffic around roadway construction;
 - Providing notification of road closures to residents in the vicinity of construction; and
 - Consulting with emergency service providers and developing an Emergency Access Plan for emergency vehicle access in and adjacent to the construction zone.
4. A permitted Biological Monitor shall be on site for all construction activities occurring during the least Bell's vireo nesting season (March 15 to September 15). If the Biologist determines that the least Bell's vireo is present on or within 500 feet of the project site, construction operations shall cease. To resume construction operations, the appropriate permits must be obtained from the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS).
5. Post-construction maintenance operations shall occur outside the least Bell's vireo breeding and nesting season (March 15 to September 15) and shall be confined to vector-control activities and manual removal of vegetal debris in open water areas.
6. Nesting Migratory Birds: If construction commences during the migratory bird nesting season (March 1 to August 31), a qualified Biologist will survey the project impact area for the presence of any active bird nest (common or special status) within 72 hours prior to the onset of construction activities. Any nest found during the survey efforts will be mapped on the construction plans. If no active nests are found, no further mitigation is required. Results of the surveys will be provided to the CDFG and the City of Huntington Beach.

If any active migratory bird nest is present, the nest will be protected until nesting activity has ended to ensure compliance with Section 3503 of the California *Fish and Game Code*. To protect any active nest, the following restrictions on construction are required until the nests are no longer active, as determined by a qualified biologist: (1) clearing limits will be established with a 300-foot buffer around any occupied nest, or as otherwise determined

by a qualified Biologist. Any encroachment into the buffer area around the known nest will only be allowed if the qualified Biologist determines that the proposed construction activities would not disturb the nest occupants. Construction during the nesting season can occur only at the sites if a qualified Biologist has determined that the construction activities are not a disruption to the breeding activities or if the fledglings have left the nest.

Nesting Raptors: If construction commences during the raptor nesting season (February 1 to June 30), a qualified Biologist shall survey within 500 feet of the project impact area for the presence of any active raptor nests (common or special status) at least seven days prior to the onset of construction activities. Any nest found during survey efforts shall be mapped on the construction plans. If no active nests are found, no further mitigation is required. Results of the surveys shall be provided to the CDFG and the City of Huntington Beach.

If nesting activity is present at any raptor nest site, the active nest site will be protected until nesting activity has ended to ensure compliance with Section 3503.5 of the *California Fish and Game Code*. To protect any nest site, the following restrictions on construction are required until nests are no longer active, as determined by a qualified Biologist: (1) clearing limits shall be established with a 500 foot buffer, or as otherwise determined by a qualified Biologist, around any occupied nest. Any encroachment into the buffer area around the known nest shall only be allowed if the qualified Biologist determines that the proposed construction activities would not disturb the nest occupants. Construction during the nesting season can occur only at the sites if a qualified Biologist has determined that the construction activities are not a disruption to the breeding activities or if the fledglings have left the nest.

If an inactive nest is observed within the area to be directly impacted during the non-nesting season, the nest site shall be monitored by a qualified Biologist, and when the raptor is away from the nest, the nest will be removed so raptors cannot return to it. The qualified Biologist will supervise the removal of the nest.

7. The existing and abandoned oil pipelines shall be potholed prior to initiation of construction activities to determine the exact locations of the pipelines and to allow for implementation of any additional measures necessary to avoid impact.
8. Prior to preparation of final plans and specifications, the Project Applicant shall have prepared a Phase I Environmental Site Assessment (ESA) for the entirety of the project to determine the potential to encounter hazardous materials during project implementation. This documentation shall be prepared by a Registered Environmental Assessor (REA) or other qualified personnel, as determined by the State of California.
9. Prior to preparation of final plans and specifications, the Project Applicant shall have the soils displaced during all potholing operations and all excavation activities on the remainder of the project site tested for the presence of petroleum hydrocarbons and other potential hazardous materials. The soil testing shall be overseen by an REA or other qualified personnel, as determined by the State of California. The results of the tests on the soils collected during potholing operations shall be finalized before initiating further construction activities. If soil testing during site excavations positively identifies the presence of hazardous materials, the City of Huntington Beach shall coordinate with the appropriate

regulatory agency(s) to determine the oversight and remediation method to be implemented.

10. During construction, if any hydrocarbon-contaminated soils or other hazardous materials on proposed project construction sites are to be transported off site, the transport shall be conducted by a properly licensed Hazardous Waste Hauler, who will be in compliance with all applicable State and federal requirements, including the federal Department of Transportation regulations under Title 49 of the *Code of Federal Regulations* (CFR); the California Department of Transportation (Caltrans); the federal Occupational Safety and Health Administration (OSHA) standards and under 40 CFR 263 (Subtitle C of Resource Conservation and Recovery Act).
11. During construction, the project applicant shall ensure that all noise-generating activities be limited to the hours between 7:00 AM and 8:00 PM on weekdays. No noise-generating activities shall occur on Saturdays, Sundays or holidays. Noise-generating activities are also prohibited within 100 feet of the Park Bench Café on weekdays between the hours of 11:00 AM and 1:00 PM.
12. Prior to the issuance of any grading permits, the Construction Contractor shall produce evidence acceptable to the City of Huntington Beach, Public Works Department, that:
 - All construction vehicles or equipment (fixed or mobile) operated within 1000' of a residential dwelling shall be equipped with properly operating and maintained mufflers.
 - Stockpiling and/or vehicle staging areas shall be located as far as practicable from residential dwellings.
13. Prior to approval of any rough, precise or stockpiling grading plans, the City shall hire a certified Archaeologist to ensure that the following actions are implemented:
 - The Archaeologist must be present at the pre-grading conference in order to establish procedures for temporarily halting or redirecting work to permit the sampling, identification and evaluation of artifacts if potentially significant artifacts are uncovered. If artifacts are uncovered and determined to be significant, the Archaeological Observer shall determine appropriate actions in cooperation with the City for exploration and/or salvage.
 - Specimens that are collected prior to or during the grading process shall be donated to an appropriate educational or research institution.
 - Any archaeological work at the site shall be conducted under the direction of the certified Archaeologist. If any artifacts are discovered during grading operations when the Archaeological Monitor is not present, grading shall be diverted around the area until the Monitor can survey it.
 - A final report detailing the findings and disposition of the specimens shall be submitted to the City. Upon completion of the grading, the Archaeologist shall notify the City as to when the final report will be submitted.
14. Prior to approval of any rough, precise or stockpiling grading plans, the City shall hire a certified Paleontologist to ensure that the following actions are implemented:

- The Paleontologist must be present at the pre-grading conference in order to establish procedures to temporarily halt or redirect work to permit the sampling, identification and evaluation of fossils if potentially significant paleontological resources are uncovered. If artifacts are uncovered and found to be significant, the Paleontological Observer shall determine appropriate actions in cooperation with the City for exploration and/or salvage.
- Specimens that are collected prior to or during the grading process will be donated to an appropriate educational or research institution.
- Any paleontological work at the site shall be conducted under the direction of the certified Paleontologist. If any fossils are discovered during grading operations when the Paleontological Monitor is not present, grading shall be diverted around the area until the Monitor can survey the work.
- A final report detailing the findings and disposition of the specimens shall be submitted. Upon completion of the grading, the Paleontologist shall notify the City as to when the final report will be submitted.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

THE MEETING WAS ADJOURNED AT 2:00 PM TO THE NEXT REGULARLY SCHEDULED MEETING ON WEDNESDAY, OCTOBER 15, 2008 AT 1:30 PM.



Ricky Ramos
Zoning Administrator

RR:kdc