

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

Tuesday, January 17, 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/**

4:00 PM - ROOM B-8

CALL TO ORDER - 4:02 PM

ROLL CALL

Present: Shaw, Harper, Dwyer, Hansen, Carchio, and Bohr
Absent: Boardman (arrived 5:11 PM)

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (RECEIVED AFTER AGENDA DISTRIBUTION)

Pursuant to the Brown "Open Meetings" Act, City Clerk Joan Flynn announced receipt of supplemental communication received by her office following distribution of the Council agenda packet.

PowerPoint communication for Study Session Item No. 1 received from Lori Ann Farrell, Director of Finance, dated January 17, 2012, entitled *Multi-Year Budget Update and Discussion*.

PUBLIC COMMENTS PERTAINING TO STUDY SESSION / CLOSED SESSION ITEMS (3 Minute Time Limit)

Joe B. Munoz, 47-year resident, spoke in opposition to legalizing the sale and discharge of safe and sane fireworks in Huntington Beach.

STUDY SESSION

1. Presentation made by the Director of Finance, Lori Ann Farrell, regarding the following items:
1) Preliminary unaudited FY 10/11 General Fund Year-End Performance; 2) The Long Term Financial Plan Update and Multi-Year Financial Outlook; and, 3) A Review of the City's Financial Policies and Reserves.

Finance Director Lori Ann Farrell provided a PowerPoint presentation entitled *Multi-Year Budget Update and Discussion* dated January 17, 2012 with titled slides: Summary, FY 10/11 Budget Performance (Unaudited 9/30/11), FY 10/11 and FY 11/12 Budget Accomplishments, External Factors Impacting City Budget (including RDA), External Factors Affecting Budget, What is our multi-year outlook as a result?, Long Term Financial Plan (LTFP), LTFP Scenario 1, Scenario 2 w/o RDA Transfer, Review of Equipment Reserves and Financial Policies, Equipment Inventory and Reserves Update, Equipment Inventory and Reserves, Financial Policies Review, Financial Accomplishments, Discussion and Council Direction, and Questions or Comments?

Councilmember Dwyer and Director Farrell discussed the disposition of a \$6M payment relating to redevelopment, and backfilling budgeted positions during a hiring freeze.

In response to Councilmember Dwyer's inquiry about an infrastructure budget shortfall in the Capital Improvement Program (CIP), City Manager Wilson stated the issue would be discussed at the Strategic Planning Retreat on Friday, January 27.

Mayor Hansen and City Manager Wilson discussed State take away of \$4.9M to secure financial obligations and how the \$4.9M figure represents debt service on loans the Redevelopment Agency owes to the City.

Councilmember Dwyer questioned the state's pending decision and whether or not the \$4.9M will be taken or maintained.

Councilmember Carchio and staff discussed how capital equipment is reaching its amortized sunset (useful period requiring complete replacement). Discussion ensued on what annual funding the City truly needs to maintain its equipment base.

Councilmember Bohr questioned why annexation of Sunset Beach was not on the accomplishments page.

Councilmember Carchio recommended re-tasking redevelopment employees to work on finding businesses to fill vacant business locations downtown.

Lengthy discussion took place on the PARS Liability amortization schedule and whether or not the City would benefit from paying off the loan early. It was decided that the City would wait to make a decision on early PARS repayment.

In response to an inquiry from Councilmember Carchio, Finance Director Farrell reported on reserve balances.

Councilmember Shaw and Finance Director Farrell discussed how moving money in and out of reserve funds affects the City's credit rating, and Councilmember Bohr voiced concerns about placing money into reserves and not being able to use it without a catastrophic event when it may be necessary for litigation, sidewalk maintenance, etc.

Staff received direction to follow the established Financial Reserve Policy and deposit the year-end balance from the FY 10-11 budget cycle into the Economic Uncertainties Reserve.

RECESS TO CLOSED SESSION - 5:10 PM

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

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

CLOSED SESSION

Councilmember Boardman arrived in time to attend 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: Pacific Mobile Home Park, LLC v. City of Huntington Beach, Orange County Superior Court Case No. 30-2011-00497684, challenging the City's denial of Tentative Tract Map No. 17397 and CDP No. 10-017, to subdivide an existing for-rent mobile home park of 252 units for ownership purposes.

3. Pursuant to Government Code § 54956.9, the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Pacific Mobile Home Park, LLC v. City of Huntington Beach, Orange County Superior Court Case No. 30-2011-00449749, challenging the City's adoption of a mitigated negative declaration under CEQA for the Atlanta Avenue Widening Project.

~~4. Pursuant to Government Code § 54956.9, the City Council shall recess 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.~~

5. Pursuant to Government Code § 54956.9, the City Council recessed into Closed Session to confer with the City Attorney regarding the following lawsuit: Hillcrest Contracting, Inc. v. City of Huntington Beach, et al., (consolidated with Griffin Dewatering Corp. v. Dorsey Dean Allison, et al., Orange County Superior Court Case No. 30-2010-00344707. In this case, Plaintiff (contractor) claims the City breached its contract for worked performed on the Newland Street Improvement Plan.

6. Pursuant to Government Code § 54956.9, the City Council recessed into Closed Session to confer with the City Attorney regarding MCP v. Vadnais, et al., Orange County Superior Court Case No. 30-2008 00113320. This lawsuit includes a City cross-complaint against Bureau Veritas concerning its failure to successfully design the Warner Avenue Gravity Sewer line, and defend the City against Vadnais' suit against the City.

7. Pursuant to Government Code Section 54956.8, the City Council recessed to Closed Session to confer with the City Attorney regarding the purchase, sale, or exchange of the following property: Hilton and Hyatt, 21500 and 21100 Pacific Coast Hwy at APN 024-251-01, 024-252-01, and 024-252-02 in the City of Huntington Beach.

8. Pursuant to Government Code Section 54956.8, the City Council recessed to Closed Session to confer with the City Attorney regarding the purchase, sale, or exchange of the following properties: 7872 Edinger Ave (Big O) at APN 142-081-28, 142-081-06, 142-081-09, 142-081-10, 142-081-11, and 142-081-12 in the City of Huntington Beach.

9. Pursuant to Government Code Section 54956.8, the City Council recessed to Closed Session to confer with the City Attorney regarding the purchase, sale, or exchange of the following property: Center Ave near McFadden at APN 142-073-03 in the City of Huntington Beach.

10. Pursuant to Government Code Section 54956.8, the City Council recessed to Closed Session to confer with the City Attorney regarding the purchase, sale, or exchange of the following property: Gothard/Center (Westminster Parcel) at APN 142-311-34 in the City of Westminster.

6:00 PM - COUNCIL CHAMBERS

RECONVENE CITY COUNCIL/REDEVELOPMENT AGENCY/PUBLIC FINANCE AUTHORITY MEETING - 6:18 PM

CLOSED SESSION REPORT BY CITY ATTORNEY - None.

ROLL CALL

Present: Shaw, Harper, Dwyer, Hansen, Carchio, Bohr, and Boardman
Absent: None

PLEDGE OF ALLEGIANCE - Led by Commander Steven Ruggiero, Bronze Star recipient and recent returning Veteran from Afghanistan. Commander Ruggiero also presented Mayor Hansen a flag that was flown over the U.S. Embassy in Afghanistan and a written commendation from the United States Marine Corp.

INVOCATION - Given by Tom Hohman, Huntington Beach Interfaith Council

AWARDS AND PRESENTATIONS

Presentation - Mayor Hansen called on Thomas Herbel, Vice President of the American Public Works Association (APWA) Southern California Chapter, to present to the City the "APWA Project of the Year Award" for the Utilities Operation Yard Upgrade Project.

Presentation - Mayor Hansen called on Colonel Peter Seitz from the California State Military Reserve (CSMR) to introduce Sergeant Cristina Pernas-Ortiz who was selected as the 2011 CSMR State Soldier of the Year.

Mayor's Award - Mayor Hansen called on Human Resources Director Michele Warren to present the Mayor's Award to Senior Personnel Analyst Jaymie Liu

Director Warren described Jamie's hard work and dedication on behalf of the organization, and thanked her for her service.

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (RECEIVED AFTER AGENDA DISTRIBUTION)

Pursuant to the Brown "Open Meetings" Act, City Clerk Joan L. Flynn announced the following Supplemental Communications received by her office following distribution of the Council agenda packet:

Communication for Consent Item No. 10 received from Robert Sternberg, dated November 21, 2011, regarding Center Avenue paving project.

Communication for Consent Item No. 12 received from Business Services Manager Behzad Zamanian entitled *First Amendment to Statement of Work for I/CAD/-I/LEADS RMS Upgrade with Mobile to MPS Migration*.

PowerPoint communication for Public Hearing Item No. 15 received from the Planning Department entitled *T-Mobile Wireless Communications Facility*.

Project photographs and specifications for Public Hearing Item No. 15 received from the Planning Department.

Communication for Ordinances for Introduction Item No. 17 received from Kenneth W. Small, Chief of Police, dated January 12, 2012 regarding the proposed ordinance to allow "Safe and Sane" Fireworks.

Communications from various individuals for Ordinances for Introduction No. 17 regarding the proposed ordinance to legalize fireworks: Shelby McCabe, T. LaMantia, Susan Larsen, Ed Wick, John & Georgia Woods, and Robert Radlein.

Communication received from unknown party for Ordinances for Introduction No. 17 dated January 12, 2012 and entitled *Citizen Petition to Huntington Beach City Council*.

Communication for Councilmember Items No. 18 received from Tim Geddes, dated January 13, 2012 regarding the proposed Banning Avenue/19th Street Bridge.

Communication for Councilmember Items No. 18 received from Linda Scott, dated January 16, 2012 regarding the proposed Banning Avenue/19th Street Bridge.

PUBLIC COMMENTS (3 Minute Time Limit)

(The number (hh:mm:ss) following the speaker's comments indicates the approximate starting time in the archived video located at <http://www.surfcity-hb.org/government/agendas/>).

Craig Sheets voiced concerns about his presumed knowledge of nuclear warheads existing on oil platforms, and freight liners harboring illegal weapons. He distributed printed materials to Council. (00:19:49)

Rick Mitchell spoke in opposition to Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (00:21:48)

Merle Moshiri spoke in opposition Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach, and in support of Councilmember Item No. 18, opposing the Banning Avenue /19th Street Bridge. (00:24:25)

Don Dillon, Orange County Grand Jury, spoke to Council about the agency's activities, employment, and opportunities for public participation. (00:25:59)

Alison Goldenberg, Huntington Beach Downtown Residents Association (HBDRA), spoke in support of Councilmember Item No. 18, opposing the Banning Avenue /19th Street Bridge, and in opposition to Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (00:28:15)

Tim Geddes spoke in support of Councilmember Item No. 18, opposing the Banning Avenue/ 19th Street Bridge. (00:29:11)

Maria Toner, Edison High School Band Boosters Association, spoke in favor of Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (00:31:47)

Doug Sebastian, KinderVision Founder, and Andy Mars, Mars Media Family, spoke to Council about raising funds to protect children in Huntington Beach. They discussed activities and events, including an upcoming event on Monday, September 30 at Seacliff Country Club where Huntington Beach Police Officer Ryan Smith will be honored for outstanding service. (00:34:08)

Dianne Larson encouraged Council to adopt an amended zoning ordinance that addresses the approval criteria and permit process for placement of wireless communication facilities citywide. (00:39:23)

Darlene D. DeAngelo, Vice Chair of John Wayne Airport Arts Commission, spoke to Council about the Airport Arts Program, provided visual slides, and discussed the "Flight of Ideas" exhibit. (00:42:40)

Jack Kirkorn spoke in opposition to Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach, and in support of Councilmember Item 18, opposing the Banning Avenue/19th Street Bridge. (00:46:15)

Jodie Wollman spoke in support of Councilmember Item No. 18, opposing the Banning Avenue/19th Street Bridge, and thanked Council for their support in retaining the Mobile Home Advisory Board. (00:48:38)

Dave Brody, HB Friday Night Lights Flag Football Organization, spoke in support of Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (00:51:16)

Benji Medure, Huntington Beach High School Baseball Program Administrator representing the HB Baseball Booster Program, spoke in support of Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (00:52:29)

Councilmember Carchio and Coach Medure discussed the number of fundraising events held this year to support the program.

Clem Dominguez spoke to Council in opposition to Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (00:56:06)

John Kelly, Vice President, Government Relations, TNT Fireworks, spoke to Council in support of Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (00:58:55)

Brenda Welch spoke in opposition to Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (01:02:36)

David Yasutake, Band Boosters President, spoke in support of Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (01:05:01)

Mayor Pro Tem Dwyer requested that fundraising opportunities be communicated on Channel 3

Paul Bernadou spoke in opposition to Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (01:07:05)

Juana Mueller spoke in opposition to Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach, and in support of Councilmember Item 18, opposing the Banning Avenue/19th Street Bridge. (01:09:49)

Kelly Harvey spoke to Council in support of Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (01:11:13)

Paige Harvey spoke to Council in support of Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (01:12:58)

Michael Berry spoke in support of Councilmember Item No. 18, opposing the Banning Avenue/19th Street Bridge. (01:14:01)

Maria Christon Ruhmel spoke in opposition to Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (01:15:05)

Carrol Wolf, Vice President, Sunset Beach Community Association, requested that Council ban the use of fireworks on Park Avenue and Bayview Drive in Sunset Beach. (01:15:55)

Linda Moon spoke to Council in opposition to Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (01:18:58)

Phyllis Maywort requested that Council ban the use of fireworks on Park Avenue and Bayview Drive in Sunset Beach. (01:22:14)

Steve Ray, Executive Director of the Banning Ranch Conservancy, spoke in support of Councilmember Item No. 18, opposing the Banning Avenue/19th Street Bridge. On a personal note, he spoke in opposition to Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (01:24:13)

John Scott spoke to Council in opposition to Consent Item No. 17, the sale and of safe and sane fireworks in Huntington Beach, and in favor of Councilmember Item No. 18, opposing the Banning Avenue/19th Street Bridge. (01:27:08)

Brendan Patch, teacher and coach at Edison High School, and advisor to the Model United Nations Council, spoke in support of Consent Item No. 17, the sale and discharge of safe and sane fireworks in Huntington Beach. (01:30:22)

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

Comments were provided by Councilmembers Harper, Dwyer, Carchio, and Hansen.

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

CITY MANAGER'S REPORT - None.

CONSENT CALENDAR

1. Received and filed the Maddy Act Local Appointments List - 2012 (terms on City boards, commissions and committees) which expire in 2012. This list informs the public of openings and vacancies based on expirations of current members' terms.

A motion was made by Boardman, second Carchio to receive and file the Maddy Act Local Appointments List - 2012 showing vacancies which will occur on City boards, commissions and committees in the year 2012, and direct the City Clerk to post the List at official posting locations (Civic Center, Huntington Central Library, Main Street Library). Copies of the Maddy Act Local Appointments List - 2012 will also be posted at all branch libraries, and on the City's website. The motion carried by the following roll call vote:

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

2. Received and filed the City Treasurer's November 2011 Investment Summary Report

A motion was made by Boardman, second Carchio to receive and file the Monthly Investment Report for November 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

3. Approved Appointments to the Human Relations Task Force

A motion was made by Boardman, second Carchio to accept the resignation of Christina Ryan Rodriguez and approve the appointment of Chris Hoff for a term to expire 12/31/2013, as recommended by City Council liaisons Harper and Shaw; and, approve the appointments of Ron Knowles, Minzah Malik, Linda McDonnell, Matthew Parr, and Allan Poggrund for terms to

expire 12/31/2015, as recommended by City Council liaisons Harper and Shaw. The motion carried by the following roll call vote:

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

4. Approved Appointments to the Personnel Commission

A motion was made by Boardman, second Carchio to approve the Personnel Commission appointment of George Rivera for the term period of July 1, 2011 - June 30, 2013, commencing upon appointment date of January 17, 2012, as recommended by the City Council Liaisons Bohr and Carchio. The motion carried by the following roll call vote:

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

5. Approved Sole-Source Justification for the purchase of IPS Group parking meters

A motion was made by Boardman, second Carchio to approve Sole-Source Procurement with IPS Group for the purchase of 140 parking meters totaling \$69,300.00. 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 Amendment No. 1 to Professional Services Contract with Liebert Cassidy Whitmore for legal services in Labor / Employment Matters

The item was pulled for separate discussion by Councilmember Carchio. Councilmember Carchio and City Attorney McGrath discussed the one-year contract extension, and the increased costs to manage caseload for personnel matters.

A motion was made by Carchio, second Boardman to approve and authorize the Mayor and City Clerk to execute "Amendment No. 1 to Professional Services Contract Between the City of Huntington Beach and Liebert Cassidy Whitmore for Legal Services in Labor and Employment Matters." The motion carried by the following roll call vote:

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

7. Approved and authorized execution of Amendment No. 1 to Legal Services Agreement with Gibbs, Giden, Locher, Turner & Senet to Represent the City in Two Construction Dispute Cases, and Appropriated \$500,000 to be used for the Pending Litigation Regarding the Warner Avenue Gravity Sewer Line Project and the Newland Widening Project

A motion was made by Boardman, second Carchio to approve and authorize the Mayor and City Clerk to execute "Amendment No. 1 to Professional Services Contract between the City of Huntington Beach and Gibbs, Giden, Locher, Turner & Senet;" and, authorize the Mayor and City Clerk to execute the amendment; and, appropriate \$300,000 from the Sewer Fund, to be

used for the continued employment of the law firm of Gibbs, Giden, Locher Turner & Senet and other related expenses in connection with the recovery of Sewer Funds previously expended for WAGS; and, the Adopted FY 11/12 Non-Departmental Budget includes \$780,000 for litigation related costs. By expending \$200,000 of these funds, there will be \$580,000 remaining in the litigation account (10040101.69370). The motion carried by the following roll call vote:

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

8. Approved and authorized execution of Amendment No. 1 to Memorandum of Understanding with the Orange County Transportation Authority for the Brookhurst Street Multi-Jurisdictional Traffic Light Synchronization Program

A motion was made by Boardman, second Carchio to approve and authorize the Mayor and City Clerk to execute "Amendment No. 1 to Agreement No. C-9-0622 By and Between Orange County Transportation Authority and the Cities of Anaheim, Fountain Valley, Fullerton, Garden Grove, Huntington Beach, Westminster and the State of California Department of Transportation" for the Brookhurst Street Traffic Light Synchronization Program Project. The motion carried by the following roll call vote:

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

9. Adopted Resolution No 2012-03 approving the submittal of grant applications to the Orange County Transportation Authority (OCTA) for Measure M funding under the Comprehensive Transportation Funding Program (CTFP)

A motion was made by Boardman, second Carchio to adopt Resolution No. 2012-03, "A Resolution of the City Council of the City of Huntington Beach Approving the Submittal of Two Improvement Projects to the Orange County Transportation Authority for Funding Under the Comprehensive Transportation Funding Program." The motion carried by the following roll call vote:

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

10. Approved Project Plans and Specifications and awarded Construction Contract in the amount of \$2,398,000 to Hardy and Harper, Inc. for the Center Avenue (Railroad to One Pacific Plaza); Magnolia Street (Indianapolis Avenue to Adams Avenue); and Springdale Street (Warner Avenue to Edinger Avenue); Rehabilitation Project; CC-1413

A motion was made by Boardman, second Carchio to approve the plans and specifications for the Center Avenue, Magnolia Street and Springdale Street Rehabilitation Project, CC-1413; and, accept the lowest responsive and responsible base bid submitted by Hardy and Harper, Inc. in the amount of \$2,398,000.00; and, authorize the Mayor and City Clerk to execute a construction contract in a form approved by the City Attorney. The motion carried by the following roll call vote:

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

11. Authorized the appropriation of settlement funds totaling \$50,000.00 received from the South Beach II Project to be utilized for South Beach related improvements

A motion was made by Boardman, second Carchio to authorize the appropriation of \$50,000 in South Beach II Project settlement funds to General Fund account 10045206.82800 for beach related improvements. The motion carried by the following roll call vote:

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

12. Approved the Statement of Work Agreement for I/CAD - I/Leads RMS upgrade with Mobile to MPS Migration between Intergraph and the City of Huntington Beach

The item was pulled for separate discussion by Councilmember Boardman to confirm receipt of contract amendment as supplemental communication.

A motion was made by Boardman, second Dwyer to approve the "Security, Government and Infrastructure, A Division of Intergraph Corporation Statement of Work Agreement for I/CAD - I/LEADS RMS Upgrade With Mobile to MPS Migration" between Intergraph and the City of Huntington Beach, **as amended to include Amendment #1 - a supplemental communication**. The motion carried by the following roll call vote:

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

13. Adopted Ordinance No. 3930 amending Chapter 13.08 the Huntington Beach Municipal Code relating to beach regulations to include Sunset Beach Approved for introduction December 19, 2011

A motion was made by Boardman, second Carchio to adopt Ordinance No. 3930, "An Ordinance of the City of Huntington Beach Amending Chapter 13.08 of the Huntington Beach Municipal Code Relating to Beach Regulations." The motion carried by the following roll call vote:

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

PUBLIC HEARING

14. ITEM WITHDRAWN FROM CONSIDERATION -- Request from Bella Terra Villas, LLC, property owner to withdraw development agreement application for The Village at Bella Terra mixed-use project.

15. Approved Conditional Use Permit No. 11-029, Coastal Development Permit No. 11-017, and Wireless Permit No. 11-054 for a wireless communications facility designed as a flag pole at the Huntington Harbour Mall

Staff Planner Jill Arabe provided a PowerPoint entitled *T-Mobile Wireless Communications Facility - Conditional Use Permit No. 11-029, Coastal Development Permit No. 11-017, Wireless Permit No. 11-054*, with titled slides: Council Consideration, Project Location, Project History, Project Analysis, and Staff Recommendation.

Mayor Hansen opened the Public Hearing.

Pursuant to the Brown "Open Meetings" Act, City Clerk Joan Flynn announced of supplemental communication received by her office following distribution of the Council agenda packet:

PowerPoint communication for Public Hearing Item No. 15 received from the Planning Department entitled *T-Mobile Wireless Communications Facility*.

Project photographs and specifications for Public Hearing Item No. 15 received from the Planning Department.

Communication received from Tim Miller in favor of the item, a T-Mobile customer that needs reliable service in the area because he and his pregnant wife do not have a land line.

Martin L. Fineman, representing T-Mobile West Corporation, spoke in support of the item and discussed how litigation on a previous request to place wireless equipment at Harbour View Park led to T-Mobile's consideration of the current site as an alternative. (01:48:10)

Danny Bazerman, Director of Engineering, T-Mobile West Corporation, spoke in support of the item and discussed the widespread positive support received by the community for the alternate site proposed at the Huntington Harbour Mall. (01:52:55)

Aimee Weeks, representing the applicant T-Mobile West Corporation, spoke in support of the item and discussed why smart phones, tablets, and other electronic devices require a strong, supportive network to provide exceptional service. (01:54:39)

Heather Lenore spoke in support of the item being proposed at its current location, the Huntington Harbour Mall. (01:55:42)

Preeti Ghuman spoke in opposition to the item because of the project's location near her home, her opinion that T-Mobile did not provide evidence of critical need when another tower exists nearby, and her concerns about the projects negative impact to property values. (01:57:22)

Cindy Osterhout, Principal of Harbour View School, discussed previous activity involving the Harbour View Park site, and her support for the project's current proposed location at the Huntington Harbour Mall. (02:00:00)

Lori Burrett spoke to Council in support of the item and discussed the events that led to the participation by all parties involved to find an appropriate location for the project. (02:02:25)

Jina Provinsen spoke in opposition to the item due to presumed ill effects of cell tower radiation on humans. (02:04:40)

Councilmember Boardman and staff discussed the 300-foot distance between the project and its nearest residential unit.

Mayor Pro Tem Dwyer spoke in support of the item, and thanked Cozette Dunlap and the Dunlap Group for proposing the project at the Huntington Harbour Mall site.

Councilmember Carchio thanked T-Mobile for working with the community to find a site that was acceptable by all.

Councilmember Harper spoke in support of the item and how the alternative of placing wireless equipment in the proposed location makes sense.

Mayor Hansen offered support, discussed how the future of data-intensive equipment demands greater resources, and how sensible solutions must be consistent and acceptable to all parties (i.e., avoiding parks and schools). He also expressed his hope that the City and T-Mobile can partner and move forward.

A motion was made by Bohr, second Harper to approve Conditional Use Permit No. 11-029, Coastal Development Permit No. 11-017, and Wireless Permit No. 11-054 with findings and conditions of approval. The motion carried by the following roll call vote:

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

ORDINANCES FOR INTRODUCTION

16. Approved for introduction 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

A motion was made by Carchio, second Dwyer to after the Clerk reads by title, 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: Harper, Dwyer, Hansen, Carchio, Bohr, and Boardman
NOES: None
OUT OF ROOM: Shaw

17. Approved for introduction Ordinance No. 3932 adding Municipal Code Chapter 5.90 regarding Safe and Sane Fireworks sale and discharge

City Manager Fred Wilson gave a PowerPoint presentation entitled *City of Huntington Beach Fireworks Ordinance Pilot Study*, with titled slides: Background & Process, Key Elements of Ordinance, Qualified Applicant Requirements, Dates and Hours of Sale, Date and Hours for Discharge, Discharge Location Restrictions, Safety & Education Program, and Questions.

Mayor Hansen thanked staff, including Fire and Police Chiefs for their work on this item.

Councilmember Boardman presented a PowerPoint report with the following titled slides: Orange County Fireworks Ten-Year Statistics, Fireworks related Fires in Huntington Beach, 07/08 Orange County Grand Jury, the HBPD opposes the ordinance, Repealing our current ordinance ... Is it worth it?

Councilmember Boardman and Fire Chief McIntosh discussed why Chief McIntosh does not support the ordinance (with 30 years of experience Chief McIntosh discussed problems enforcing areas where prohibited, voiced concerns about children in residential streets, delayed response times on July 4).

It was reported that 10% of funds raised through fireworks sales will supplement enforcement, and Police Chief Small described how all Police Department employees work on the holiday, how California Highway Patrol personnel are hired for the parade, and Orange County Sheriff's Deputies are hired to support fireworks activities at the beach.

Discussion ensued on the coordination of non-profits. City Attorney McGrath explained how the 4th of July Board can take all 10 stands, and if that happens, how staffing of those stands may be awarded through a lottery/appointment system, and what percentage of funds raised goes to the Board and the non-profits.

Councilmember Boardman voiced concerns about non-profits depending on anticipated funds raised, and stressed that they understand the ordinance calls for a two-year pilot program. She also stated if the ordinance is approved, she will work hard to repeal it.

Councilmember Bohr questioned why weekend hours (Saturday and Sunday) are excluded from times conditioned for sale of fireworks product. He also voiced support for the item and felt that firework activity in the City already exists, and how the ordinance just provides sensible guidelines.

Councilmember Harper voiced support for the item and discussed how families should have the freedom to participate in fireworks activities if they wish, or not, if that is the case. He commented on how roof material is not as flammable as it once was, and how other activities such as action sports (surfing, skateboarding) that present danger still are enjoyed by people, by personal choice.

Mayor Pro Tem Dwyer asked City Attorney McGrath to respond to Speaker Kelly's questions about the application process (a two-step process to first qualify for the lottery and then obtaining a permit from the State Fire Marshall), the effective date of the ordinance, and setback requirements.

Mayor Pro Tem Dwyer and Planning and Building Director Scott Hess discussed when the City banned "shake" shingle roofs.

Mayor Hansen and staff discussed the residential street component, and crafted language to amend Section d, i on Page 9 by striking *residential streets*, and inserting *except for sidewalks and alleys in residential districts*.

Councilmember Shaw expressed concerns about legalizing firework use leading to rampant use of illegal fireworks. He opposed the two-year program and shared concerns about the item's impact on the health of Huntington Beach citizens, visitors, and pets, and its increased burden

on public safety.

Councilmember Carchio discussed how the City's public safety personnel are ready and qualified to enforce the ordinance and keep the City safe, even with legal fireworks present, and a large number of people visiting the beach on the 4th of July.

Councilmember Boardman expressed concerns about public education and signage.

Councilmember Dwyer, Mayor Hansen, and City Attorney McGrath discussed placement of signage to educate the public of legal and illegal areas for fireworks.

A motion was made by Carchio, second Harper to after the Clerk reads by title, approve for introduction Ordinance No. 3932, "An Ordinance of the City of Huntington Beach Adding Chapter 5.90 of the Huntington Beach Municipal Code Relating to Fireworks," **as amended bottom of page 9, Section d, i: except for sidewalks and alleys in residential districts (strike residential streets)**. The motion carried by the following roll call vote:

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

COUNCILMEMBER ITEMS

18. Submitted by Councilmember Shaw - Adopted Resolution No. 2012-04 requesting the Orange County Transportation Authority (OCTA) remove the proposed Banning Avenue/19th Street and Garfield Avenue/Gisler Avenue bridges from the Orange County Master Plan of Arterial Highways (MPAH)

Councilmember Shaw explained his request to remove reference to the proposed bridge from the MPAH, and thanked Mayor Hansen. A letter will be sent to the Orange County Transportation Authority (OCTA) indicating Huntington Beach's opposition to the bridge.

Councilmember Dwyer praised Mayor Hansen's initiative to bring the item forward to the public, and stated Councilmember Bohr's support for the item and why he was unable to attend the public meeting at Eader Elementary School.

Councilmember Harper addressed mobility and supported the City's opposition to the bridge. However, he did not support the portion of the resolution removing the bridge from the MPAH because, in his opinion, removing it would limit future County legislators' choices for transportation planning.

Councilmember Boardman discussed how area residents support removing the bridge from the MPAH.

A motion was made by Shaw, second Boardman to adopt Resolution No. 2012-04, "A Resolution of the City Council of the City of Huntington Beach Asking the Orange County Transportation Authority (OCTA) to Remove the Banning Avenue/19th Street Bridge From the Orange County Master Plan of Arterial Highways (MPAH)." The motion carried by the following roll call vote:

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

COUNCILMEMBER COMMENTS (Not Agendized)

Comments provided by Councilmembers Dwyer, Harper, Bohr, Boardman, Shaw, Carchio, and Hansen.

ADJOURNMENT at 10:03 PM - There will be a Special Meeting held on Friday, January 27, 2012, at 8:30AM at the Huntington Beach Central Library, Rooms C and D, 7111 Talbert Ave., Huntington Beach, California. There will be a Special Meeting held on Tuesday, January 31, 2012, at 5:30PM in Council Chambers, Civic Center, 2000 Main Street, Huntington Beach, California.



City Clerk and ex-officio Clerk of the City Council of the City of Huntington Beach, Clerk of the Redevelopment Agency 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, Agency Clerk, Authority Secretary



Mayor-Chair