



# CITY OF LONG BEACH

# R-24

DEPARTMENT OF THE CITY CLERK

333 W. Ocean Blvd.

Long Beach, CA 90802

(562) 570-6101

FAX (562) 570-6789

ELECTIONS BUREAU

October 9, 2007

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

## RECOMMENDATION:

Adopt the following resolutions:

1. A Resolution of the City Council of the City of Long Beach Requesting the Board of Supervisors of the County of Los Angeles to Authorize and Order the Consolidation of a Citywide Special Municipal Election with the Statewide Presidential Primary Election to be Held February 5, 2008, and Determining and Declaring that the City Will Pay to the County Reasonable and Actual Expenses Incurred by the County on Account of the Consolidation of this Election.
2. A Resolution of the City Council of the City of Long Beach, California, Requesting the Board of Supervisors of the County of Los Angeles to Render Specified Services to the City Relating to the Conduct of a Special Municipal Election to be Held on Tuesday, February 5, 2008.
3. A Resolution of the City Council of the City of Long Beach Ordering, Calling and Providing for and Giving Notice of a Special Municipal Election to be Held in the City of Long Beach on Tuesday, the 5<sup>th</sup> Day of February, 2008, for the Purpose of Submitting Two Ballot Propositions to a Vote of the Qualified Electors of the City.

## DISCUSSION

On January 2, 2007, a motion was made by Councilmember Reyes Uranga, and seconded by Vice Mayor Lowenthal, to approve the recommendation to request the City Attorney to prepare a resolution placing the question of the re-adoption of Ordinance No. ORD-06-0040 regarding Superstores, on the ballot for June 3, 2008.

On March 20, 2007, a motion was made by Councilmember Reyes Uranga, and seconded by Councilmember Lowenthal, to request the City Attorney to prepare a resolution placing the question of the re-adoption of ORD No. ORD-07-0006 regarding the Labor Peace on the ballot for the election of February 5, 2008.

Pursuant to City Charter Section 2000, the foregoing measures must be placed on the next Statewide Election. Under the provisions of SB 113 signed by the Governor on March 15, 2007, the next statewide election is scheduled for February 5, 2008.

HONORABLE MAYOR AND CITY COUNCIL  
October 9, 2007  
Page 2

TIMING CONSIDERATIONS

The last day to request consolidation with the Los Angeles County Registrar-Recorder/ County Clerk (RRCC) to place an item on the February 5, 2008 ballot is Friday, November 9, 2007.

Per Long Beach Municipal Code Section 1.24.020, it is suggested that requests to write arguments for these propositions be submitted to Mayor Foster no later than Friday, November 2, 2007, and the list of argument writers be submitted to City Council for approval on Tuesday, November 6, 2007.

FISCAL IMPACT

The RRCC has estimated that it will cost \$510,000 to consolidate these issues on the February 5 ballot (see attached cost estimate). Appropriations for this election are contained in the FY 2007/2008 City Clerk budget.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

A handwritten signature in cursive script that reads "Larry Herrera p.s.B." The signature is written in black ink and is positioned above the printed name and title.

LARRY HERRERA  
CITY CLERK

Attachments:

RRCC -- April 24, 2007 Estimated Cost for February 5, 2008 Primary Election



COUNTY OF LOS ANGELES  
**REGISTRAR-RECORDER/COUNTY CLERK**  
12400 IMPERIAL HWY. – P.O. BOX 1024, NORWALK, CALIFORNIA 90651-1024

**Conny B. McCormack**  
Registrar-Recorder/County Clerk

April 24, 2007

Larry Herrera, City Clerk  
City of Long Beach  
333 West Ocean Blvd. Plaza Level  
Long Beach, CA 90802

**ESTIMATED COST FOR FEBRUARY 5, 2008 PRIMARY ELECTION**

Dear Mr. Herrera:

The estimated cost for your agency to consolidate with the February 5, 2008 Primary Election:

<u>Type of Election</u>	<u>Sharing with Other Agencies</u>	<u>Additional Measure</u>
1 Measure	\$490,000	\$20,000
2 Measures	\$510,000	

This estimate is based on the estimated voter registration, voting precincts, and the number of jurisdictions sharing prorated costs with your agency at this time. **A change in any of these factors will have an impact on final costs.**

If you have any questions or need additional information, please call Tammi Dao of my staff at (562) 462-2690.

Sincerely,

Conny B. McCormack  
Registrar-Recorder/County Clerk

Kathleen Connors, Assistant  
Registrar-Recorder/County Clerk, Administration

1 RESOLUTION NO.

2  
3 A RESOLUTION OF THE CITY COUNCIL OF THE  
4 CITY OF LONG BEACH ORDERING, CALLING AND  
5 PROVIDING FOR AND GIVING NOTICE OF A SPECIAL  
6 MUNICIPAL ELECTION TO BE HELD IN THE CITY OF  
7 LONG BEACH ON TUESDAY, THE 5<sup>TH</sup> DAY OF FEBRUARY,  
8 2008, FOR THE PURPOSE OF SUBMITTING TWO BALLOT  
9 PROPOSITIONS TO A VOTE OF THE QUALIFIED  
10 ELECTORS OF THE CITY  
11

12 The City Council of the City of Long Beach does resolve, order, declare,  
13 proclaim and give notice as follows:

14 Section 1. Under the provisions of the Constitution and laws of the State  
15 of California and the Charter of the City of Long Beach, a Special Municipal Election is  
16 ordered, proclaimed and called to be held in the City of Long Beach, between the hours  
17 of 7:00 a.m. and 8:00 p.m. on Tuesday, the 5th day of February, 2008, for the purpose of  
18 submitting to a vote of the qualified electors of the City of Long Beach the following  
19 propositions which, for identification purposes, are marked as Propositions A and B:

20 Proposition A

21 Shall Ordinance No. 06-0040, which amends the City's Zoning  
22 Code to ban major retail projects over 100,000 square feet,  
23 and which devote more than ten percent (10%) of sales floor  
24 area to the sale of non-taxable merchandise, be adopted?

25  
26 Proposition B

27 Shall Ordinance No. 07-0006, which amends the City's  
28 Municipal Code to prohibit the City from entering into a lease

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ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 or lease amendment with a hotel unless that hotel has signed  
2 a labor peace agreement with a labor organization seeking to  
3 represent the hotel's employees, be adopted?  
4

5 Section 2. Notice is given of the time and place of the election. The City  
6 Clerk is directed and authorized to print and publish the propositions as required by law.  
7 All particulars not provided in this resolution shall be held under the provisions of law  
8 governing the conduct of such elections in the City of Long Beach.

9 Section 3. The propositions shall be stated as provided in Section 13119  
10 of the Elections Code of the State of California. The ballot used in voting upon the  
11 propositions shall contain the words "yes" and "no". The text of Proposition A is set forth  
12 in full in Exhibit "1", and the text of Proposition B is set forth in full in Exhibit "2."

13 Section 4. That only qualified voters of the City of Long Beach shall be  
14 permitted to vote in the election called by this resolution.

15 Section 5. This resolution shall take effect immediately upon its adoption  
16 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

17  
18 I hereby certify that the foregoing resolution was adopted by the City  
19 Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2007, by the

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21 ////  
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following vote:

Ayes: Councilmembers:

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Noes: Councilmembers:

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Absent: Councilmembers:

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City Clerk

HAM:fl  
10/2/07  
#07-03589

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**TEXT OF PROPOSITION A**

ORDINANCE NO. ORD-06-0040

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH AMENDING THE LONG BEACH  
MUNICIPAL CODE BY AMENDING TABLES 32-1 AND 33-2;  
AND BY ADDING SECTION 21.15.2985, RELATING TO  
SUPERSTORES

WHEREAS, General Plan policies promote and encourage vital  
neighborhood commercial districts that are evenly distributed throughout the city so that  
residents are able to meet their basic daily shopping needs at neighborhood shopping  
centers; and

WHEREAS, Section 65860 of the California Government Code requires that  
a zoning ordinance be consistent with the City's General Plan; and

WHEREAS, the California Government Code also provides that in order for  
the ordinance to be consistent with the General Plan, the various land uses authorized by  
the ordinance should be compatible with the objectives, policies, general land uses, and  
programs specified in the General Plan; and

WHEREAS, given the changes in the retail sector and the evolution toward  
ever-bigger stores; it is necessary that the zoning ordinance be amended to regulate  
larger retail establishments appropriately; and

WHEREAS, the Long Beach zoning ordinance (Title 21 of the Long Beach  
Municipal Code) has not kept pace with the evolution of the retail sector and fails to  
adequately distinguish the size, scale and scope of various retail activities; and

WHEREAS, there is an emerging national trend toward increasing the size  
of retail outlets and the diversity of products offered at such large-scale discount stores

1 and discount superstores; and

2 WHEREAS, large-scale discount superstores typically combine discount  
3 general merchandise and full-service grocery sales under one roof, and, while similar in  
4 size to other large-scale retailers and to wholesale membership clubs, such discount  
5 superstores tend to generate more intensive impacts; and

6 WHEREAS, the establishment of discount superstores in Long Beach is  
7 likely to negatively impact the vitality and economic viability of the City's neighborhood  
8 commercial centers by drawing sales away from traditional supermarkets located in these  
9 centers; and

10 WHEREAS, industry and academic studies indicate discount superstores  
11 rarely add any retail services currently not provided within a community, and that the  
12 majority of sales growth at a discount supercenter comes from a direct shift of dollars  
13 from existing retailers within a community, primarily from grocery stores; and

14 WHEREAS, discount superstores compete directly with existing grocery  
15 stores that anchor neighborhood-serving commercial centers; and

16 WHEREAS, smaller stores within a neighborhood center rely upon the foot  
17 traffic generated by the grocery store for their existence and in neighborhood centers  
18 where the grocery store closes, vacancy rates typically increase and deterioration takes  
19 place in the remaining center; and

20 WHEREAS, discount superstores adversely affect the viability of small-  
21 scale, pedestrian-friendly neighborhood commercial areas, contributing to blight in these  
22 areas; and

23 WHEREAS, the proposed zoning ordinance amendments are intended to  
24 preserve the city's existing neighborhood-serving shopping centers that are located within  
25 the community; and

26 WHEREAS, the city's current distribution of neighborhood shopping centers  
27 provide convenient shopping and employment in close proximity to most residential  
28 neighborhoods in Long Beach, consistent with the Long Beach General Plan; and



1           WHEREAS, this distribution of shopping and employment creates a land  
2 use pattern that reduces the need for vehicle trips and encourages walking and biking for  
3 shopping, services, and employment;

4           WHEREAS, discount superstores have particularly high transportation  
5 impacts because of the frequency of grocery trips combined with the overall scale of the  
6 establishments, since a typical household makes 2-3 grocery-related trips weekly; and

7           WHEREAS, figures from the Institute of Transportation Engineer's Trip  
8 Generation manual, a compilation of traffic generation studies, shows that discount  
9 superstores are likely to generate more traffic on a daily or weekly basis than other types  
10 of large stores; and

11           WHEREAS, large-scale retail stores of more than 100,000 square feet in  
12 floor area that sell a large volume and variety of non-taxable grocery and pharmacy items  
13 in a supermarket format significantly increase traffic volumes, strain the existing street  
14 network, promote traffic intrusion into nearby neighborhoods, discourage pedestrian  
15 travel, and otherwise aggravate traffic congestion; and

16           WHEREAS, numerous local jurisdictions in the country and the State of  
17 California, taking all of the above considerations in mind, have enacted ordinances that  
18 either completely prohibit new retail stores over a certain size or require special impact  
19 studies; and

20           WHEREAS, the proposed amendments, by prohibiting large-scale  
21 combined retail and grocery stores, can serve as a means for protecting Long Beach's  
22 neighborhood-serving shopping centers and perpetuate the land use pattern established  
23 by the City's General Plan; and

24           WHEREAS, the proposed new regulations would not affect large retail  
25 establishments that do not include a sizeable grocery component ("discount clubs"); and

26           WHEREAS, discount superstore activities are distinguished from the above-  
27 mentioned large-scale retailers because they have the potential to create particularly high  
28 impacts on traffic and transportation, and on the vitality of neighborhood commercial

1 districts; and

2 WHEREAS, the proposed amendments are intended to protect grocery  
3 stores in existing neighborhood centers to prevent a significant change in land use,  
4 employment and traffic patterns throughout the city; and

5 WHEREAS, the proposed regulations will place stricter controls on the  
6 establishment of, or conversion to large-scale combined retail and grocery stores and  
7 would prevent a large-scale store with potential negative environmental impacts from  
8 being established in Long Beach, but will not itself generate environmental impacts or  
9 necessitate environmental review; and

10 WHEREAS, the adoption of these regulations do not approve any  
11 development project nor do they disturb the physical environment either directly or  
12 indirectly as the regulations modify the limitations of land use by prohibiting large-scale  
13 retail business stores that exceed 100,000 square feet of gross floor area from devoting  
14 more than 10% of that floor area to the sale of non-taxable (food/grocery) merchandise;  
15 and

16 WHEREAS, the Planning Commission held a public hearing at a meeting  
17 on July 20, 2006 for which a public notice was published in accordance with applicable  
18 state and local law, and recommended the Long Beach City Council amend certain  
19 sections of the Long Beach Municipal Code to establish regulations for large-scale  
20 retailers; and

21 WHEREAS, the Long Beach City Council held a public hearing at a regular  
22 meeting on September 19, 2006, for which a public notice was published in accordance  
23 with applicable state and local law; and

24 WHEREAS, from the facts and testimony presented at the noticed public  
25 hearing held on September 19, 2006, the Long Beach City Council found and determined  
26 as follows:

27 1. That the proposed amendments to the Long Beach Municipal Code  
28 are consistent with the General Plan; and

1                   2.       That the proposed amendments to the Long Beach Municipal Code  
2 will implement the goals, objectives, and policies of the General Plan; and

3                   3.       That the proposed amendments are consistent with the purposes of  
4 the Zoning Ordinance; and

5                   4.       That the proposed amendments to the Long Beach Municipal Code  
6 are reasonably related to the public interest, and that public necessity, convenience and  
7 general welfare require the proposed amendments.

8                   NOW, THEREFORE, the City Council of the City of Long Beach ordains as  
9 follows:

10                   Section 1.    The Long Beach Municipal Code is amended by adding  
11 Section 21.15.2985 as follows:

12                   21.15.2985 Superstore.

13                   “Superstore” means a major development retail project that sells from  
14 the premises goods and merchandise, primarily for personal or household  
15 use, and whose total Sales Floor Area exceeds 100,000 square feet and  
16 which devote more than 10% of sales floor area to the sale of Non-Taxable  
17 Merchandise. This definition excludes wholesale clubs or other  
18 establishments selling primarily bulk merchandise and charging  
19 membership dues or otherwise restricting merchandise sales to customers  
20 paying a periodic assessment fee. This definition also excludes the sale or  
21 rental of motor vehicles, except for parts and accessories, and the sale of  
22 materials used in construction of buildings or other structures, except for  
23 paint, fixtures, and hardware. The above definition shall apply to the  
24 cumulative sum of related or successive permits which are part of a larger  
25 project, such as piecemeal additions to a building, or multiple buildings on a  
26 lot as determined by the Director of Planning and Building.

27                   For the purpose of this definition, “Sales Floor Area” means the  
28 interior building space devoted to the sale of merchandise, but excludes

1 restrooms, office space, storage space, automobile service floor area of a  
 2 single business establishment, the aggregate square footage of all adjacent  
 3 stores that share common check stands, management of the business  
 4 operation of such adjacent stores, controlling ownership interest in the  
 5 business operation of such adjacent stores, warehouses, or distribution  
 6 facilities shall be considered a single business establishment.

7 For the purpose of this definition, "Non-taxable Merchandise" means  
 8 products, commodities, or items not subject to California state sales tax.  
 9 The definition of non-taxable merchandise shall not include, without  
 10 limitation, Sales Floor Area devoted to any of the following categories:  
 11 services, including the services of a chiropractor, optometrist, optician,  
 12 physician, surgeon, podiatrist, dentist, spa, gym, nail salon, and travel  
 13 accommodation services; theaters and other entertainment uses; and food  
 14 products sold through vending machines.

15 Section 2. Section 21.32 of the Long Beach Municipal Code is amended  
 16 by amending Table 32-1 (Uses in All Other Commercial Zoning Districts) under "Retail  
 17 Sales" by adding the following use:

18  
 19 Table 32-1  
 20 Uses In All Other Commercial Zoning Districts

Use	Neighborhood			Community				Regional	Other	
Retail Sales	CNP	CNA	CNR	CCA	CCP	CCR	CCN	CHW	CS	
Superstores (Retail > 100,000 sf with > 10% Floor Area non- taxable merchandise)	N	N	N	N	N	N	N	N		For Superstore definition see 21.15.2985



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**TEXT OF PROPOSITION B**

**ORDINANCE NO. ORD-07-0006**

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH AMENDING THE LONG BEACH  
MUNICIPAL CODE BY ADDING CHAPTER 16.58  
RELATING TO LABOR PEACE AGREEMENTS FOR  
HOTELS ON CITY-OWNED PROPERTY

The City Council of the City of Long Beach ordains as follows:

Section 1. The Long Beach Municipal Code is amended by adding  
Chapter 16.58 to read as follows:

Chapter 16.58

Labor Peace Agreements for Hotels on City-Owned Property

16.58.010 Purpose.

The City of Long Beach has a financial and proprietary interest in  
hospitality operations that lease real property from the City. These  
operations base their lease, rental or license payments to the City in part  
on the revenue they generate. Therefore, it is essential that these  
operations conduct business efficiently and without interruption. The City  
has found that the efficient and uninterrupted operation of hospitality  
operations may be threatened by labor disputes. The City's investment in  
these operations must be shielded from any impact that labor disputes  
may have on the revenue of these hospitality operations. The City has  
further found that the City can only protect its investment by requiring its  
hotel operations lessees to sign contracts with the labor organizations that

1 represent employees in the hospitality industry. These contracts will  
2 prohibit the labor organizations and its members from engaging in  
3 picketing, work stoppages, boycotts or other economic interference with  
4 the business of the hospitality operators, for the duration of their lease  
5 with the City.

6  
7 16.58.020 Definitions.

8 A. "City" means the City of Long Beach.

9 B. "City Council" means the City Council of the City of Long  
10 Beach.

11 C. "Hospitality Operations" means the general business  
12 operations of a hospitality operator.

13 D. "Hospitality Operations Lessee" means any company with a  
14 lease from the City for a hotel or motel, providing lodging and other guest  
15 accommodations.

16 E. "Hospitality Workers" means all full-time and part-time  
17 employees in a Hospitality Operation, except supervisors, managers and  
18 guards.

19 F. "Labor Organization" means an organization of any kind, or  
20 an agency or employer representation committee or plan, in which  
21 employees participate and which exists for the purpose, in whole or in  
22 part, of dealing with employers concerning grievances, labor disputes,  
23 wages, rates of pay, hours of employment, or conditions of work.

24 G. "Lease" means any lease or license from the City to use any  
25 City property for Hospitality Operations.

26 H. "Lease Amendment" means only an amendment that is  
27 required to be separately approved by the City Council and that:

28 1. extends the term of an existing lease for a period of

1 more than one (1) year;

2 2. approves a reduction in rent for the then existing  
3 tenant/operator; or

4 3. permits an expansion of the existing hotel or motel  
5 operation in order to add additional rooms, or to make structural changes  
6 to add additional square footage for amenities such as, but not limited to,  
7 banquet or convention facilities. However, if the terms of an existing lease  
8 permit an expansion as defined above without further approval of the City  
9 Council, then such expansion shall not fall within the definition of "lease  
10 amendment" for the purpose of this section.

11 I. "No-Strike Pledge" means a provision in a labor peace  
12 agreement prohibiting the Labor Organization and its members from  
13 engaging in picketing, work stoppages, boycotts or any other economic  
14 interference with Hospitality Operations of a Hospitality Operations Lessee  
15 for the duration of the City lease term.

16 J. "Person" means a sole proprietorship, partnership,  
17 corporation, joint venture or business organization of any kind.

18 16.58.030 No-Strike Pledge requirement for hospitality operations.

19 The City shall not execute any new Lease or Lease Amendment  
20 with a Hospitality Operations Lessee unless and until the Hospitality  
21 Operations Lessee has signed a labor peace agreement with any Labor  
22 Organization seeking to represent Hospitality Workers at the premises  
23 covered by the Lease. Each labor peace agreement must contain a No-  
24 Strike Pledge. A Hospitality Operations Lessee shall be relieved of the  
25 obligations of this section with respect to a Labor Organization if the Labor  
26 Organization places conditions upon its No-Strike Pledge that the City  
27 Council finds, after notice and hearing, to be arbitrary or capricious.

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16.58.040 Limitations.

A. Nothing in this ordinance requires Hospitality Operations Lessee to recognize a particular Labor Organization.

B. This ordinance is not intended to, and shall not be interpreted to, enact or express any generally applicable policy regarding labor-management relations or to regulate those relations in any way.

C. This ordinance is not intended to favor any particular outcome in the determination of employee preference regarding union representation.

D. Nothing in this ordinance permits or requires the City or any Hospitality Operations Lessee to enter into any agreement in violation of the National Labor Relations Act of 1935, approved July 5, 1935 (49 Stat. 449; 29 U.S.C.S. §151, et seq.).