

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

**Monday, November 4, 2013  
6:00 PM – Regular Meeting  
Council Chambers Civic Center,  
2000 Main Street  
Huntington Beach, California 92648**

**A video recording of the 6:00 PM portion of this meeting  
is on file in the Office of the City Clerk and is archived at  
[www.surfcity-hb.org/government/agengas/](http://www.surfcity-hb.org/government/agengas/)**

***Based on the lack of a Study Session and time needed to cover Closed Session Item No. 1,  
the meeting was called to order at 4:30 PM***

**4:30 PM - Council Chambers - Closed Session  
6:00 PM - Council Chambers - Regular Business Meeting**

**CALL TO ORDER – 4:30 PM by Mayor Boardman**

**ROLL CALL**

Present: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
Absent: None

**ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda  
Distribution)**

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

Notice of Absence received from City Clerk, Joan L. Flynn requesting permission to be absent from the November 4, 2013 City Council/PFA meeting. There being no objections, permission was granted.

**PUBLIC COMMENTS PERTAINING TO CLOSED SESSION ITEM (3 Minute Time Limit) –  
None.**

**Mayor Boardman announced: Pursuant to Government Code §54957.6.a, the Council takes this opportunity to publicly introduce and identify designated labor negotiator Fred Wilson City Manager, who will be participating today in Closed Session discussions regarding labor negotiations with MEA, MEO, MSMA, SCLEA, POA and HBFA.**

**RECESS TO CLOSED SESSION – 4:31 PM**

A motion was made by Councilmember Sullivan, second by Councilmember Carchio to recess to

Closed Session Item No. 1. The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
NOES: None

#### **CLOSED SESSION**

- 1. Pursuant to Government Code § 54957.6, the City Council recessed to Closed Session to meet with its designated labor negotiators and Fred Wilson, City Manager regarding the following: MEA, MEO, MSMA, SCLEA, POA, and HBFA.**

**6:00 PM – COUNCIL CHAMBERS**

**RECONVENE CITY COUNCIL/PUBLIC FINANCING AUTHORITY MEETING – 6:00 PM**

**CLOSED SESSION REPORT BY CITY ATTORNEY - None**

#### **ROLL CALL**

Present: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
Absent: None

Pursuant to City Council Resolution No. 2001-54, City Clerk Joan Flynn requested, and was granted permission to be absent.

**PLEDGE OF ALLEGIANCE – Mayor Boardman**

**INVOCATION –** The invocation was provided by Tom Hohman of Sts. Simon and Jude Catholic Church

In permitting a nonsectarian invocation, the City does not intend to proselytize or advance any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.

#### **AWARDS AND PRESENTATIONS**

**Presentation - Mayor Boardman called on Gisela Campagne and Victoria Alberty to introduce the Adoptable Pet of the Month**

Gisela Campagne and Victoria Alberty introduced John and Wendy from the Orange County Humane Society who presented a Terrier/Pit mixed dog named Betty and noted that she is available for adoption.

**Presentation - Mayor Boardman called on Patricia Rogers and Carole Ann Wall to introduce Miss Huntington Beach and her Court for 2013-14.**

Carole Ann Wall introduced Jim Sankey who introduced Miss Huntington Beach and her Court for 2013-2014.

Miss Huntington Beach Erin Burke expressed her appreciation to the City, Council and the

community. She reported her grandmother's recent passing and dedicated her work as Miss Huntington Beach to her.

Carole Ann Wall thanked the pageant sponsors and noted that funds raised went towards scholarships provided by the pageant.

### **ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution)**

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

#### City Treasurer's Report

Communication for Agenda Item No. 1 received from Alisa Cutchen, City Treasurer with attachment pages for the City Treasurer's Quarterly Report for July-August-September 2013.

#### Consent Calendar

Communications received for Agenda Item No. 2 regarding appointments to the Mobile Home Advisory Board (MHAB): Jodie Wollman, Janice Genelle, Bill Reitz, and Robert and Theresa Lonero.

Communications received for Agenda Item No. 7 from Tim Ryan.

Assistant City Clerk Estanislau reported that the remaining communications were received for Public Hearing items and would be announced during the Public Hearing portion of the meeting.

### **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.surfcity-hb.org/government/agendas/>).

Mayor Boardman opened the Public Comments portion of the meeting.

Shirley Dettloff commented on the EIR and the General Plan and Zoning Amendments for the property on Warner and Nichols (Public Hearing Items No. 17 and 18) and stated that the changes requested by Rainbow Environmental Services are the correct way to deal with the decision noting that Rainbow has worked to ensure that the historic value of the property is preserved. She believed that the recommended actions will be compatible with the surrounding uses in the area and will provide additional economic value to the City and its residents. She addressed the efforts of Rainbow to preserve the property and commented positively regarding the company. (00:21:14)

Robert Dettloff commented on the EIR and the General Plan and Zoning Amendments for the property on Warner and Nichols (Public Hearing Items No. 17 and 18) and asked that Council approve the matter. He felt that Rainbow has made generous offers to the community to remove abandoned buildings and clean up the area and addressed the proposed deed restrictions and relocation of existing structures. (00:24:05)

Reverend Mother Barbara Benjamin, resident of Huntington Beach Park Pacific Mobile Home

Park, voiced concerns people losing their homes because of space rental increases by management. (00:25:07)

Randy Wells, resident of Huntington Beach Park Pacific Mobile Home Park, provided a brief history of the park. He reported that when the property was sold and the new company took it over, there were as much as 40% increases in space rental fees. Most residents of the park are on fixed incomes and he felt that this is extortion and a plan to steal peoples' properties and urged Council to take action in stopping the practice. (00:27:54)

Billie Kennedy, resident of Huntington Beach Park Pacific Mobile Home Park, commented on her years of service to the City and expressed concerns with the possibility of losing her home because of increases in space rental fees, noting that she has no place to go. She urged Council to help. (00:30:59)

Solange Ritchie-Young commented in opposition to Consent Calendar Item No. 7 (MICRA) and asked that Council consider pulling it from the Consent Calendar. She reported that her first husband, John Ritchie died due to medical negligence, briefly explained the Medical Injury Compensation Reform Act (MICRA) and presented testimony regarding her husband. (00:35:08)

Larry Van Houten, resident of Huntington Beach Park Pacific Mobile Home Park, expressed concerns with increased space rents. He noted he is on a fixed income and stated that he cannot afford continued increases in space rent and feared losing his home. (00:38:35)

Dan Robinson commented in opposition to Consent Calendar Item No. 7 (MICRA) noting that the matter is under dispute, is a bill that eliminates access to justice and is affecting the lives of many. He addressed the cap in compensation of \$250,000 which was set in the 1975 and that efforts are being made, not to repeal MICRA, but to increase the limit which, in present value amounts to \$57,000. He urged Council to vote against the matter. (00:40:23)

Don MacAllister commented on the EIR and the General Plan and Zoning Amendments for the property on Warner and Nichols (Public Hearing Items No. 17 and 18) and noted that Rainbow Environmental has been a good neighbor, a good provider in the City and a partner in keeping the City clean. He encouraged Council to vote in support of the matter. (00:44:00)

Jerry Wheeler, President and CEO of the Huntington Beach Chamber of Commerce, requested that Council delay the proposed action relative to the banning of Styrofoam in the City until after the Holidays so that the business community can further research the pros and cons of the matter including potential financial impacts. He noted the need to understand the issue from both sides of the argument and consider other alternatives. (00:45:00)

Margaret Friedmann commented on the EIR and the General Plan and Zoning Amendments for the property on Warner and Nichols (Public Hearing Items No. 17 and 18) and stated that Rainbow Environmental Services has been a good neighbor to the City. She however complained about odors from waste processing and noted the proximity of the plant to schools and parks. (00:46:40)

Hubert Duysings inquired regarding the proposed senior center citizen project in Huntington Central Park. He stated he is 85 years old, would like the opportunity to enjoy a new Senior Center and encouraged Council to move forward with the project. (00:48:25)

Mayor Boardman noted that the item is not on the agenda and therefore, cannot be discussed. She directed him to fill out a blue card in order for staff to follow up regarding the status of the project.

Paul Marano, resident of Huntington Beach Park Pacific Mobile Home Park, complained about increases in space rent. He stated that the increases have had a detrimental effect on home values and threatens many senior citizens with losing their homes. He implored Council to help in this matter. Additionally, he spoke in favor of Tim Geddes as an At-Large Member Representative to the Mobile Home Advisory Board and suggested the possibility of introducing a Rent Review Committee. (00:49:30)

Robert Johnson referenced an article in the "Orange County Register" regarding affordable housing in Huntington Beach and complained regarding increased housing prices in the City. (00:52:09)

Mary Jo Baretich, Manufactured Homeowner's League State President, commented on Huntington Beach Park Pacific Mobile Home Park and noted that what is occurring there is a mirror image of what happened at Shore Cliff. She expressed concerns with people losing their homes without compensation and suggested the possibility of the City working with park owners to stabilize space rent as well as having a ballot initiative in the near future. (00:55:16)

Diane Atkins, resident of Huntington Beach Pacific Mobile Home Park, spoke in support of Tim Geddes as an At-Large Member Representative to the Mobile Home Advisory Board and listed his experience and qualifications. (00:58:13)

Harmony Mora commented positively regarding the Ocean View School District and noted the number of schools located in the vicinity of the Rainbow Disposal facility. She voiced opposition to expanding the Rainbow Environmental Services facilities. (01:01:30)

Edie Mermelstein commented on Item No. 7 (MICRA) and asked that Council remove it from the Consent Calendar noting that the resolution is uninformed and premature. She added that it attacks the Patient Safety Initiative which is not yet on the ballot and that the initiative requires drug-testing of doctors. Ms. Mermelstein expressed support for the initiative and asked that Council remove it from the Consent Calendar until Council can be further informed. (01:03:42)

Richardson Gray thanked Council bringing forth a Zoning Text Amendment banning new off-site alcohol sales in the downtown area and stated support of Council's final approval of same. Additionally, he spoke in opposition of the beer and wine Conditional Use Permit for the Local Bench Grill. He added that, due to too many bars, the downtown area has the worst crime in the City and commented on the number of riots in the area. He stressed that no more alcohol in the downtown area will serve to prevent further rioting in the future. (01:06:02)

John Briscoe, Public School Board Trustee, commented on what he perceives as the Huntington Beach government shutdown of youth services. He stated that in his opinion the City has abandoned the youth of the community adding that it killed the Sunset Beach Junior Lifeguard Program, sacrificed youth sports field allocation services, permitted destruction of playing fields and has committed homicide of City park services by terminating responsibility of City parks on school sites. He highlighted key points of a letter from City administrators regarding termination of agreements and listed services that have been terminated. He urged Council to sign lease agreements with school districts and begin offering youth services and field allocation services

once again. (01:09:02)

Mayor Boardman called for clarification of the matter.

Community Services Director Janeen Laudenback confirmed that the City is not shutting down its parks but needed to terminate a contract in order to reinstate another. She added that the contract contained information about the makeup of the Community Services Commission so that the City's desire was to reinstate contracts that do not have that information. She reported that she will be attending an upcoming Ocean View School District Board meeting to answer questions that Board Members may have.

Mike Vlachos, President of the Ocean View Teachers Association, requested Council to stop the expansion of a dump site at the Rainbow facilities. He addressed the proximity of the Rainbow Environmental Services facility to schools and complained of odors, infestation of seagull droppings, poor air quality and dust. He urged Council to ensure the health and safety of Huntington Beach students and vote against rezoning the land to industrial. (01:12:57)

Timothy Black requested Council to remove Item No. 7 (MICRA) from the Consent Calendar noting that the issue is currently highly contested and that the MICRA statute is designed to deprive victims of medical negligence from proper representation and compensation due to the cap in compensation set in 1975. He urged Council to consider the matter carefully before making its decision. (01:14:59)

Bill Butts, resident of Huntington Beach Park Pacific Mobile Home Park, spoke in support of Tim Geddes as an At-Large Member Representative to the Mobile Home Advisory Board. He stated he is one of the residents whose rent will increase by 50% on January 1st which is driving people out of their homes. He wondered if something can be done to mitigate the outrageous increases. (01:18:34)

Chris Waring, resident of Huntington Beach Park Pacific Mobile Home Park, spoke in support of Tim Geddes as an At-Large Member Representative to the Mobile Home Advisory Board and Mary Jo Baretich as a Resident Representative to the Mobile Home Advisory Board. He complained regarding excessive increases in space rents in the park and provided statistics regarding the high rate of return on investment benefitting the new owners without consideration of the detrimental effects to residents. (01:19:43)

Sandra Acklam, resident of Huntington Beach Park Pacific Mobile Home Park, complained regarding excessive increases in space rent in the park and that the new owners are unresponsive to residents' concerns. (01:22:34)

Bryan Acklam, resident of Huntington Beach Park Pacific Mobile Home Park, complained regarding excessive increases in space rent in the park and noted that residents most affected are elderly people or handicapped and on fixed incomes. He added that the new owners are cannibalizing homes that residents have had to abandon because of the high space rents and complained of vagrants and wild animals coming into the park. (01:25:02)

Mayor Boardman addressed residents of Huntington Beach Park Pacific Mobile Home Park noting that the Brown Act prevents Council from discussing the issue because it is not on the agenda but that Council has heard their concerns.

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

Councilmember Sullivan reported chairing the recent meeting of the Executive Committee of the Orange County Senior Citizens Advisory Council.

Mayor Pro Tem Harper referenced the issue of the OCTA toll lane proposed for the 405 Freeway and reported on a committee meeting earlier today, regarding that issue where a modified proposal was presented by Supervisor Spitzer looking at Option No. 3. He reported that both he and City of Seal Beach Mayor Gary Miller, voted to oppose the proposal and will be seeking approval of Option No. 2, as modified, at the regular Board meeting of Friday, November 8, 2013 at 9:00 AM. He urged Members of Council and the public to write to OCTA Board Members as well as the Governor Jerry Brown regarding the issue.

Councilmember Shaw reported attending the Board meeting of the Orange County Sanitation District as well as an Odor Control meeting at Plant 2 with members of the southeast Huntington Beach community noting that some of the improvements made should have improved the air quality.

Councilmember Carchio reported representing the City at the U.S. Gondola Nationals and commented positively on the event.

### **CITY MANAGER'S REPORT**

City Manager Fred Wilson requested Council move Items Nos. 12 and 13 forward on the agenda. The minutes will reflect action taken in agenda order.

### **CITY TREASURER'S REPORT**

#### **1. Received and Filed the City Treasurer's September 2013 Quarterly Investment Summary Report**

City Treasurer Alisa Cutchen presented the City Treasurer's September 2013 Quarterly Investment Summary Report. She addressed details of the investment portfolio, market value by investment type, 2-year Treasury rates, and portfolio performance by 9/30/2013 as well as California State Government Code commonly-used allowable investments and current investment rates.

A motion was made by Councilmember Sullivan, second by Mayor Pro Tem Harper to receive and file the Quarterly Investment Report for September 2013, pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach.

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
NOES: None

### **CONSENT CALENDAR**

#### **2. Approved appointments to the Mobile Home Advisory Board (MHAB) as**

**recommended by Councilmembers Jim Katapodis and Dave Sullivan, Council Liaisons to the MHAB**

Mayor Pro Tem Harper pulled this item for separate discussion and consideration. He reported that some of the appointees favor rent-control within the City noting that it is in direct contradiction to Section 803 of the City of Huntington Beach Charter and stated that the appointments would be ill-advised and inconsistent with what the City's voters have asked for. Specifically to one of the proposed appointees, he stated that the levels of coarse discourse are vitriol and commented on when the proposal was made to have a moratorium in regards to mobile home parks. He noted that it was not reviewed by the Advisory Committee and questioned why their advice was not sought before taking action. He indicated opposition to additional appointees to the MHAB.

A motion was made by Councilmember Shaw, second by Councilmember Katapodis to approve the re-appointment of Mary Jo Baretich as a Resident Representative to the Mobile Home Advisory Board for a four-year term through August 5, 2017; approve the appointment of Tim Geddes as an At-Large Member Representative to the Mobile Home Advisory Board for a four-year term through August 5, 2017; and, approve the appointment of Don Castleman as a Park Owner/Manger Representative to the Mobile Home Advisory Board for a four-year term through August 5, 2017.

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Boardman, Carchio, Shaw, Katapodis  
NOES: Harper

**3. Approved General Plan Update Advisory Committee and Task Force Composition**

A motion was made by Councilmember Carchio, second by Councilmember Katapodis to approve the composition of the General Plan Update Advisory Committee and Topic Specific Task Forces; appoint Mayor Boardman, Mayor Pro Tem Matthew Harper and Councilmember Joe Shaw to a Committee that will review completed questionnaires and select community representatives for the Market Trends, Sea Level Rise and Sustainability Task Forces; and, authorize each City Councilmember to appoint a primary and alternate individual to the General Plan Update Advisory Committee.

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
NOES: None

**4. Approved and authorized the Mayor and City Clerk to execute an agreement with the California Coastal Commission as required to obtain a Coastal Development Permit for the Warner Avenue Bridge Over Bolsa Chica Channel Project; and adopted Resolution No. 2013-57 authorizing the Director of Public Works to execute Assumption of Risk, Waiver of Liability and Indemnity Agreements as required by the California Coastal Commission for Coastal Development Permits**

A motion was made by Councilmember Carchio, second by Councilmember Katapodis to approve and authorize the Mayor and City Clerk to execute the "Assumption of Risk, Waiver of Liability and Indemnity Agreement by the City of Huntington Beach Regarding the Warner Avenue Bridge

Over Bolsa Chica Channel” with the California Coastal Commission as required to obtain a Coastal Development Permit for the Warner Avenue Bridge Over Bolsa Chica Channel Project; and, adopt Resolution No. 2013-57, “A Resolution of the City Council of the City of Huntington Beach Authorizing the Director of Public Works to Execute Assumption of Risk, Waiver of Liability and Indemnity Agreements as Required by the California Coastal Commission for Coastal Development Permits.”

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
NOES: None

**5. Adopted Resolution No. 2013-59 authorizing the submittal of an Application for Funds to the Orange County Transportation Authority (OCTA) for the Northwest Catch Basin Retrofit Project Phase I**

A motion was made by Councilmember Carchio, second by Councilmember Katapodis to adopt Resolution No. 2013-59, “A Resolution of the City Council of the City of Huntington Beach Authorizing an Application for Funds for the Environmental Cleanup, Tier 1 Grant Program Under Orange County Local Transportation Ordinance No. 3 for the Northwest Catch Basin Retrofit Project, Phase I.”

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
NOES: None

**6. Adopted Funding Commitment Resolution No. 2013-58 for the 2014 Bicycle Corridor Improvement Program for the Utica Avenue Bike Boulevard Project Proposal**

A motion was made by Councilmember Carchio, second by Councilmember Katapodis to adopt Resolution No. 2013-58, “A Resolution of the City Council of the City of Huntington Beach Authorizing Application for Funds for the Bicycle Corridor Improvement Program Funded with Congestion Mitigation and Air Quality Program Under the Moving Ahead for Progress in the 21st Century Federal Transportation Act for Utica Avenue Bike Boulevard Project.”

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
NOES: None

**7. Continued to November 18, 2013 meeting for discussion on Resolution No. 2013-60 opposing any bills or ballot measures that would weaken the Medical Injury Compensation Reform Act (MICRA), increase health care costs for state and local governments, and limit patient access to health care services**

Councilmember Sullivan pulled this item for separate discussion and consideration. He acknowledged public comments regarding the matter and stated the need for additional time to carefully review the matter and suggested delaying the item until additional information can be obtained.

Councilmember Shaw agreed there is not enough information on the matter and would like the opportunity to obtain additional information before making a decision.

Councilmember Hardy agreed.

Mayor Pro Tem Harper noted that most of the public speakers on this item were trial lawyers, stated they are the people who are looking to take the money from the system and that ultimately it is the taxpayer who pays.

A motion was made by Councilmember Sullivan, second by Mayor Boardman to continue the matter to the next regular City Council meeting of November 18, 2013.

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Boardman, Carchio, Shaw, Katapodis  
NOES: Harper

**8. Approved and authorized execution of Amendment No. 2 to Professional Services Contract with Liebert Cassidy & Whitmore in the amount of \$200,000 to provide Legal Services**

A motion was made by Councilmember Carchio, second by Councilmember Katapodis to approve and authorize the Mayor and City Clerk to execute "Amendment No. 2 to Professional Services Contract Between the City of Huntington Beach and Liebert Cassidy & Whitmore to Provide Legal Services."

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
NOES: None

**9. Approved and authorized execution of a Professional Services Contract with Vavrinek, Trine, Day & Co., LLP in the amount of \$128,400 to perform financial audit services**

A motion was made by Councilmember Carchio, second by Councilmember Katapodis to approve and authorize the Mayor and City Clerk to execute the "Professional Service Contract Between the City of Huntington Beach and Vavrinek, Trine, Day & Co., LLP, for Audit Services."

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
NOES: None

**10. Approved execution of Agreement for Provision of OC Animal Care Services and authorized the Police Chief to exceed the FY 12/13 Orange County Animal Care Contract amount by \$18,763**

A motion was made by Councilmember Carchio, second by Councilmember Katapodis to approve

and authorize the Mayor to execute "Exhibit B to Agreement for Provision of OC Animal Care Services with City of Huntington Beach July 1, 2012 Through June 30, 2013 Notice of Intent (Revised 10/3/13)" with the County of Orange; and, authorize the Chief of Police to expend \$18,763 over the FY12/13 animal control contract to pay for services already received.

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
NOES: None

**11. Approved and authorized execution of an Amendment to extend the Lease Agreement between the City and Michael Ali, dba Pier Plaza Beach Concession**

Councilmember Hardy pulled this item for separate discussion and consideration. She commented on the City's prior ban of Styrofoam for City facilities, and noted that not all concessionaires have followed those limitations. Although she is unsure whether this specific concessionaire has complied with the ban, she asked whether that matter can be included in the contract at this time and with other concessionaires going forward.

City Attorney McGrath reported that it has been added, by-and-large, to every concession agreement and that if it is not included in the subject contract, it can be added as an amendment.

City Manager Wilson stated the matter could be continued to ensure that the matter is included in the contract.

A motion was made by Councilmember Hardy, second by Councilmember Shaw to continue the item to the Council meeting of November 18, 2013 in order to confirm that the requirement banning Styrofoam is included in the contract. Discussion ensued.

Councilmember Carchio stated that if the matter is an ordinance, there is no reason to include it in the contract.

Councilmember Hardy commented on the initial ordinance and reiterated that some concessionaires are not complying. She stated she was told that compliance would occur upon renegotiations of leases.

City Attorney McGrath reported that it is not an ordinance but rather a City policy adopted by Council. As contracts are renegotiated and renewed, the requirement has been included in the new contracts.

Council concurred to table the matter until later in the agenda while the information is researched by the City Attorney.

After research, the City Attorney McGrath reported that the subject contract did not include the stipulation regarding the prohibition of Styrofoam in City concessions. She added that the applicant agreed to the addition of language that directs concessionaires to comply with the City's policy regarding Styrofoam products.

A substitute motion was made by Councilmember Carchio, second by Councilmember Shaw to approve and authorize the Mayor and City Clerk to execute the "Amendment to Lease Agreement

Between the City of Huntington Beach and Michael Ali, dba Pier Plaza Beach Concession” as amended to insert language that directs the concessionaire to comply with City Policy regarding Styrofoam products.

The substitute motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis

NOES: None

**12. Adopted Resolution No. 2013-63 establishing the Salary Range and CalPERS retirement contribution for the Non-Represented Employee position of Police Chief; and authorized execution of an Employment Agreement with Robert Handy**

(The aforementioned item was acted upon by Council during the City Manager's Report portion of the agenda.)

A motion was made by Councilmember Carchio, second by Councilmember Shaw to adopt Resolution No. 2013-63, “A Resolution of the City Council of the City of Huntington Beach Establishing the Salary Range and Employee-Paid Portion of CalPERS Contribution for Police Chief;” and, approve and authorize the City Manager to execute the “Employment Agreement Between the City of Huntington Beach and Robert Handy” for the position of Police Chief.

The motion carried with the following roll call vote:

AYES: Sullivan, Harper, Boardman, Carchio, Shaw, Katapodis

NOES: None

OUT OF ROOM: Hardy

Police Chief Robert Handy introduced himself and his wife and thanked Council and the City for the opportunity to serve.

On behalf of Council, Mayor Boardman welcomed Chief Handy and his family to the City.

**13. Approved the appointment of Janeen T. Laudenback to the position of Director of Community Services; and authorized execution of Employment Agreement**

(The aforementioned item was acted upon by Council during the City Manager's Report portion of the agenda.)

A motion was made by Councilmember Carchio, second by Councilmember Katapodis to approve the appointment of Janeen T. Laudenback to the position of Director of Community Services.; and, approve and authorize the City Manager to execute the “Employment Agreement Between the City of Huntington Beach and Janeen Laudenback” for the position of Director of Community Services.

The motion carried with the following roll call vote:

AYES: Sullivan, Harper, Boardman, Carchio, Shaw, Katapodis

NOES: None

OUT OF ROOM: Hardy

Councilmember Sullivan commented on Director of Community Services Laudenback's experience and merits, stated this was a great appointment and congratulated her on her new position.

Councilmember Katapodis thanked Director of Community Services Laudenback for helping him get on board and congratulated her on her new position.

On behalf of Council, Mayor Boardman welcomed and congratulated her on her new position.

Director of Community Services Laudenback stated it is an honor and a privilege to be able to serve.

**14. Adopted Ordinance No. 3992 allowing the addition of an existing six-inch diameter oil pipeline to the franchise agreement with OXY USA, Inc.  
Approved for introduction October 21, 2013 (Vote: 7-0)**

A motion was made by Councilmember Carchio, second by Councilmember Katapodis to adopt Ordinance 3992, "An Ordinance of the City of Huntington Beach Amending the OXY USA Inc. Franchise to Construct, Operate, and Maintain a Pipeline System for the Transportation of Oil."

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
NOES: None

**15. Adopted Ordinance No. 4005 approving Zoning Text Amendment (ZTA) No. 13-001 to prohibit the sale of alcohol for off-site consumption for any use in District 1 of the Downtown Specific Plan  
Approved for introduction October 21, 2013 (Vote: 6-1, Harper No)**

A motion was made by Councilmember Carchio, second by Councilmember Katapodis to adopt Ordinance No. 4005, "An Ordinance of the City Council of the City of Huntington Beach Amending Specific Plan No. 5 - Downtown Specific Plan (Zoning Text Amendment No. 13-001)."

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Boardman, Carchio, Shaw, Katapodis  
NOES: Harper

**PUBLIC HEARING**

**16. Adopted Ordinance No. 3991 amending Chapter 17.56 of the Huntington Beach Municipal Code by adopting the California Fire Code, 2013 Edition  
Approved for introduction October 7, 2013 (Vote: 7-0)**

City Manager Wilson reported that a previous presentation was provided to Council regarding this item by the Fire Marshall, adding this is the next step in the process for adopting the Fire Code.

Mayor Boardman opened the Public Hearing.

Assistant City Clerk Estanislau noted no speakers at this time.

Mayor Boardman closed the Public Hearing.

A motion was made by Councilmember Sullivan, second by Mayor Pro Tem Harper to adopt Ordinance No. 3991, "An Ordinance of the City of Huntington Beach Amending Chapter 17.56 of the Huntington Beach Municipal Code Adopting the California Fire Code."

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
NOES: None

17. **Adopted Resolution No. 2013-61 certifying Environmental Impact Report (EIR) No. 07-001 for the Warner Nichols Project (Appeal filed by the Ocean View School District), as amended - Mitigation Measure No. CR-2 to reflect a minimum of 18 months for relocation.**
18. **Adopted Resolution No. 2013-62 approving General Plan Amendment No. 05-001; Approved for introduction Ordinance No. 4006 approving Zoning Map Amendment No. 05-001/Findings of Fact with Statement of Overriding Considerations - Warner Nichols (Appeal filed by Mayor Pro Tem Matthew M. Harper)**

Mayor Boardman announced that item nos. 17 and 18 will be heard, concurrently.

Senior Planner Ricky Ramos presented details of the report addressing the project site, location, existing conditions, background, EIR request, EIR analysis, details of alternatives, EIR recommendations, appeal of the Planning Commission decision by the Ocean View School District, request of a General Plan and Zoning Map amendment and appeal of the Planning Commission's findings by Mayor Pro Tem Harper. Senior Planner Ramos presented the existing and proposed General Plan and Zoning Map requests, General Plan and Zoning Map analysis, Statement of Overriding Concerns analysis and Planning Commission recommendations and staff recommendations.

Mayor Boardman opened the Public Hearing.

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

PowerPoint presentation submitted for Agenda Item Nos. 17 and 18 by Scott Hess, Director of Planning and Building, entitled Environmental Impact Report (EIR) 07-001, General Plan Amendment (GPA) 05-001, Zoning Map Amendment (ZMA) 05-001, Warner Nichols, November 4, 2013.

Communications received regarding Agenda Item No. 17 certifying the Environmental Impact Report (EIR) No. 07-001 for the Warner Nichols Project: Tom Livengood, Robert O. Dettloff, Victor N. Okada, Dr. Thomas F. Andrews, Dr. Arthur A. Hansen, Evelyn Shimazu Yee, James M. Toma, Joseph D. Santiago, Past Chair, Historic Resources Board of HB, Patrick Gillespie, and Dan Gibb.

Communications received regarding Agenda Item No. 18 General Plan Amendment No. 05-001 and Zoning Map Amendment No. 05-001 for the Warner Nichols Project: Jerry L. Wheeler, President/CEO of the Huntington Beach Chamber of Commerce, and Keith B. Bohr.

Jerry Moffatt, applicant with Rainbow Environmental Services, provided a PowerPoint entitled *Rainbow Environmental Services Presentation to the City of Huntington Beach City Council*. He addressed background, efforts to secure the property, maintenance costs and taxes incurred by Rainbow Environmental Services, purchase of the property by Rainbow Environmental Services, donation of a cornerstone to a preservation group, letters received in opposition, preservation fund budget and a covenant restricting future use of the property. Mr. Moffatt indicated support of staff's recommendations and urged Council to support them as well. (02:04:30)

Elizabeth Watson, attorney representing the Rainbow Environmental Services, submitted a written communication dated November 4, 2013 and entitled, *Rainbow Environmental Services/Warner Nichols Project/Agenda Item Nos. 17 and 18*. She reported that Rainbow has made its objectives perfectly clear, throughout the process and listed same. She stressed that Rainbow has no intention to expand its existing operations onto this property and referenced the covenant prepared as part of the agenda packet. Additionally, she reported there is no plan for development of the property and that the proposed zoning allows for a broad range of uses. She referenced the EIR noting that it meets all requirements of CEQA. (02:09:50)

Jeff Snow, President of Rainbow Environmental Services, requested that Council approve staff's recommendations noting that the EIR provides a comprehensive analysis related to the structures on the property and should be certified as adequate and complete in accordance with CEQA. He addressed the requested General Plan and Zoning Map amendments and referenced a covenant noting that Rainbow will not use the property for accepting or processing solid waste or recyclables on the property, in perpetuity. He added that there is no viable or economical use of the historic structures on site and addressed the alternatives evaluated. Mr. Snow addressed challenges with existing conditions of the property and urged Council to approve staff's recommendations. (02:12:56)

Octavio Camacho, Employee-owner of Rainbow Environmental Services, asked that Council approve staff's recommendations regarding this matter. He listed efforts by the company as a partner in the community and commented positively on his experience as an employee. (02:16:02)

Armando Duarte Junior, Employee-owner of Rainbow Environmental Services, asked that Council approve staff's recommendations regarding this matter and commented positively on his experience as an employee of the company. He addressed costs related to the property and reported that the Ocean View School District was supportive of Rainbow purchasing the subject property. (02:18:06)

Francisco Espinoza, Employee-owner of Rainbow Environmental Services, asked that Council approve staff's recommendations regarding this matter and commented positively on his experience as an employee of the company. He listed the efforts of Rainbow in helping the community and its schools and noted that without approval of the recommendations, the property may remain in its blighted condition. (02:20:03)

Sue Gordon, Employee-owner of Rainbow Environmental Services, asked that Council approve

staff's recommendations regarding this matter and reported that Rainbow has been a strong community partner throughout the years and listed some of the efforts of Rainbow in support of the community. (02:22:00)

Gisela Gamboa, Employee-owner of Rainbow Environmental Services, addressed challenges faced by Rainbow in securing the area as it exists. Additionally, she addressed the efforts of Rainbow in helping and supporting the community and asked that Council approve staff's recommendations. (02:24:38)

Edmond M. Connor, appellant representing the Ocean View School District, submitted a Petition to Stop Industrial Zoning, and provided a PowerPoint presentation entitled *Ocean View School District's Appeal of the Certification of FEIR 07-001 and Opposition to GPA 05-001 and ZMA 05-001*. He reported that the deed restrictions referenced by Rainbow was offered to the City but not to the Ocean View School District. He reported that the School District submitted a modified deed restriction but has not received a response from Rainbow. In addition, he stated that Council must consider the existing impacts and cumulative effects of the proposed zoning which has not been considered in the EIR. Mr. Connor presented their request to postpone the matter until a proper EIR can be generated that addresses all of the impacts, alternatives and mitigation measures that should have been addressed but have not been. He addressed the possibility of rezoning the area as commercial, noting that it was not considered in the EIR and is an alternative that the School District could support. Mr. Connor presented photographs of existing conditions at the Rainbow facility and nearby schools. (02:28:41)

Linda Moulton-Patterson attested to Ocean View School District's reputation as a state-wide leader and commented on Rainbow's strong commitment to the community. She reported serving as Chair of the California Integrated Waste Management Board and commented positively on the merits of Rainbow. (02:36:40)

Tom Livengood listed the accomplishments to be made and benefits with approval of staff's recommendations regarding this matter and commented on how the designing process can make the area into an acceptable buffer between nearby schools and industrial uses and noted the need to improve pedestrian safety. He reported that Rainbow has a long record of community support and stated that the proposed project will be an improvement to the community. (02:39:25)

Barbara Haynes, Historic Resources Board, referenced a list of buildings that have been lost, existing structures and those that can be saved. She urged Council to save the historic buildings on the subject site. (02:42:06)

Mary Urashima, Chair of the Wintersburg Taskforce, commented on Historic Wintersburg and on documentation citing the historic significance of the site. She referenced opinions of various agencies that the site is National Register eligible, including the National Park Service and the National Trust of Historic Preservation. She presented a list of supporters of preservation from around the country and stated there is lack of analysis in the EIR for historic preservation of the existing structures on the site. Additionally, she reported that statistics by the Huntington Beach Police Department do not support claims of problems relative to public safety with the site and stated that preservation does not prevent creative development of the site. Ms. Urashima reported that the structures are restorable and that donors are waiting for a decision by Council to proceed with restoration of the property and listed resources available. (02:44:43)

Laura Dale-Pash, Principal of Oak View Elementary School, asked that Council not approve the rezoning of the Rainbow property and commented on the daily negative conditions faced by students, teachers and staff. She complained of foul odors, dust and debris caused by seagulls feeding on the nearby waste. (02:49:11)

Linda Saez, Teacher at Oak View Elementary School, commented on the relationship with the community and Rainbow and expressed appreciation for the efforts of Rainbow towards the community. She complained of odors, pollutants and dust from the Rainbow facility and voiced opposition to the additional expansion of the facility and asked Council to deny rezoning of the Rainbow property. (02:51:56)

Kim Davis, Teacher at Oak View Elementary School, complained about odors, dust and seagull droppings from the Rainbow facility and expressed opposition to rezoning the subject property. (02:55:20)

Bonnie Bruce commented on her professional experience in the City and development of educational materials at the request of Rainbow Environmental Services which are distributed to students of the District. She commented positively on Rainbow's involvement in education and teaching regarding the importance of recycling. (02:59:11)

Joseph D. Santiago, Past Chair of the Historic Resources Board, urged Council not to certify the EIR and to declare it inadequate and not to approve the Statement of Overriding Considerations which would allow the demolition of historic resources on the site. He stated that the demolition of historic resources is inconsistent with the City's General Plan policies and that the original justification for demolition of the structures due to vandalism and Police activity has not been substantiated by statistics. (03:02:02)

Lucia Mendoza expressed concerns regarding odors emitted from the Rainbow facility and the health of the area's children. (03:04:34)

Gustavo Balderas, Superintendent of Schools for the Ocean View School District, reported that the District's goal is to continue working with Rainbow and the City to ensure that any development on the subject site will be a good fit for all. He hoped for continued dialogue relative to future decisions impacting students and staff. (03:06:25)

Craig Tomiyoshi, National Board of Japanese American Citizens League, urged Council to protect the Historic Wintersburg site and its buildings. He commented on the importance of preserving historical sites and asked that Council deny certification of the EIR and to not approve the Statement of Overriding Considerations. (03:07:24)

James Hosoda spoke in support of the Wintersburg preservation efforts. He commented on the importance of protecting historical resources and warned against the City's investments in risky pension plans. (03:10:08)

Jerry Wheeler, President and CEO of the Huntington Beach Chamber of Commerce, voiced support of the Rainbow proposal noting that the current residential zoning is not compatible with adjacent existing uses and stated that it would establish a buffer between the existing industrial uses and the residential neighborhood to the east. He stressed that Rainbow has no proposed development plans for the site and that any potential use does not include the expansion of Rainbow facilities and referenced a deed of restriction developed by Rainbow prohibiting the use

of the property for the receipt or processing of solid waste. He added that Rainbow wishes to work with preservation organizations intent on saving the existing structures and noted Rainbow has offered to relocate them. He urged Council to approve the EIR and the zoning change. (03:11:23)

Dann Gibb, Board Member of the Fountain Valley Historical Society and Member of the Orange County Historical Society, commented on the importance of preserving Historic Wintersburg and urged Council to do the right thing. (03:14:37)

Maribel Mendez commented on unresolved issues related to Rainbow Environmental Services and complained of strong odors, dust and seagull droppings resulting from the waste facility and spoke in opposition to the rezoning of the subject property. (03:18:25)

Richardson Gray urged Council to affirm the Planning Commission's denial of the Findings of Fact with Statement of Overriding Considerations and spoke in support of preserving Historic Wintersburg and referenced the City's inventory of historic properties and stated that no demolition should be permitted of the City's historic resources. He expressed concerns regarding the loss of historic resources in the City. (03:20:25)

Darrell Rivers, Vice President of the Huntington Beach Historical Society, commented on the importance of preserving historical resources in the City, such as Historic Wintersburg noting that history can be an important part of the future. (03:23:17)

Hortencia Maldonado expressed concerns regarding the health of children and the community near Rainbow Environmental Services facilities and stated opposition to its expansion. She asked Council to deny expansion of the facility. (03:25:30)

Dennis Masuda reported that he was a member of the Wintersburg Presbyterian Church and commented on his and his family's history and experience in the area. He commented on the historical significance of the church and on the possibility of saving the structures and having a Huntington Beach Museum to showcase the rich history of the area. He urged Council to save the buildings for future generations. (03:26:51)

Dave Wentworth, Member of the Huntington Beach Historical Resources Board, commented on his family's history in the City and urged Council to deny certification of the EIR as inconsistent with the policies in the General Plan. He asked that Council deny the Statement of Overriding Considerations that would allow for the demolition of historical structures on the subject site and commented on the drawbacks related to expansion of the Rainbow facilities. He noted the need to preserve Historic Wintersburg. (03:29:30)

Leslie Gaspar, Student at Ocean View High School, expressed concerns with the existing conditions related to the Rainbow Environmental Services facility including odors, dust and seagull droppings. She reported that many of her siblings have asthma and that her family struggles with the related medical expenses. (03:32:40)

Kanji Sahara, Torrance, spoke regarding the 1913 Alien Land Law and presented a brief history of the matter. He added that it makes no sense to move the buildings currently on the subject site noting that it is the land that is important and that the historic buildings must sit on that land. (03:36:04)

Kathy Bryant, Member of the Historic Resources Board, spoke on behalf of Gloria Alvarez, President of the Board who could not attend because of illness. She commented on the significance of the Historic Wintersburg site and noted that alternatives for the historic preservation or adaptive reuse of the site were not analyzed within the EIR and that action to demolish the structures on the site would be inconsistent with the policies of the General Plan. She urged Council to not approve the Statement of Overriding Considerations that would allow the demolition of the historic resources. (03:38:36)

Tadashi Kowta, former member of the Wintersburg Presbyterian Church, commented on his and his family's history in the area and urged Council to preserve the historical nature of the structures on the subject site. (03:40:45)

Lietta Strecke commented on her history in the area and acknowledged the efforts of Rainbow towards the community. She complained of odor and dust due to the Rainbow operations and commented on the historical nature of the site. She believed that the children in the area are suffering and urged Council to make the right decision and not rezone the area. (03:44:00)

Toribio Hidalgo complained of odors in the school related to the Rainbow operations. He addressed the importance of clean air for everyone. (03:46:47)

Dianne Thompson, Chairman of the Board of the Huntington Beach Chamber of Commerce, spoke in support of staff's recommendations and commented positively on Rainbow and its support of the community. She noted that they are and have been good neighbors. (03:47:02)

Ken Inouye thanked Police Chief Small for his many years of service to the community. Additionally, he acknowledged Rainbow's support of the community but felt that if they wanted to act in good faith, they would meet with members of the community to try to resolve and mitigate existing problems. He noted the importance of resolving existing issues before further changes are implemented and commented on Wintersburg noting that it is more than a "Huntington Beach" issue; that it is an "American" issue. He expressed support for the preservation of the Wintersburg site. (03:52:52)

Matthew Dasno commented positively on Rainbow Environmental Services. Additionally, he expressed concerns over budget cuts, especially as they relate to tree removal of trees. He added that the proposed rezoning of the subject site will create jobs and provide tax revenue to the City. He spoke in support of staff's recommendations and added that the existing structures on the site have no economic value to the community. Mr. Dasno urged Council to support staff's recommendations on this matter.

Evelyn Shimazu Yee provided a PowerPoint presentation entitled, "The Untold Story of the Historic Wintersburg Mission and the Quiet Nisei American". (03:58:56)

Nancy Oda, President of the San Fernando Valley Japanese American Community Center, urged Council to preserve the Historic Wintersburg site noting that it is meaningful to many people. She hoped that Council would consider making this an opportunity to teach the children by its example. (04:02:20)

Mark Bixby, Chair of the Huntington Beach Planning Commission, reported that he voted against the EIR and the rezoning and listed his reasons for doing so. In addition, he stated voting against the Statement of Overriding Considerations because he felt that not all of the possible alternatives

had been adequately analyzed. He urged Council to accept the Planning Commission's recommendations and deny the project. (04:02:43)

Warren Furutani commented positively on the Democratic process and on the importance of preserving Historic Wintersburg. He commented on today's technological advances but noted the importance of three-dimensional information and history. He urged Council to take the time to get it right. (04:09:19)

Philip Chinn, Board Member of the Orange County Historical Society, spoke in support of preserving Historic Wintersburg. He commented on possible litigation related to the EIR and urged Council to save the historic piece of property. (04:12:29)

Kerry Cababa, Manzanar Committee of Los Angeles, presented a brief history of the Wintersburg Mission and spoke in support of preserving the site and structures. She urged Council to save the history while it is still possible. (04:15:17)

Colleen Miyano, Manzanar Committee of Los Angeles, commented on the importance of historic preservation and urged Council to preserve the Wintersburg site. (04:18:04)

Ron Shenkman, Chairman Emeritus of Rainbow Environmental Services, commented on what he has learned throughout this process and noted that Rainbow is still committed to continue to provide the kind of services it has provided to the City for over fifty (50) years, and to find necessary solutions. (04:18:27)

Mayor Boardman closed the Public Hearing.

Mayor Pro Tem Harper explained his decision to appeal Item No. 18, noting that a deed restriction is enforceable through the Federal Courts, and that time limits should be adhered to in terms of submitting information on agenda items. He acknowledged that Rainbow has been a good partner for the community and City. Additionally, he reported that Rainbow has been and is on the cutting-edge of recycling technology. He noted there are few industrial areas in the City, that Rainbow is under the authority of the State of California and commented on increased diversion requirements. He addressed Rainbow's purchase of the property in avoiding a major residential development on same. Mayor Pro Tem Harper added that he believes in property rights, and that the best way to decide what happens on a property is to acquire. He added that if anyone else wants to decide what happens with this land, they should make Rainbow an offer of purchase to the property. Those who support preservation should work with Rainbow to consider all options. He stated his opinion that using the law to force the property owner to do something with the land is wrong, and their rights should be respected.

A motion was made by Mayor Pro Tem Harper, second by Councilmember Carchio to (#17) certify Environmental Impact Report No. 07-001 as adequate and complete in accordance with California Environmental Quality (CEQA) requirements by adopting Resolution No. 2013-61, "A Resolution of the City Council of the City of Huntington Beach Certifying the Final Environmental Impact Report (SCH#2011081099) For the Warner Nichols Project;" and (#18), approve Findings of Fact with Statement of Overriding Considerations; approve General Plan Amendment No. 05-001 by adopting City Council Resolution No. 2013-62, "A Resolution of the City Council of the City of Huntington Beach Approving General Plan Amendment No. 05-001;" and, approve Zoning Map Amendment No. 05-001 with findings for approval and after the City Clerk reads by title approving for introduction Ordinance No. 4006, "An Ordinance of the City of Huntington Beach

Amending the Huntington Beach Zoning and Subdivision Ordinance by Changing the Zoning Designation From RM (Residential Medium Density) to CG (Commercial General) on a +1.1 Gross Acre Portion and to IG (General Industrial) on a +3.3 Gross Acre Portion of Real Property Located on the Southeast Corner of Warner Avenue and Nichols Street (Zoning Map Amendment No. 05-001).”

Councilmember Sullivan noted his experience with Rainbow and stated they have never lied. He referenced the deed restriction and while he sympathizes with the speakers regarding concerns with the school, he believed Rainbow will work to alleviate the problems. He agreed with Mayor Pro Tem Harper's comments and stated that the actions to be taken tonight will serve to protect the property, provide for light industry in the area and additional employment opportunities. He believes that Rainbow is the best corporate citizen in the community as well as the greatest minority employer in the community. He reported that he will support the motion.

Councilmember Carchio stated that he is a Director on the Orange County Waste Management Board and noted the high scores received by Rainbow in terms of the quality of waste disposal companies. He referenced comments regarding odor, dust and seagull droppings and noted those are not the issues at hand at this time. Councilmember Carchio commented on possible alternatives for preservation of the structures on the subject site and suggested that those interested in preserving the property should buy it. He added that Rainbow has been a great partner to the community and stated he will support Mayor Pro Tem Harper's motion.

In response to an inquiry from Councilmember Shaw, City Attorney McGrath reported that the project is the demolition of the buildings and that there is no proposed new construction or entitlement. She added that in terms of potential litigation, attorney fees would be paid by the City if the City were not successful. In addition, she reported on and provided the status of a prior project which resulted in litigation.

Councilmember Shaw reported that the Ocean View School District Board has not worked in partnership with the City and if they cannot agree to work with the City and Rainbow, he would have to agree with Councilmember Sullivan's comments. He added that Rainbow has never lied to him and that they are a good community player and that the Ocean View School District has proven not to be. He noted that Rainbow is a 95% minority-owned business and is vested in the community. He expressed the desire to come up with a solution that is agreeable, saves the City from future litigation and preserves the buildings on the site. Additionally, he stated that one year is not an adequate amount of time to resolve the issue of preservation and wondered if they would agree to a two-year time period.

Jerry Moffatt, applicant with Rainbow Environmental Services, stated that Rainbow has always supported the community and continues to do so. He acknowledged the importance of coming up with a workable solution and commented on the length of time expended through the process and agreed that Rainbow may consider an additional year to address the issue of preservation. Mr. Moffatt stated that the biggest problem so far has been the inaction of those who want to preserve the existing buildings on the site. He added that a time limit of eighteen (18) months would be preferable.

Mayor Pro Tem Harper stated he would be inclined to leave it at one (1) year given the time it has taken already for the process.

Councilmember Shaw noted that EIRs should help and illuminate Council on its decision but that

this EIR seems to be inadequate. He stated agreement with the letter from the California Preservation Foundation that the mitigation proposed is inadequate. He voiced support for additional time to address the issues of preservation.

Councilmember Katapodis indicated his support of Oak View School and encouraged the District to work with Rainbow to resolve issues of concern. He focused on the matter at hand and referenced the deed restrictions developed by Rainbow regarding their commitment not to have waste disposal or processing operations on the site.

Councilmember Katapodis asked if Mayor Pro Tem Harper would consider amending his motion to extend the time period for resolving preservation issues to eighteen (18) months (Mitigation Measure CR-2). Mayor Pro Tem Harper agreed to accept the amendment, and the amended motion was seconded by Councilmember Carchio.

Councilmember Hardy commented on the merits of Rainbow, acknowledged the concerns voiced by the public and noted the importance of preserving history. She indicated she will not support the motion. She stated that if there were a specific plan for the renovation of historic buildings, fundraising would be easier and noted the need for a concrete plan, soon. She commented on the renovation of the Newland House and felt that it is still possible to save the properties on the site.

Councilmember Carchio stated there should be progress made in terms of fundraising and indicated support for the motion.

Mayor Boardman commented positively on the efforts of the Ad Hoc Committee and thanked Rainbow for their willingness to provide access to the property. She stated that people will be reluctant to donate money if they do not know what will happen with the property. She presented a short video from PBS entitled, "The American Family" regarding the Furuta Family of Wintersburg and what they experienced. She noted that the site is eligible for listing as a National Register of Historic Places and referenced a 2012 study as well as initiatives by the Department of Interior to support and preserve places associated with Asian American and Pacific Islander Heritage. She noted that the area provides a window in the daily life of early Japanese immigrants in Orange County as well as the early history of the City. She reported that the National Parks Service staff encourages Rainbow to apply for listing of the property in the National Register of Historic Places since it opens doors to assistance and funding opportunities and does not take away property owners' rights. Mayor Boardman reported writing to Senator Diane Feinstein who was able to provide Federal funding to restore one of the barracks at Manzanar and Senator Feinstein has expressed an interest in the Wintersburg site. She commented on tax credits available if the site generates revenue if the buildings were to be used in a commercial way. Mayor Boardman stated that the benefits of the project do not outweigh the significant and unavoidable impacts to historic resources and inquired whether the site represents a significant public safety issue.

Chief Ken Small stated there have been few Police calls related to the site in the last few years.

Mayor Boardman commented on the demolition of existing church structures to widen the road and felt it unreasonable and added she cannot find statements to support the Statement of Overriding Considerations since there is no proposed project. She stated she is comfortable with the zone changes and that given the deed restrictions that Rainbow has agreed to sign she can support rezoning of the site. She acknowledged the concerns regarding nearby schools but noted

that the existing preschool was built years after Rainbow has been in operation. She expressed concerns regarding the adequacy of the EIR and stated she cannot support it.

The motion made by Mayor Pro Tem Harper, second by Councilmember Carchio to (#17) certify Environmental Impact Report No. 07-001 as adequate and complete in accordance with California Environmental Quality (CEQA) requirements by adopting Resolution No. 2013-61, "A Resolution of the City Council of the City of Huntington Beach Certifying the Final Environmental Impact Report (SCH#2011081099) For the Warner Nichols Project," and (#18), approve Findings of Fact with Statement of Overriding Considerations; approve General Plan Amendment No. 05-001 by adopting City Council Resolution No. 2013-62, "A Resolution of the City Council of the City of Huntington Beach Approving General Plan Amendment No. 05-001;" and, approve Zoning Map Amendment No. 05-001 with findings for approval and after the City Clerk reads by title approving for introduction Ordinance No. 4006, "An Ordinance of the City of Huntington Beach Amending the Huntington Beach Zoning and Subdivision Ordinance by Changing the Zoning Designation From RM (Residential Medium Density) to CG (Commercial General) on a +1.1 Gross Acre Portion and to IG (General Industrial) on a +3.3 Gross Acre Portion of Real Property Located on the Southeast Corner of Warner Avenue and Nichols Street (Zoning Map Amendment No. 05-001)," **as amended to include language *Mitigation Measure No. CR-2 to reflect a minimum of 18 months for relocation*** carried with the following roll call vote:

AYES: Sullivan, Harper, Carchio, Katapodis  
NOES: Hardy, Boardman, Shaw

**19. Denied Conditional Use Permit No. 2013-018 – Local Bench Grill Alcohol CUP Appeal filed by Mayor Boardman (300 Pacific Coast Highway Unit 107B)**

Mayor Boardman reported that she appealed the item noting there is an alcohol problem in the downtown area which has resulted in increased crime. In response to her inquiry, Planning and Building Director Scott Hess reported that as part of the 3,000 square foot addition to Pier Side Pavilion it included approval of a Conditional Use Permit for a restaurant for alcohol sales on the second floor as well as the use of the deck area on the roof top. He added that the total square footage is approximately 8,000 square feet.

Mayor Boardman noted the need to send a message to property owners' downtown that they need to look at other businesses other than those that are alcohol-dependent.

Project Planner Hayden Beckman provided a brief presentation addressing details of the request, location of the subject site, surrounding properties, hours of operation, alcohol service limits, approval of the application by the Zoning Administrator, Planning Commission action and approval and appeal by Mayor Boardman because of an existing oversaturation of alcohol licenses in the downtown area and associated potential impacts. He addressed staff's analysis and recommendations.

Mayor Boardman opened the Public Hearing.

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

Communication received regarding Agenda Item No. 19 from Richardson Gray, dated October 31,

2013, entitled Opposition to Application for Conditional Use Permit No. 13-018.

Mark Bixby, Chair of the Planning Commission, stated that the Commission prudently conditioned this project to be unlikely to cause additional problems in the downtown area. He added that his brother is a Police Officer for the City of Laguna Beach where the applicant has another establishment and there have been no issues from a Police perspective relative to the operation of the establishment and added that the key to preventing crime in the area is enforcement.

Mayor Boardman closed the public hearing.

In response to Councilmember Sullivan's inquiry, Planning and Building Director Hess reported there are no findings for denial included in the report. He added that if Council's desire is to deny the application there will need to be findings for denial.

Mayor Pro Tem Harper favored the Planning Commission and staff's recommendations adding that if the item is denied it would be characterized as denied due to politics.

In reply to Councilmember Carchio's inquiry regarding restrictions in hours of operation, Police Chief Small noted that establishments are restricted until 10:00 PM on the streets adjacent to residential areas and that no restrictions were made based on days of the week.

Mayor Boardman stated that rather than politics, the reason she appealed this item is because of facts and data provided by the Chief of Police regarding crime statistics in the area, related to alcohol consumption in the downtown area. She addressed applicable statistics and Police Chief Small noted the oversaturation of alcohol licenses in the downtown area. He added that the matter is a policy decision to be made by Council and that considering the number and types of arrests in the area, he believed there is enough public safety information to have a policy that even one more alcohol-serving establishment in the area would be one too many.

Councilmember Shaw agreed with the need to send a message that there are too many restaurants already in the downtown area serving alcohol.

A motion was made by Mayor Boardman, second by Councilmember Shaw, to deny Conditional Use Permit No. 2013-018 with findings for denial. The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Boardman, Shaw, Katapodis  
NOES: Harper, Carchio

## **ORDINANCES FOR INTRODUCTION**

- 20. Approved the re-introduction of Ordinance No. 4000 amending Chapter 17.44 of the Huntington Beach Municipal Code relating to the Plumbing Code due to a section omission in the original City Council/PFA Regular Meeting November 4, 2013**

A motion was made by Mayor Pro Tem Harper, second by Councilmember Hardy to after the City Clerk reads by title, approve for introduction amended Ordinance 4000, "An Ordinance of the City of Huntington Beach Amending Chapter 17.44 of the Huntington Beach Municipal Code Relating to the Plumbing Code."

The motion carried with the following roll call vote:

AYES: Sullivan, Hardy, Harper, Boardman, Carchio, Shaw, Katapodis  
NOES: None

### **COUNCILMEMBER COMMENTS (Not Agendized)**

Councilmember Sullivan announced the upcoming Veteran's Day Ceremony on November 11, 2013, at Pier Plaza starting at 11:00 AM.

Mayor Pro Tem Harper reported attending the ACCOC special reception regarding tours in Orange County and thanked City staff, the Office of Assemblyman Allan Mansoor and Assemblyman Mansoor for hosting a forum on understanding the Affordable Care Act and its impact on small business.

Councilmember Shaw reported attending the Employee Halloween Pancake Breakfast and commented positively on the event.

Councilmember Katapodis reported visiting the Carden Academy where the Office Manager Patricia Shankman is working with students on recycling efforts. Additionally, he reported attending "Fiddler on the Roof" at the Huntington Beach Playhouse and commented positively on the event and the cast. He reported attending his grandson's birthday party featuring Elmo.

Councilmember Shaw commented on the Peter's Landing Farmers' Market and the Bolsa Chica Land Trust table.

Councilmember Carchio reported attending the Swearing-in ceremony for Huntington Beach Police Department Officer Brian Drake as well as the Promotional Swearing-in ceremony for Detective Kevin Johnson to Sergeant. In addition, he attended the Huntington Beach Fire Department Great Balls of Fire Golf Tournament and Dinner as well as the Employee Halloween Pancake Breakfast and the Tony Noble Halloween display in Sunset Beach.

Mayor Boardman reported attending the Employee Halloween Pancake Breakfast and commented positively on the Department displays. In addition, she participated in starting the Surf City Marathon 10K and 10 Mile event and attending the Dinner by the Huntington Beach Firefighters raising funds for the Educational Foundation.

Mayor Boardman commented on the recent passing of Environmental Board Member Bob Smith and commented on his service to the community.

### **ADJOURNMENT**

There being no other business to come before Council, Mayor Boardman adjourned the meeting at 11:40 PM in memory of Environmental Board Member Bob Smith.

The next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority is Monday, November 18, 2013, in Room B-8, Civic Center, 2000 Main Street, Huntington Beach, California.

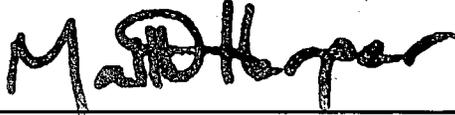


Clerk and ex-officio Clerk of the City  
Council of the City of Huntington Beach, and  
Secretary of the Huntington Beach Public  
Finance Authority

ATTEST:



Clerk, Secretary



Mayor-Chair