

**Minutes  
City Council/Public Financing Authority  
City of Huntington Beach**

Monday, February 6, 2012  
4:00 PM - Room B-8  
6:00 PM - Council Chambers  
Civic Center, 2000 Main Street  
Huntington Beach, California 92648

**An audio recording of the 4:00 PM portion of this meeting  
and a video recording of the 6:00 PM portion of this meeting  
are on file in the Office of the City Clerk and are archived at  
[www.surfcity-hb.org/government/agendas/](http://www.surfcity-hb.org/government/agendas/)**

4:00 PM - ROOM B-8

CALL TO ORDER - 4:04 PM

ROLL CALL

Present: Shaw, Harper (arrived at 4:08 PM), Dwyer (arrived at 4:23 PM), Hansen,  
Carchio, Bohr, and Boardman  
Absent: None

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (RECEIVED AFTER AGENDA DISTRIBUTION) - None.

PUBLIC COMMENTS PERTAINING TO STUDY SESSION / CLOSED SESSION ITEMS (3 Minute Time Limit) - None.

STUDY SESSION

1. AES presented plans to rebuild its power generating facility adjacent to Pacific Coast Highway. The new power plant replaces a critical and antiquated component of the electrical system with a modern and efficient power plant. AES is developing the engineering plans for the new plant and intends to submit its Application for Certification with the California Energy Commission in the second quarter of 2012.

Jennifer Didlo, Project Director, AES Southland Repower Team, introduced other AES representatives Stephen O'Kane and Eric Pendergraft, AES Southland President, and provided a PowerPoint presentation entitled *AES Huntington Beach Redevelopment*, with titled slides: Our Objective, Project Benefits, New Generating Units will be Smaller, New Generating Units at Existing Location will Minimize Costs and Impacts, New Generating Units will Enable Renewables, Project Details, Project Process, Steps and Timelines, Community Outreach to Date and Next Steps, "We know that to be successful this can't just be an AES project. It must be a community effort and we all should benefit, ... Thank You!," and Agencies and Definitions.

Council questions/comments included:

- Decreased noise (how the new facility's design lessens stream of noise)
- Discussion on how the dual nature of the generating units make it possible to use water
- Poseidon (project relationship, how both Poseidon and AES will pull permits independently of one another, land lease, possible change in conditions once the desalination plant is fully operational)
- California Energy Commission (CEC) formal approval process (and how the project must also comply with local ordinance)
- Aesthetics (screening, paint, landscaping, mural, Southeast Area visual, etc.)
- Description of each section of project site
- Perimeter landscaping

Mayor Hansen solicited and received the following feedback from members of the public who were present at the meeting:

- Will the facility be enclosed similar to an AES facility located in Carlsbad?
- How the new project will replace two exhaust stacks extreme in height with six shorter exhaust stacks
- Setbacks (120 foot setback from Pacific Coast Highway)
- Potential City tax earnings
- How the plant is affected by the dissolution of redevelopment in California (discussion on how valuation will be increased and will flow as a general property tax model)
- Public access to project information online
- Project timeline
- Energy consumption

Discussion ensued regarding the project's efficient design and how it will reduce the use of natural gas. Council and staff also discussed existing earthquake faults, clay piping, Southern California Gas and CEC inspection policy, and estimated project costs.

#### RECESS TO CLOSED SESSION

A motion was made by Carchio, second Dwyer to recess to Closed Session. The motion carried by the following roll call vote:

AYES: Shaw, Harper, Dwyer, Hansen, Carchio, Bohr, and Boardman  
NOES: None

#### CLOSED SESSION

2. Pursuant to Government Code § 54956.9, the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Keith Bateman v. City of Huntington Beach, WCAB Case No. ADJ6761398, Claim No. COHB-08-0025 and 09-0132.

3. Pursuant to Government Code § 54956.9, the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Municipal Derivatives Antitrust Litigation, MDL No. 1950, Master Civil Action No. 08-2516 (S.D.N.Y.).

RECONVENE CITY COUNCIL/PUBLIC FINANCE AUTHORITY MEETING - 6:00 PM

CLOSED SESSION REPORT BY CITY ATTORNEY - None.

ROLL CALL

PRESENT: Boardman, Bohr, Hansen, Carchio, Harper, Dwyer, and Shaw  
ABSENT: None

PLEDGE OF ALLEGIANCE - Led by Mayor Hansen

INVOCATION - Given by Reverend Peggy Price and Father Christian Mondor, Huntington Beach Interfaith Council

AWARDS AND PRESENTATIONS

Announcement - As part of the City's Human Relations Task Force recognition of federal diversity months, Mayor Hansen will announce that February is National African American History Month. The first recognition of the contributions of African Americans was initiated as a week in 1926 by historian and author Dr. Woodson. Since then, each President has issued a proclamation calling on the people of the United States to observe the month with appropriate ceremonies and activities. This year's theme is "African Americans and the Civil War" and honors the black Americans who served our country as soldiers, recruiters, and nurses. On behalf of the City Council, we join in this celebration as we recognize the struggles and achievements of black Americans throughout our history.

Presentation - Mayor Hansen presented a commendation to Elsa Greenfield, Director of the Huntington Beach Youth Shelter to commemorate the founders of the Youth Shelter and the Shelter's continued efforts to strengthen the community.

Presentation - Mayor Hansen called on Sue Gordon, Chair of the Environmental Board and Jenelle Godges from Southern California Edison to present the annual Environmental Awards.

Ms. Godges recognized Greg Goran from Huntington Beach High School for his energy savings activities.

Ms. Gordon recognized Pegasus School and Carden Conservatory as recipients of the Sustainable School Award.

Presentation - Mayor Hansen called on Tom Livengood from the Amigos de Bolsa Chica to announce the 15 year anniversary of the action of the State Lands Commission to provide funds to the Bolsa Chica Wetlands

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (RECEIVED AFTER AGENDA DISTRIBUTION)

Pursuant to the Brown "Open Meetings" Act, Assistant City Clerk Robin Lugar announced supplemental communication received by the City Clerk's Office following distribution of the Council agenda packet:

PowerPoint communication for Public Hearing Item No. 9 received from Ken Small, Police Chief, dated February 6, 2012, entitled *Supplemental Law Enforcement Services Fund (SLESF)*.

Communication for Public Hearing Item No. 10 - Environmental Impact Report (EIR) No. 10-004 (Beach and Ellis Mixed Use Project) submitted by the Planning and Building Department dated February 6, 2012 and entitled *Appeal of Environmental Impact Report (EIR) No. 10-004 (Beach and Ellis Mixed Use Project) - Mitigation Measure Revision*.

Miscellaneous communications for Public Hearing Item No. 10 - Environmental Impact Report (EIR) No. 10-004 (Beach and Ellis Mixed Use Project) received by: Edmond M. Connor of Connor, Fletcher & Williams LP, Barbara Ilizaliturri, Denise Nevin, Gwen Evans, and Michele Metivier.

Miscellaneous communications for Public Hearing Item No. 11 - Zoning Text Amendment 09-002 (Wireless Communication Facilities) received by: Peggy Tracy, John Anderson, Gay Infanti, Dianne Larson (2), Florence Pagliassotti, and Joe Milone.

#### PUBLIC COMMENTS (3 Minute Time Limit)

(The number (hh:mm:ss) following the speakers' comments indicates their approximate starting time in the archived video located at [http:// www.huntingtonbeachca.gov/government/agendas/](http://www.huntingtonbeachca.gov/government/agendas/)).

Stephanie Deagle representing *Huntington Beach Relay for Life* provided a slide show of photos of the January 26 fundraising event held at Seacliff Country Club. (00:28:32)

Councilmember Carchio and Mayor Hansen stated appreciation to Ms. Deagle.

Richard Moore, HB Reads One Book, appeared before Council at the request of Fred Provencher to announce the appearance of Temple Brand on March 21 at 7:00 PM at the Huntington Beach High School Gymnasium to discuss Autism and her new book *Emergence, Labeled Autistic*. (00:31:36)

Richard Moore, Huntington Beach resident, voiced concerns about public employee union pension costs and the City's Retirement Tax paid by citizens to supplement public safety retirement costs. (00:33:17)

Shari Engel voiced concerns about the deteriorating condition of a temporary parking lot in Huntington Central Park. The lot was approved by Council in February 2005 to serve Shipley Nature Center and general park users. Ms. Engel provided a copy of the staff report that was presented to Council in 2005. (00:36:00)

Ted Mooer, Edison Football Booster Program, spoke in support of Consent Item No. 8 - adoption of Ordinance 3932, the sale and discharge of safe and sane fireworks in Huntington Beach. (00:39:39)

Councilmember Carchio and Mr. Mooer discussed costs to field a football player.

Blue Rich, Pacific Mobile Home Park resident, voiced concerns about the potential for mobile homes located along Atlanta Avenue and Huntington Street to be removed as a result of the park's planned subdivision. (00:42:38)

Larry Van Houten, Pacific Mobile Home Park resident, voiced concerns about the potential to lose his home due to the Park's planned subdivision. (00:45:00)

John Reger, Pacific Mobile Home Park resident, voiced concerns about potential negative impacts to park residents during the Atlantic Avenue Widening Project and the Park's proposed subdivision. He submitted a residential petition requesting that a special meeting be held in February 2012 at the Park Office with Park residents, City staff, a few Council members and Park Owner representatives to consider and discuss the City's intended actions. (00:45:00)

Councilmember Boardman and staff discussed educating Pacific Mobile Home residents about the widening of Atlanta Avenue.

City Attorney McGrath discussed a conversation she had with the Park manager that afternoon and plans to speak directly with Park residents at a meeting scheduled for February 11.

Janet Alicesun voiced concerns about all resident in her condominium complex receiving a notice of violation about patio contents, requested that Council adopt an ordinance that prohibits residents from smoking within a certain distance from residential units, and was upset that the property on which she resides is classified as mixed-use and allows noise from gardeners to occur during early morning hours. (00:48:13)

Mayor Hansen suggested that Ms. Alicesun fill out a blue card for Council follow-up.

Tram Banks, Ocean View High School PTSA, spoke to Council in support of Consent Item No. 8 - adoption of Ordinance 3932, the sale and discharge of safe and sane fireworks in Huntington Beach. (00:51:37)

Donna Brandt distributed media regarding Edison High School's Center for International Business and Communication Studies (CIBACS) 1st Annual Golf Tournament scheduled to be held on February 13, 2012 at Seacliff Country Club in Huntington Beach. (00:53:18)

Felice MacCauley spoke to Council in opposition to Consent Item No. 8 - adoption of Ordinance 3932, the sale and discharge of safe and sane fireworks in Huntington Beach. (00:54:54)

#### COUNCIL COMMITTEE - APPOINTMENTS - LIAISON REPORTS AND ALL AB 1234 DISCLOSURE REPORTING

1. Mayor Hansen announced his appointments of Keith Bohr, Devin Dwyer and himself to the Pacific City Ad-Hoc Committee

Councilmember Boardman and Mayor Hansen discussed Committee goals over the next few months to consider potential modifications and opportunities, etc.

Reporting was provided by Councilmember Boardman and Mayor Pro Tem Dwyer.

Councilmember Bohr submitted a written report that will be made available in the City Clerk's Office.

#### CITY MANAGER'S REPORT

City Manager Fred Wilson reported on the City's efforts and accomplishments related to green building, water consumption and conservation.

#### CITY TREASURER'S REPORT

##### 2. Received and Filed the City Treasurer's December 2011 Investment Summary Report

A motion was made by Bohr, second Carchio to receive and file the Monthly Investment Report for December 2011, pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach. The motion carried by the following roll call vote:

AYES: Shaw, Harper, Dwyer, Hansen, Carchio, Bohr, and Boardman  
NOES: None

#### CONSENT CALENDAR

##### 3. Approved and adopted minutes

A motion was made by Carchio, second Harper to approve and adopt the minutes of the City Council/Redevelopment Agency/Public Financing Authority Regular Meeting of December 19, 2011; the City Council/Redevelopment Agency/Public Financing Authority Special Meeting of January 5, 2012; the City Council/Redevelopment Agency/Public Financing Authority Special Meeting of January 9, 2012; the City Council/Redevelopment Agency/Public Financing Authority Regular Meeting of January 17 2012; and, the City Council/Redevelopment Agency/Public Financing Authority Special Meeting of January 27, 2012, as written and on file in the Office of the City Clerk. The motion carried by the following roll call vote:

AYES: Shaw, Harper, Dwyer, Hansen, Carchio, Bohr, and Boardman  
NOES: None

##### 4. Approved Sole Source Procurement from Spectrum Care Landscape and Irrigation Management for Installation of Calsense Weather-based Irrigation Equipment

A motion was made by Carchio, second Harper to approve sole-source purchase from Spectrum Care Landscape and Irrigation Management in an amount not to exceed \$118,000. The motion carried by the following roll call vote:

AYES: Shaw, Harper, Dwyer, Hansen, Carchio, Bohr, and Boardman  
NOES: None

##### 5. Approved and authorized execution of the First Amendment to the Affordable Housing Agreement between the City and Habitat for Humanity of Orange County, Inc. for property located at 18451 Patterson Lane

A motion was made by Carchio, second Harper to approve "First Amendment to the Affordable Housing Agreement Between the City of Huntington Beach and Habitat for Humanity of Orange County, Inc.;" and, authorize the Mayor and City Clerk to execute the Amendment and any related documents; and, authorize the City Manager or designee to take any action and execute any and all documents and agreements necessary to implement this Agreement. The motion carried by the following roll call vote:

AYES: Shaw, Harper, Dwyer, Hansen, Carchio, Bohr, and Boardman  
NOES: None

6. Approved and authorized execution of the Structural Fire Fund Property Tax Transfer Agreement with the Orange County Fire Authority (OCFA) for fire protection and suppression services in the Sunset Beach area.

Councilmember Bohr discussed how the request provides financial benefits to the City, and why it supports the City's decision to annex Sunset Beach.

A motion was made by Bohr, second Carchio to approve and authorize the Mayor and City Clerk to execute the "Structural Fire Fund Property Tax Transfer Agreement." The motion carried by the following roll call vote:

AYES: Shaw, Harper, Dwyer, Hansen, Carchio, Bohr, and Boardman  
NOES: None

7. Adopted Ordinance No. 3931 amending Chapter 8.04 of the Huntington Beach Municipal Code relating to Food Handling Establishments reflecting changes made to the California Health and Safety Code Approved for introduction January 17, 2012

A motion was made by Carchio, second Harper to approve for introduction Ordinance No. 3931, "An Ordinance of the City of Huntington Beach Amending Chapter 8.04 of the Huntington Beach Municipal Code Relating to Food Handling Establishments." The motion carried by the following roll call vote:

AYES: Shaw, Harper, Dwyer, Hansen, Carchio, Bohr, and Boardman  
NOES: None

8. Adopted Ordinance No. 3932 adding Municipal Code Chapter 5.90 regarding Safe and Sane Fireworks sale and discharge - Approved for introduction January 17, 2012

A motion was made by Carchio, second Harper to adopt Ordinance No. 3932, "An Ordinance of the City of Huntington Beach Adding Chapter 5.90 of the Huntington Beach Municipal Code Relating to Fireworks." The motion carried by the following roll call vote:

AYES: Harper, Dwyer, Hansen, Carchio, and Bohr  
NOES: Shaw, and Boardman

#### PUBLIC HEARING

(The number (hh:mm:ss) following the speakers' comments indicates their approximate starting time in the archived video located at [http:// www.huntingtonbeachca.gov/government/agendas/](http://www.huntingtonbeachca.gov/government/agendas/)).

9. Conducted a public hearing, approved and accepted expenditure of the County of Orange Supplemental Law Enforcement Services (SLESF) Grant in the amount of \$200,000 for Fiscal Year 2011-2012

Police Chief Ken Small provided a PowerPoint entitled *Supplemental Law Enforcement Services Fund (SLESF)*, with the following titles slides: FY 11/12 SLESF, Proposed Expenditures, Recommendations, and Questions?

Mayor Hansen opened the public hearing.

Assistant City Clerk Lugar announced supplemental communication received following distribution of the City Council agenda packet:

PowerPoint communication from Ken Small, Police Chief, dated February 6, 2012, entitled *Supplemental Law Enforcement Services Fund (SLESF)*.

With no one present to speak on the item, Mayor Hansen closed the public hearing.

A motion was made by Bohr, second Dwyer to conduct a public hearing; and, approve the acceptance of SLESF grant for funding fiscal year 2011-12; and authorize the Chief of Police to expend \$200,000, plus any accrued interest; and, appropriate \$200,000 plus any accrued interest to purchase the new laser scanning system and new Motorola radios; and, approve the change proposal for the FY2010-11 SLESF funding to purchase the new laser scanning system. The motion carried by the following roll call vote:

AYES: Shaw, Harper, Dwyer, Hansen, Carchio, Bohr, and Boardman  
NOES: None

10. Approved Environmental Impact Report (EIR) No. 10-004 (Beach and Ellis Mixed Use Project) by adopting Resolution No. 2012-05

Associate Planner Rosemary Medel provided a PowerPoint entitled Beach and Ellis Mixed Use Project - Environmental Impact Report No. 10-004, with title slides Request: EIR, Project Site, Planning Commission Action, Appeal of Planning Commission Action, EIR Overview, Planning Commission Discussion Issues, and Recommendation.

Mayor Hansen opened the public hearing.

Assistant City Clerk Robin Lugar announced supplemental communication received following distribution of the City Council agenda packet:

Communication submitted by the Planning and Building Department dated February 6, 2012 and entitled *Appeal of Environmental Impact Report (EIR) No. 10-004 (Beach and Ellis Mixed Use Project) - Mitigation Measure Revision*.

Miscellaneous communications received by: Edmond M. Connor of Connor, Fletcher & Williams LP, Barbara Ilizaliturri, Denise Nevin, Gwen Evans, and Michele Metivier.

Barbara Boskovitz, 40-year resident spoke in opposition to the item voicing concerns related to traffic, delivery truck access and departure, sharing a driveway with the adjacent single resident occupancy (SRO), increased traffic on Talbert Avenue, and the School District's potential for difficult handling of handicapped students during pick up and drop off times. (01:19:18)

Mark Singer, 30-year resident and La Cuesta Homeowners Association Board Member, spoke in opposition to the item, voicing concerns about traffic and his opinion that aesthetics and architecture of the proposed 6-story development is not compatible to the area. (01:22:32)

Stephen Knight, Patterson Lane resident, spoke in opposition to the item, voicing concerns about increased traffic when in his opinion, hazardous traffic conditions already exist. He also feels that the 6-story development will block wind from his property, and also expressed concerns that the proposed project will increase negative activity at the SRO on Demion Lane. (01:25:45)

Chris Jeffries, Patterson Lane resident, spoke in opposition to the item, voicing concerns about lack of parking in the area currently, and how a 6-story structure will prevent sun from shining into existing structures with solar panels. (01:28:59)

Denise Nevin, 30-year resident spoke in opposition to the item, voicing concerns related to increased traffic, noise, dust, and how heavy vehicular traffic causes damage to the foundation of her home. She stated her opinion that approving the project would be in conflict with the City's efforts to be environmentally safe and sensible. (01:30:07)

Kate Tran, 30-year resident, spoke in opposition to the item, voicing concerns about locating a 6-story building near her home, and urged Council to deny the proposal. (01:33:28)

Lonnie Reed spoke in opposition to the item and voiced concerns about the proposal's 6-story structure being incompatible with the area, its design not being environmentally friendly, and how it will create traffic problems to an area that already experiences problem traffic. (01:35:49)

Shelley Chacon expressed concerns about traffic congestion at the Beach/Ellis intersection near the proposed project, commented on her attendance at the Planning Commission hearing, and how the office she works at near the proposed project did not receive notification by mail until today. (01:38:16)

Ed Connor, representing the Ocean View School District, spoke in opposition to the item, voicing concerns about the public's misunderstanding that certification of the EIR includes approving the proposed project. He opined that the law dictates that EIRs must be approved concurrently, not consecutively, with proposed projects, and expressed support for the Planning Commission's denial of the EIR. (01:41:28)

Jerry Wheeler, President of the Huntington Beach Chamber of Commerce, spoke in support of the item and discussed how the Chamber supports economic development and future sustainability. He went on to suggest that certification of the EIR will enhance a major intersection, create jobs, create sales and property tax revenue, and help the City's economy to grow. (01:44:39)

City Attorney McGrath disagreed with speaker Connor's claims that it is illegal to approve an

EIR without concurrently presenting a project request. Planning and Building Director Scott Hess explained why the EIR was presented without a request for entitlement.

With no one else present to speak on the item, Mayor Hansen closed the public hearing.

Discussion points made by Councilmember Boardman:

- Delivery truck access to market site (concepts and alternatives, final site plan, access off Ellis Avenue, alley access, additional lanes on Ellis)
- Overflow parking for current night club located in the Town & Country mall (site entitlement)
- A 6-story structure and area compatibility issues
- A Planning Commissioner's opposition to the traffic analysis for the Crestview neighborhood (EIR in conflict with mitigation measures in the Beach/Ellis Specific Plan)
- Identified contamination mitigated through the Beach/Ellis Specific Plan (regulatory process with all associated agencies, current condition of tanks, concurrent soil, water and methane clean-up accomplished prior to development)
- Intent of the EIR (understanding the mediation process, mitigation measures mandating that remediation must reduce risk below applicable standards, protocols, vapor readings)
- Nomenclature in the Zoning Code related to building height standards for residential and commercial
- Conditions of approval for the nearby SRO (low-income) development
- Called for a current traffic study and expressed opposition to certification of the EIR

Discussion points made by Councilmember Harper:

- Confirmation that the project site is not located in the Ocean View School District
- Compatible with existing condominium and apartment complex buildings
- Remediation issues (gas station tanks before occupation of the property, ongoing vapor and groundwater monitoring, methane, import clean soil)
- Residential occupation calling for stricter standards
- Partial underground parking
- Long term plan to revitalize the area (similar to Anaheim and Irvine)
- Traffic mitigation and how it often takes a project to make mitigation happen to the highest standards
- Expressed support for certification of the EIR

Discussion points made by Councilmember Shaw:

- Concurred with others who shared concerns about certifying the EIR without an accompanying project
- When were traffic studies for the Beach/Edinger Specific Plan done? (original counts 2005 and 2006, subsequent reviews done after that date)
- Why does the Beach/Edinger Specific Plan offer an operational plan related to an acknowledged traffic deficiency at Beach and Ellis, but does not dictate a mitigation measure?
- Why does the Beach/Ellis EIR call for traffic mitigation at three other intersections but not Beach and Ellis?
- Land use designation
- Bike lanes on Ellis and Beach

- Expressed concerns about a deficient traffic analysis, and opposition to certification of the EIR

Discussion points made by Mayor Pro Tem Dwyer:

- Questioned who makes the judgment to deviate from the Beach/Edinger Specific Plan? (explanation of what CEQA allows for substantial conformance with project as described currently in the EIR, in addition to the Planning and Building Department making a determination if additional environmental review is necessary)
- Traffic study is deficient and does not mitigate problems at Beach and Ellis (right turn ingress/egress on Patterson)
- Police related incidents involving the SRO on Ellis
- Parking problems on Damien Street (on-street parking generally not studied; garages not used for cars)
- Refuted claims made by the speaker representing the Ocean View School District
- Can mitigation measures be added for Patterson? (a discretionary action by Council)
- Expressed support for the project, and for traffic improvements

Discussion points made by Councilmember Bohr:

- Mixed opinions on Town and Country Center (defunct vs. revitalized strip mall)
- Traffic mitigation
- How potential school bus and SRO issues should not play a part in taking action on the request
- Expressed support for certification of the EIR

Discussion points made by Councilmember Carchio:

- Questioned lecture by the attorney representing the Ocean View School District
- How do methane tank leaks affect the area's water supply? (methane barrier required; City wells not in the immediate area)
- Adjustments in traffic patterns on Ellis (should widening Ellis east of Beach Blvd. be considered?)
- Project potential to reduce crime in the area
- Project potential to reduce blight on Beach Blvd.
- Parks and Recreation fees
- How green building is encouraged and credited in the Specific Plan

Discussion points made by Mayor Hansen:

- Conditional Use Permit (CUP) process (project details are available for public review at the time the project is proposed to the Planning Commission or City Council)
- Noise addressed in EIR
- How the Beach/Edinger Corridor Specific Plan requires project conformance/vision (projects coming forward must comply with identified plans and codified standards)
- Why a productive and sustainable development is needed
- Developing into a transit oriented City
- Expressed support for certification of the EIR

A motion was made by Hansen, second Bohr to Certify EIR No. 10-004 as adequate and complete in accordance with CEQA requirements by approving Resolution No. 2012-05, "A Resolution of the City Council of the City of Huntington Beach, Certifying the Final

Environmental Impact Report (SCH#2011091022) for the Beach and Ellis Mixed Use Project," **as amended to include a mitigation measure revision identified in supplemental communication.** The motion carried by the following roll call vote:

AYES: Harper, Dwyer, Hansen, Carchio, and Bohr  
NOES: Shaw, and Boardman

11. Approved Zoning Text Amendment No. 09-002 (Wireless Communication Facilities) amending Section 230.96 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) by approving for introduction Ordinance No. 3934

Associate Planner Ricky Ramos provided a PowerPoint presentation entitled *Zoning Text Amendment No. 09-002 - Wireless Communication Facilities* that included titled slides: Request, Background, Proposed Staff Revisions, Planning Commission, and Staff Recommendation.

Mayor Hansen opened the public hearing.

Assistant City Clerk Robin Lugar announced supplemental communication received following distribution of the City Council agenda packet:

Miscellaneous communications for Public Hearing Item No. 11 - Zoning Text Amendment 09-002 (Wireless Communication Facilities) received by: Peggy Tracy, John Anderson, Gay Infanti, Dianne Larson (2), Florence Pagliassotti, and Joe Milone.

Gay Infanti called for additional changes to the zoning texting amendment related to applicants demonstrating a significant gap in coverage, locating equipment in the least intrusive location, and the permit denial process. (03:15:16)

Mark Infanti recommended additional changes to the zoning text amendment including require a Conditional Use Permit (CUP) if proposed in a residential location, require co-location with existing wireless communication facilities, require applicants to demonstrate gap in coverage by a qualified, independent analysis, require neighborhood notification for decisions made at the Planning and Building Director level, waive Design Review if facility is located underground or within an existing building, and, if facility is near residential, require it be completely stealth and soundproof. (03:18:21)

Dianne Larson provided a PowerPoint presentation entitled Zoning Text Amendment No. 09-002 Wireless Cell Facilities, with titled slides: Federal Court Rulings Sprint PCS v Palos Verdes Estates, T-Mobile v. Anacortes, Proof of Need/Location for WCF Permits, TCA Section 704 = Proposed HB ZTA Health Effects = Gap / Location, CUP and WP Permits, ZTA Approvals, CUPs within 1,200 ft. Residential, Additional 10 ft Height over ZO, Cumulative RF Radiation Totals, and Retain Local Control of WCFs. (03:21:10)

Shelley Chacon read a written statement to voice concerns about the proximity of wireless facilities to residences, and opined that the amendment was deficient without requiring an applicant to show, through independent analysis, that a serious gap in coverage exists, and equipment placement is the least intrusive to the community. (03:24:24)

Leslie Daigle, representing Verizon Wireless, spoke in support of encouraging acceptable

designs and providing notice to residents. She opined that the amendment was overly cumbersome in relation to requiring a conditional use permit when no other cities have this requirement. She also asked that the City consider reasonable fees and encourage applicants to propose acceptable designs. (03:27:31)

Dean Brown, California Wireless Association Board of Directors, spoke regarding the benefits of wireless infrastructure. He reminded the Council that thousands of residents rely on wireless devices to work at home, how wireless carriers receive a volume of calls for non-service, how Huntington Beach must ensure wireless equipment functionality during a natural disaster, and how wireless communication is a public utility and should be treated as such. (03:29:51)

With no one else present to speak, Mayor Hansen closed the public hearing.

Discussion points made by Councilmember Boardman:

- Questioned the appeal process and if a fee should be added to the application to cover fees for independent study of gap in service
- Discussed the technological reasons for supporting the Planning Commission's recommendation to expand the co-location requirement for new ground mounted facilities to a 2,500 foot radius
- Recommended revising language on Ordinance No. 3934, page 5, #4 "any" to "all"
- Expanding neighborhood notification to 1000 feet

Discussion points provided by Councilmember Harper:

- Wireless communications are key to support a business-friendly environment, and during natural disaster events
- Additional costs collected by the City will get passed on to consumers
- Sensible notification standards

Councilmember Carchio and staff discussed CUP regulations related to new wireless facilities on parkland adjacent to parks and schools.

Councilmember Bohr opined that the amendment may be overreaching given that the City has processed wireless permits for approximately 20 years with very few problems until recently, and reluctantly offered support for staff's recommendation.

Councilmember Shaw and staff discussed saturation of wireless facilities and whether or not the economy has caused a reduction in the number of wireless permit applications. Councilmember Shaw expressed support for the Planning Commission's recommendation with increased neighborhood notification.

Mayor Pro Tem Dwyer concurred with opinions that the amendment is overreaching, given that wireless permit activity during the past 20 years has been successful with a recent error in judgment, and expressed support for staff's recommendation.

A motion was made by Bohr, second Hansen to approve Zoning Text Amendment No. 09-002 **and require a CUP to the Zoning Administrator for new ground and utility mounted (freestanding) wireless communication facilities only** with findings for approval; and, after the Assistant City Clerk reads by title, approve for introduction Ordinance No. 3934, "An Ordinance of the City of Huntington Beach Amending Section 230.96 of the Huntington Beach

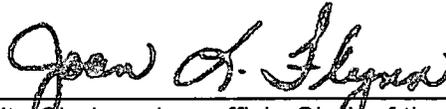
Zoning and Subdivision Ordinance Relating to Wireless Communication Facilities," **as amended to include revised language on Page 5, #4, "any" to "all."** The motion carried by the following roll call vote:

AYES: Dwyer, Hansen, Carchio, and Bohr  
NOES: Shaw, Harper, and Boardman

COUNCILMEMBER COMMENTS (Not Agendized)

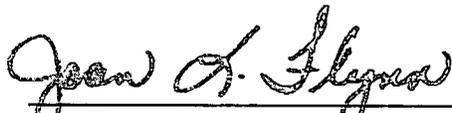
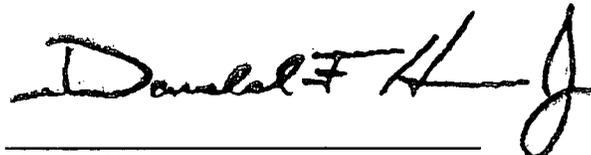
Comments were provided by Mayor Pro Tem Dwyer, Councilmember Carchio, Councilmember Bohr, Councilmember Boardman, Councilmember Harper, and Mayor Hansen.

ADJOURNMENT- at 10:06 PM to the next regularly scheduled meeting of Monday, February 21, 2012 at 4:00 PM, Huntington Beach Civic Center, 2000 Main Street, Huntington Beach, California.



City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach and Secretary of the Huntington Beach Public Finance Authority of the City of Huntington Beach, California

ATTEST:

  
\_\_\_\_\_  
City Clerk, Authority Secretary  
\_\_\_\_\_  
Mayor-Chair