



CITY OF OCEANSIDE

California

JOINT MINUTES OF THE: CITY COUNCIL SMALL CRAFT HARBOR DISTRICT BOARD OF DIRECTORS COMMUNITY DEVELOPMENT COMMISSION

OCTOBER 11, 2006

REGULAR MEETING 4:00 PM COUNCIL CHAMBERS

**4:00 PM - OCEANSIDE CITY COUNCIL (COUNCIL),
HARBOR DISTRICT BOARD OF DIRECTORS (HDB), AND
COMMUNITY DEVELOPMENT COMMISSION (CDC)
- REGULAR BUSINESS**

**Mayor
HDB President
CDC Chair**
Jim Wood

**Deputy Mayor
HDB Vice President
CDC Vice Chair**
Shari Mackin

**Councilmembers
HDB Directors
CDC Commissioners**
Rocky Chavez
Jack Feller
Esther Sanchez

**City Clerk
HDB Secretary
CDC Secretary**
Barbara Riegel Wayne

Treasurer
Rosemary Jones

**Interim:
City Manager
HDB Chief Executive Officer
CDC Executive Director**
Barry E. Martin

**City Attorney
HDB General Counsel
CDC General Counsel**
John Mullen

For this regular and joint meeting, the Council sat as all 3 governing bodies [Council, HDB and CDC] simultaneously but took action as the respective agency for the jurisdiction covered by each item. Council titles only will be used for brevity throughout the entire meeting.

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB) and Community Development Commission (CDC) was called to order at 4:03 PM, October 11, 2006 by Mayor Wood.

4:00 PM - ROLL CALL

Present were Mayor Wood, Deputy Mayor Mackin and Councilmembers Feller and Chavez. Councilmember Sanchez was absent. Also present were City Clerk Wayne, Interim City Manager Martin and City Attorney Mullen.

COUNCIL, HDB AND CDC CLOSED SESSION ITEMS

CITY ATTORNEY MULLEN titled the following agenda item to be heard in closed session: Item 1.5. Closed Session and recess were held from 4:05-5:01 PM. [See the report out on these items at 5:00 PM, Item 2.]

**NOT OFFICIAL
UNTIL APPROVED AT SUBSEQUENT
MEETING BY CITY COUNCIL**

5:00 PM

MAYOR WOOD reconvened the meeting at 5:01 PM. All Councilmembers were present. Also present were City Clerk Wayne, City Treasurer Jones, Interim City Manager Martin and City Attorney Mullen. Master Gunny Sergeant Duane Siegmann gave the Invocation. A group from The 'Young Marines' led the Pledge of Allegiance.

PROCLAMATIONS AND PRESENTATIONS

Proclamation – Oceanside Senior Citizens Day & Senior Expo – October 14, 2006

The proclamation was accepted by Margery Pierce, and Maureen Fleming, Senior Services Supervisor, gave an overview of the event.

Proclamation – Domestic Violence Awareness Month – October 2006

The proclamation was accepted by Marva Bledsoe, Executive Director, Women's Resource Center.

Other – Peter Weiss, Public Works Director, introduced new staff member Marty Eslambolchi as the new Development Engineer.

CLOSED SESSION REPORT

2. **Closed Session report by City Attorney**

CITY ATTORNEY MULLEN gave the following report on the item previously discussed in Closed Session:

[1. **CONFERENCE WITH LABOR NEGOTIATOR ON STATUS OF NEGOTIATIONS PREVIOUSLY AUTHORIZED IN OPEN SESSION (SECTION 54957.6)**

- A) **CONFERENCE WITH LABOR NEGOTIATOR** – Negotiator: City Manager; employee organizations: Oceanside Police Officers' Association (OPOA), Oceanside Firefighters' Association (OFA), Oceanside Police Management Association (OPMA), Management Employees of the City of Oceanside (MECO), Oceanside City Employees' Association (OCEA), Oceanside Fire Management Association (OFMA), Western Council of Engineers (WCOE), and Unrepresented.]

No closed session was held on this item.

1.5 Addendum:

Item 1.5

LITIGATION OR OTHER ADVERSARY PROCEEDING (E.G., ADMINISTRATIVE HEARING, ARBITRATION) (SECTION 54956.9)

CONFERENCE WITH LEGAL COUNCIL – EXISTING LITIGATION – SECTION 54956.9(a)

- A. Samber Inc. v. City of Oceanside, et al., Superior Court Case No. GIN048612

This item was discussed; there was no reportable action under the Brown Act.

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

No action will be taken by the Council/HDB/CDC on matters in this category unless it is determined that an emergency exists or that there is a need to take action that became known subsequent to the posting of the agenda.

Advance written request to reserve time to speak: None

3. **Communications from the public regarding items not on this agenda**

SLEENE KOSINAR, 711 Pier View Way, expressed his dislike with the media bias and insults and stated you do not hurt people because you want to play politics.

BRUCE REZNIK, Executive Director of San Diego Coastkeeper, 2924 Emerson Street, Suite 220, San Diego, stated this is the largest coastal advocacy group in the county. He is here to introduce Project Swell, which is a water quality pollution prevention education curriculum they will have in 5th grade classrooms in every Oceanside school in the spring. He thanked their partners, the City of Oceanside and the Oceanside School District. He also thanked Deputy Mayor Mackin for her persistence in getting this in place. He further described the curriculum and their future goals.

MAYOR WOOD called for Item 17 to be heard next.

CITY ATTORNEY ITEM

17. **City Council: Adoption of a resolution of the City Council in support of the senior status of the City's senior communities**

CITY ATTORNEY MULLEN reported that on July 12, 2006, the City Council directed staff to draft a strongly worded resolution in support of the senior status of the City's existing senior communities. Council also directed that the City Attorney's office meet with representatives of the Costa Serena community, since that community was having difficulties at the time in extending the senior status of their development with pending litigation involved. Staff has met with them and has answered many of their questions. He understands the seniors are working with their attorney in executing the necessary documents required by their CC & R's to extend the senior status.

The resolution before Council represents a strong statement of City policy supporting the continued senior status of Costa Serena, as well as the other senior communities in the City.

COUNCILMEMBER FELLER stated that the backup material gives a percentage of residents over the age of 65, and 20% of the population is 55 and over. He asked if that is recent documentation.

MR. MULLEN believes it is historic information taken from the Housing Element of the City's General Plan.

COUNCILMEMBER FELLER moved approval [of **Resolution No. 06-R0626-1** "...in support of the senior status of the City's senior communities"]. **DEPUTY MAYOR MACKIN** seconded the motion.

COUNCILMEMBER CHAVEZ stated this is something they have been working on for a while. He asked Dee Devine, President of Costa Serena, to give an update on their situation.

DEE DEVINE, President of Costa Serena, thanked Council for their support and gave a status report on keeping their senior status. They did get over 51% plus to keep it. But he [the opposition] is not through with them; he sent a horrible letter. However, they did get their senior status.

COUNCILMEMBER CHAVEZ stated this generation has seen a lot of trials and tribulations. This group went by the letter of the law and handled it with their positive leadership.

Councilmembers expressed thanks for the hard work of this senior community.

DEPUTY MAYOR MACKIN stated that, with regard to people harassing seniors, she would provide Council with a copy of the letter that Ms. Devine brought in, and they will make sure and address that.

Motion was **approved 5-0**.

MAYOR WOOD called for Item 15 to be heard next.

MAYOR AND/OR COUNCILMEMBER ITEMS

15. **Request by Councilmember Sanchez for a presentation on "Downtown Walkability and Revitalization" by Peder Norby, Executive Director of Encinitas Mainstreet Association**

[Mayor Wood left the dais at 5:34 PM.]

COUNCILMEMBER SANCHEZ stated she had seen this presentation, which she feels really gets to the heart of what they have been talking about all year in terms of planning for the City and deciding what its identity has been and will be. The downtown is the soul of the City, and they have put their faith in an area for redevelopment and allowed certain things to happen economically, i.e. for funds to stay in this area for development.

[Mayor Wood returned to the meeting at 5:36 PM.]

PEDER NORBY, a San Diego native and Executive Director of the Downtown Encinitas Mainstreet Association, has been around for quite a while. He is here to offer his experience, not advice, and hopefully give Council a different way to look at things. [Using computer slides], he asked them to imagine a different way of looking at downtowns, where the focus and problem solving are related to human relations and what inspires us as humans to congregate in a certain area. He reviewed examples of great housing.

[Deputy Mayor Mackin left the dais at 5:37 PM.]

There was a moment in time where development patterns in America changed. That was the 1960s, along with the interstate transportation system, which caused our towns to be bypassed. If a person drives I-5 in North County from the north Oceanside border all the way down to La Jolla, each one of the off-ramps looks exactly the same. If they drive down the coast [Coast Highway] and cross the lagoon from Oceanside to Carlsbad, they know they are in a different place, or Carlsbad to Encinitas, etc. That is the imagination and individuality that they are seeking.

[Deputy Mayor Mackin returned to the dais at 5:39 PM.]

He knows that for the last 30+ years Oceanside has lamented the loss of the Mall to Carlsbad, but he believes that in the next 30-40 years Oceanside will not regret that decision. Malls all across the country are in dire straights, and the mall in Carlsbad is no exception. The retail trends all across American are moving away from the giant enclosed malls and towards the open-air, mixed-use retail villages. They have been working on that in downtown Encinitas. In his minority opinion, far too often we talk about what makes a great place, but it has always been about the people and the way we relate to each other. Place is merely a setting. The main event is about people.

When you start looking at issues and items and sidewalks, etc., from that soft-science perspective rather than an engineering and architectural perspective, is when great things happen. Downtown Oceanside is important, and as goes your downtown so goes your community. Cities are viewed by their downtowns. There is a direct relationship between the residential property values and a downtown that are adjacent to each other. Any area with high incomes and high residential property values will have a great downtown. A poor performing downtown also has a residential neighborhood with poor property values and a lot of issues. So, there is a direct symbiotic relationship that is inseparable.

Artists and creativity play a key role. Oceanside has a great inventory of old buildings, and the decades of construction mirror downtown Encinitas from 1910 to 1960

for the most part.

When we go to a mall, it is perfectly acceptable to park a football field away from the front door and walk another football field to the store we want to get to. But in a downtown environment, if the 4 parking spaces in front of the store you want to go to are taken, then it is called a terrible parking problem. It is the same consumer, but the expectation of behavior is different. So by creating all of these wonderful experiences and discoveries along the pedestrian path, you are extending the walkability of your downtown.

He further reviewed items Encinitas has put in place. He stated that any time a mundane object, be it a bench, trash can, etc., is turned into something memorable and it creates an item that people want to take pictures of and steal, you are doing a great thing for your City. He further showed example of Encinitas. Anyone can order everyday furniture from a catalog, but that is not the best for a city.

One thing extremely relevant for Oceanside is the façade grant program which can make exemplary buildings, and he gave examples of before and after pictures.

Regarding special events, every city has its major special events, but a constant menu of smaller events to bring people into the downtown is really important.

In summary, Encinitas did not go the redevelopment route. They have no redevelopment agency and no tax increment financing. For that reason mainly, they had to rely on the existing building inventory and historic buildings in the downtown, and that era of the 1920s and 1950s is what they sought to capture. In 2000 they re-hung the Encinitas sign, and that is when the town knew that downtown Encinitas was coming back. Their retail sales tax in downtown is incredible. In this 4-year period it has gone up 44%, while the rest of the County and their City have averaged 21%. It is \$29,000,000 a year with the new retail tax dollars that are coming in and supporting the rest of Encinitas now.

His advice is to be Oceanside and not try to copy anyone else. Oceanside is a great city with your pier and your downtown, with a fantastic story to tell and a great period of time ahead. Every city needs a soul, a heart, and a history.

COUNCILMEMBER SANCHEZ thanked Mr. Norby for this presentation, which was a truncated version of what he presented to OCNA, where it also talked about the emphasis on preservation issues.

MR. NORBY stated the best way for a city to distinguish itself, since they are all competing with downtowns, is more about the people in Oceanside shopping in Oceanside. So the best way, and one of the easiest most accessible ways, is to tell the story of your old buildings and preserve those old buildings. For Encinitas, having to be thrifty, they have succeeded by using a preservation-based model. If you create pedestrian linkages, along with auto linkages and communicative linkages, to the extent you can do that and get people around, it will be successful.

Downtown is the one area in any city that belongs to every resident, not just the residents in the downtown area. It is important that whatever initiatives are placed, that the whole city be involved in that and told to come down and shop and visit and have a great time. Oceanside's situation, with mass transit, the beach, recreational facilities, City Hall, library, and shopping, is fantastic, and if it can all be linked together, it will be wonderful.

DEPUTY MAYOR MACKIN stated this is the third time she has seen this presentation. In Encinitas it was a total remake of the whole area. She questioned how much the sales tax revenues increased after the changes.

MR. NORBY reiterated that it was 44% in a 3½ year period. Basically, it continues to go up in double digits, and the rest of the County, State and City are performing between 4-6%. It is a success, but it is only one measure of success. Culturally it has

been successful with the residents adopting their downtown again. He believes that is the biggest success story. This is a stakeholder-driven process, and they work closely with others and community groups.

COUNCILMEMBER FELLER reiterated Mr. Norby's comments about the increase in property values and noted that those people who live here want to shop here. Input is needed from all over the community, as long as we are getting it from the different communities, and not the same people each time.

MR. NORBY explained that Encinitas had some 35 restaurants in the downtown, and they were all in the kind of surfer, cheap-eats category. They had low-end retail. Today, they still have the same 35-40 restaurants, but they range from the ultra high-end down to the cheap surfer eats. They have a very good tenant mix of retail establishments. It is an incremental process in small steps, and you build on the small successes and move forward. The key piece of information is that the stakeholders are involved, and they are part of the process of the decisions. That is what the mainstreet model is all about.

COUNCILMEMBER CHAVEZ asked Kathy Baker to elaborate on how this would tie in to Oceanside with Mr. Norby's great information.

KATHY BAKER, Redevelopment Manager, stated this presentation provided a lot of great ideas, and a lot of those same concepts are in place, such as the façade enhancement program. We do have a committee of about 15 people made up of City staff, maintenance workers, architects, merchants, etc. who comprise a working team to come up with design guidelines. They are looking at street lights, etc., and many of these items match the direction they are heading.

The key to the future is getting our downtown up and running with the projects. Staff has been trying to get the walkable communities to go forward. There is CIP money budgeted for a lot of these improvements, so this committee is working toward that. They are looking at adding trees and benches. It is an education process for the merchants as well, because they are afraid that, if we put nice flowering pretty trees in the downtown, it will block their signage. But as was mentioned, the business increased 44% so that was not an impact. Staff is working toward that.

She asked Mr. Norby about their historic buildings that did not have parking and how that was resolved.

MR. NORBY responded that, basically in the decades of the 1920s and 1950s, autos were about 185 per 1,000 residents, and today it is 965 per 1,000 residents. So we are developing our new communities for the auto. The older buildings were not, so the Encinitas specific plan allows for some accommodations to handle that. They try to pick up as much parking as possible. However, in the downtown specific plan, they do allow the property owner to count on-street parking as part of their parking requirement. They have adopted a shared-parking model, and the idea is you may park 1½ blocks away from the business that you are going to. They give a discount with respect to mixed-use projects so they can build higher square footage for lower parking. Then they also struggle with the North County Transit District (NCTD), as does Oceanside.

DEPUTY MAYOR MACKIN stated Oceanside has a specific requirement within the Coastal zone. In Encinitas, because downtown is further away from the appealable zone, they do not have the same type of requirements; there are differences.

MR. NORBY stated it depends on the property. Highway 101 is about 3 blocks away, but there are many development projects on 2nd and 3rd Streets, and those are all in the appeal area.

CONSENT CALENDAR ITEMS [Items 4-11]

All items listed on the Consent Calendar are considered to be routine matters or

formal documents covering previous City Council/HDB/CDC instructions. The items listed on the Consent Calendar may be enacted by a single vote. There will be no separate discussion of any Consent Calendar items unless requested by members of the City Council/HDB/CDC or the public through submittal of Request to Speak form prior to the commencement of this agenda item.

The following Consent Calendar was submitted for approval:

4. City Council: Acceptance of Minutes City Council meetings of:
 - September 27, 2006, 4:30 p.m., Adjourned
 - April 4, 2001, 10:00 a.m., Adjourned
 - January 16, 2002, 10:00 a.m., Adjourned
5. City Council/Harbor/CDC: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)
6. City Council: Approval of plans and specifications for the Fire Station 7 project located on the northerly side of Mission Avenue easterly of Foussat Road, and authorization for the Public Works Director to call for bids
7. City Council: Approval of a purchase order in the amount of \$147,485 to San Diego Gas and Electric Company for the relocation of a transmission guy anchor for the Mance Buchanan Park project, and authorization for the Financial Services Director, or designee, to execute the purchase order
8. City Council: Approval of Amendment 1 [**Document No. 06-D0617-1**] in the amount of \$64,000 to the professional services agreement with Jeff Katz Architecture for construction support administration services for the Fire Station 7 project, and authorization for the City Manager to execute the amendment
9. City Council: Approval of a ten-year encroachment permit agreement [**Document No. 06-D0618-1**] with Omnipoint Communications, Inc., a subsidiary of T-Mobile U.S.A., Inc., for a minimum total revenue of \$123,000, authorizing encroachment on a portion of the public right-of-way at 2126 Grandview Street solely for wireless telecommunications purposes, and authorization for the City Manager to execute the agreement
10. City Council: Approval of a professional services agreement [**Document No. 06-D0619-1**] with Harris and Associates of San Diego in the amount of \$1,887,422 for construction management services for the construction of the Pacific Street Bridge project, and authorization for the City Manager to execute the agreement
11. City Council: Adoption of a resolution, **Resolution No. 06-R0620-1** "...approving and authorizing the forgiveness of the fifth and final one-fifth installment of the \$300,000 forgivable loan made by the City to Poinsettia Center for the Arts to purchase the Star Theater and provide community theater activities for the benefit of the citizens of Oceanside", to forgive the fifth and final \$60,000 installment of the \$300,000 five-year forgivable loan

COUNCILMEMBER CHAVEZ moved approval of the Consent Calendar (Items 4-11). **COUNCILMEMBER SANCHEZ** seconded the motion; motion was **approved 5-0**.

6:00 P.M. – PUBLIC HEARING ITEMS [Items 12-13]

Public hearing items are "time-certain" and are heard beginning at 6:00 p.m. Due to the time-certain requirement, other items may be taken out of order on the agenda to accommodate the 6:00 p.m. public hearing schedule.

12. **CDC: Consideration of a resolution approving Tentative Map (T-201-05), Development Plan (D-214-05) and Regular Coastal Permit (RC-205-05) for the**

construction of an eleven-unit residential condominium project located at 504-508 North Pacific Street – SAM Oceanside I – Applicant: SAM Oceanside I, LLC

MAYOR WOOD opened the public hearing and asked for disclosure of constituent contacts and correspondence. All councilmembers disclosed contacts.

COUNCILMEMBER SANCHEZ had met with the City Attorney regarding her ability to vote on items within a certain number of feet from where she lives. It was explained to her that so long as it was a leasehold, month-to-month that it would not be a conflict. She is disclosing that she lives across the street from this project but that she does not have a conflict and is able to vote on this matter.

CITY CLERK WAYNE reported the City Council has received copies of an email from Pamela Myers requesting that Council not approve the project and not vacate the access right-of-way along Pacific Street. Also this evening Councilmembers received copies of a faxed letter from Barbara Tawil, the Homeowners Association President for Pacific Star Pine, in support of the project.

KATHY BAKER, Redevelopment Manager, gave the staff report, stating the item under consideration is a tentative map, development plan, and a coastal permit for the construction of 11 residential condominium units located at 504 and 508 North Pacific Street. Staff is recommending that the Commission approve the project and adopted the resolution in the backup material.

The site is currently 2 legal lots with 4 buildings, which contain 7 units that will be demolished as part of this proposed development. The subject site is situated within the North Pacific Street corridor neighborhood, which consists of old apartment buildings and some newer single family and condominium units. The site is located within Subdistrict 5 of the D District, which allows for high density residential with densities ranging from 29 to 43 dwelling units per acre (du/ac). With underground parking, the minimum density increases to 33 du/ac.

The project proposes a 3-story structure of 11 units ranging in size from approximately 1,700 to 2,300 square feet. The existing units currently have no off-street parking, so the project is proposing not only to provide the required parking but an additional 11 spaces, which then will free up on-street parking. The project is proposed to be 35 feet high; however, there are architectural features that project up to 43 feet. This represents approximately 8.5% of the ground floor area. With a project of 2 levels of subterranean parking and a 3-story structure with 11 units, most developers want both stairs and an elevator. By virtue of that, those structures have to be covered above the roof decks, which is why there is 8.5% of those structures projecting.

In addition, the project proposes to vacate a portion of North Pacific Street and Sportfisher Drive, which is approximately 4,800 square feet. The area proposed to be vacated is a remnant piece of land from the realignment of Pacific Street that was completed in the late 1980s. In order for the City to consider vacating this property, it must be determined that this right-of-way is no longer necessary for public purposes and that abandonment of this property is in the public interest. Currently the City has no intention of ever using this property, and the underlying fee ownership is owned by the adjacent properties, from their centerline back. Therefore, currently the developer actually has fee title to the underlying land. Some benefits would be that by vacating the property, the City no longer has this maintenance obligation, and there are also liability issues. Additionally, the proposed project will enhance the landscaping in the area, provide pedestrian access along Sportfisher, and provide 33 additional off-street parking spaces where none presently exists.

The enhanced landscaping along Pacific Street will be consistent with future promenades fronting both the pier beach resort aka Fairfield and the ocean beach resort aka Westin, where both are proposing very wide pedestrian promenades.

Although the City cannot require the developer to pay for this vacation, the developer is offering \$100,000 to be utilized for enhancements in the Redevelopment Project Area, which benefits the downtown residents, the visitors and the community. These funds would be placed in an interest-bearing account, and the funds would be utilized for special projects within the downtown or beach area at the discretion of the Community Development Commission. Further, to prevent potential land speculation, should the project be approved, the street vacation would only be valid with this specific project and must be according to these entitlements.

The developer did extensive outreach to the surrounding property owners, with letters of support attached to the staff report.

The project was presented to the Redevelopment Advisory Committee on September 18, and they voted to approve the project by a 5-1 vote.

Staff believes the project is providing a quality development. The project meets or exceeds all the development standards, and no exceptions, variations or conditional use permits are needed. Staff recommends approval of the project and adoption of the resolution.

APPLICANT:

JOE STUBBS, one of the partners in SAM Development Company, the developer on this project, stated another partner, Scott Alderton, is also present. They have worked on this project for almost 2 years to get to this point. Due to the loss of his voice, his wife would continue the presentation. They have had a residence in Oceanside for 14 years. They have seen a lot of very positive changes take place in that time. Unfortunately, they have watched the units on the corner of Sportfisher and Pacific deteriorate.

CHERYL STUBBS continued with the presentation, stating the units are quite old, and prior owners have allowed them to become a rundown and dilapidated eyesore. In spite of what is on the property right now, and because of the wonderful location, they love the site and wanted to do something positive. From the very beginning the partners have sought to strike a balance among all the interests in connection with this project. We are the owner/developer and the owner of the underlying fee to the property to be vacated, the City having only a right-of-way street easement for an area no longer used as a street. They tried to recognize, take into account and properly weigh and balance all the interests involved. They engaged in an extensive community outreach program for 18+ months. The support for this project and the balances they have struck have been overwhelming and gratifying. This project weighs and balances all interests in putting a structural footprint on only 1,882 square feet out of a total of 4,836 square feet of an area proposed to be vacated, which is under 39%, just a little over 1/3, leaving about 2/3. That actually creates 2,833 square feet of new pedestrian-scape along Sportfisher at the south side of the site as it curves into Pacific Street where a dirt parking area and otherwise blocked access currently exists. To net the numbers, they end up with 5,787 square feet of open landscape pedestrian-scape, which is about a 20% increase.

SCOTT ALDERTON, partner, continued with the presentation, stating that one thing that Council needs to make a finding of is that there is a public benefit to vacate the right-of-way.

He wished to emphasize the degree of the community outreach they have undertaken in connection with their project. They have spent about 18 months reaching out to the community to determine what the proper balance for the project would be. He reviewed the many groups they have met with.

We think that the public benefit to vacate the right of way are: it furthers the Redevelopment mandate of the City, and their project meets and exceeds the standards; the project cleans up the architecturally challenged use of the site, and their project replaces existing run-down rental structures with high quality homes; the project minimizes

the density increase where the site could have supported 15 units; the project enhances the open space around the project by adding and improving the landscaping, adding an articulated walkway through an enlarged open park-like area around our project, which results in 5,787 square feet of grounds in front of the property, etc. The whole corner will be beautified and park-like.

They seek to put a footprint structure on only 1,882 of the 4,836 square feet. That is over 1/3 of the area to be vacated, leaving approximately 2/3 of the existing right-of-way open, plus the enhanced area that they are adding.

Another significant benefit is that they are dramatically improving the parking in the area. They are adding a total of 33 underground parking spaces. There are currently no parking spaces on the property except for a small driveway. That is a 50% increase over the required parking of 22 parking spaces. Those 33 spaces represent 3 parking spaces per unit, more than 1 space for each of the 28 bedrooms they intend to build. In addition, they are putting a full parking-size stall storage container for each unit underground in the parking structure—a locking and closed storage container. The result of the 33 spaces is that they are basically moving 33 metered parking space cars off the street. Their residents and all their guests will be moved off the street and underground, leaving 33 spaces for others.

They believe their project will increase property values with high quality homes and will attract year-round residents, which will improve sales opportunities for local merchants, etc. This will also increase City revenue substantially with this project because the high-end residences will result in about \$200,000, conservatively, of additional property tax revenue. When the City wants to do a bond measure with respect to that revenue base, they believe the City could do about \$1,500,000 in bonding that currently could not be done.

They believe they are creating some very lasting benefits for the City. They will eliminate the City's maintenance obligation on the right-of-way, and they are eliminating any liability for damage or injury on the property. The project will result in the repair of the sewer pipe along Pacific Street. They are relocating all of the utilities underground. They will voluntarily be making a contribution of \$100,000 to the City to be used in any manner at its discretion. This resulted from the discussion about learning that they actually own the fee interest in the land, so it cannot be sold to them, but it lead to a dialogue with Planning and Redevelopment about what kinds of things that money might be used for. Things like artwork in the library and redoing street signs around the pier project, etc. and maybe jump-starting some of the noise abatement issues around the City were ideas mentioned. They thought those were all good causes. They intend to be good citizens/developers for a long time, and they want to help the City out. So they volunteered to make that contribution.

In conclusion, he wished to re-emphasize that they have been at this for 2 years, with an extensive planning and community outreach effort that has resulted in the design. This project could be the poster child for improvement in redevelopment in the City. They have emphasized quality and aesthetics, and they have struck a proper balance of all the interests.

CITY CLERK WAYNE reported that there are 40 requests to speak on this hearing and out of the 40 speaker slips, they have all checked that they are in favor of the project.

[Recess was held from 6:34 to 6:42 PM]

Procedurally, in the interest of time, the Mayor advised that if there were individuals to represent different groups within the community, that would help. Staff will assist.

Procedurally, **KATHY BAKER** noted that in the interest of time, with so many speakers, if everyone concurs, she will call the homeowners associations (HOAs) to have a representative speak for all.

Sea Village – **STEVE EDMONDSON**, 400 North Myers #5, Board member at Sea Village, stated Mr. Stubbs has presented this project to their HOA with quite a few members attending. This could block our view if it was not put on the property correctly, but it is a perfect setup for them. With the extra parking, etc., to him and some of the HOA, it is a dream project, and everyone is happy with it. [7 residents were present – 50 unit complex].

Pacific Star Pine – **BARBARA TAWIL** stated they have 8 units with 8 present, and Council has her letter. They are at 510 North Pacific Street, directly north of the project. She is in Unit 4, and she has not heard any negative comments from her neighbors. She feels this is a well thought out complex.

San Miguel 2 [2 currently present] – **ROBERT LUTZ**, 501 North Pacific Street, #15, is not representing the HOA but is here as an individual homeowner. This is a win-win for the area.

San Miguel 3 – No one present

San Miguel 4 [3 present] – **BOB EICHINGER**, 400 North Pacific Street #208, is representing his wife, the HOA president, for 58 units as San Miguel 4. He is not speaking for the other 57 owners. The Board was all in favor. As a homeowner, it is a great project.

MS. BAKER stated the next two groups are not true HOAs, but they are somewhat of an organized group:

North Beach Neighborhood [15 present] – **CLIF CAULFIELD**, 481 North Cleveland Street, stated they are not an HOA but are a loose group of people in the same neighborhood, including Pacific Villages, Santorini, Seabreeze Cottages, Neptune, Windward, etc., so it encompasses around 200 homes. The developer did meet with his group, and approximately 30 homes were represented. They are all in favor of it.

South Beach Property Owners Association [3 present] – **RICHARD EISENDRATH** is with the South Beach POA and stated that at their last meeting the presentation was given and endorsed the project unanimously. There were approximately 60-70 members at that meeting.

DIANE EISENDRATH, with their office at 115 South Tremont Street, stated she is very familiar with this property because she has sold it 3 times within her 25 years in real estate. All owners were developers who wanted to do a similar project but could not. There is a lot of time and money in this project, and she is in support of this project.

GENERAL PUBLIC INPUT

CURT SMITH, 400 North Myers Street #41, stated their unit is directly affected and faces this project. We think it is wonderful. We have lived there since 1998, and all the new projects have enhanced the neighborhood. He thinks this is a great thing, and they are in total support.

CAROLYN KRAMMER, 904 Leonard Avenue, uses Pacific Street every day and has a concern about the visual affects by vacating this easement. With San Miguel directly across from the pier, on any given weekend or a summer day when cars are parked on both sides of the street, a vehicle cannot fit into the lane, but must cross over into the middle of the lane to get around cars. When you pop this project out into the easement, it gives a visual effect of a wall, and with the 2 hotel projects coming on line with 7 stories, care is needed about building into easements for visual affects and safety. It is a wonderful project. She would ask the developer to scale back the project to 10 units and not use the easement. She is a member of the RAC [Redevelopment Advisory Committee], and she was the lone dissenting vote.

LAUREN POWERS, 433 Primrose Way, thinks she represents some of the young people and is in support of Montego. She has lived in Oceanside 10 years and has been coming here for 19. She is excited about this project, with its beautiful architecture and landscape.

Sister of the previous speaker, **JENNIFER POWERS**, 433 Primrose Way, is a single mother and would like to see higher quality projects in Oceanside. She works in construction and knows this is a good project. The City needs higher end homes. She is not concerned about vacating that little piece when you balance it with all the positives.

MILICIA RADOVIC, 515 North Horne Street, stated her son works for NBC with Matt Lauer, and he has invested in several properties here. Others are thinking of investing. She hopes the City continues to improve. She is in support of this project.

JAN HARRYMAN, 433 Primrose Way, stated her family goes to the beach a lot, and it is difficult to find parking. Therefore, she is very much in favor of this project. She finds the loss of a small amount of open area in this location does not concern her because of all the offsetting benefits. She is in favor of the project.

SLAVISA MILOSEVIC, 515 North Horne Street, stated he wanted to support this project since it will improve our City.

Speaking now as an individual, **RICHARD EISENDRATH**, 115 South Tremont Street, has been involved with this property for quite some time. Years ago he talked with the City's property manager, Dick Nagler, who advised him that all that was needed was to fill out an application for the vacation and the property then belongs to the property owner. He is in support of this project. He sent Council a letter for their information, as explained. Perhaps we should offer the developer something back from the increment money he is creating for the City with this project to induce him to move ahead with this project. This is probably one of the highest quality projects that have been proposed in the redevelopment area.

KELLY COURSON, the Mortgage Consultants, 3784 Mission Avenue, stated when people see how well this project is put together, other developers will see and follow. She is in favor of the project.

TIM MacMILLAN, 1143 Cypress Drive, Vista, a landscape contractor/designer, stated the project with the front landscape has ample room for people to park, surfboards, etc. There is plenty of room for the public. This is a great project.

JENNIFER BURNS, a realtor in downtown at 115 North Tremont and who lives in Vista, stated her husband's business is manufacturing surfboards on Cleveland Street, and she wanted to voice her support of this project.

DAVE McVEY, 509 North Cleveland Street, stated his property is in back of this building, so it will be greatly impacting his view. He is a general contractor, and this is a beautiful project. Even though he is impacted, he does support the project. Since they are donating \$100,000, he hopes a large portion could be used towards the quiet zone.

REBUTTAL -- **MR. STUBBS** finds nothing to rebut.

MAYOR WOOD closed the public hearing.

COUNCILMEMBER FELLER stated this is a great project. This project does add to the visual quality downtown along Pacific Street. This is incentive for everyone to keep improving in the area. It is important to support quality. His decision is based on the quality of the project and the benefit to the community. A project that meets all our rules every time should be granted. The developer has done community outreach, and he was disappointed the developer felt they should also give the City \$100,000. The City will receive nearly \$200,000 a year in tax increment from this project that will fill a need. This

is a great property downtown. On the effort put forth and the quality of the project, he **moved approval** [and adoption of **Resolution No. 06-R0621-3** "...approving a Tentative Map, Development Plan, and Regular Coastal Permit for the construction of an 11-unit residential condominium project located at 504-508 North Pacific Street - Applicant: SAM Oceanside I, LLC"]. He would like to see this go forward without the \$100,000 but would not get much support on that unless he hears anyone interested.

COUNCILMEMBER CHAVEZ seconded the motion.

COUNCILMEMBER SANCHEZ spoke with the developer when they first came in, and there were issues she asked about such as height, because height at the beach is very important with the views, including public view issues. She heard no complaints about it. The developer talked about a consistent scale and addressed views. The height was consistent with the neighborhood. Regarding parking, she is impressed. There was discussion with the articulation of the grade in and out of the parking off the alley, and they were able to fix the grade issue. There was the issue of the grassy area in front, and she thought it was part of linear park. As the meetings progressed, the project went from the feeling of being at the sidewalk to not feeling that way now, and yet she knows about one quarter is gone. However, she does not see it due to the visual retention. The quality has also gone up, and she saw the progression and the developer's response to her concerns. She feels the developer has met all the concerns, and she thinks it will be a really nice project.

MR. ALDERTON noted that Councilmember Sanchez also raised another issue in their meetings, which he did not address in the proposal. That is about the way they treat the existing residents who are month-to-month tenants on the property. They intend to give the existing residents very ample notice of their development plans and the timeframe from which they will be demolishing the property and some level of relocation assistance and rent abatement.

COUNCILMEMBER SANCHEZ also appreciated the \$100,000, and she would like to see it go toward the beach renovations. She hopes the money will be put toward quality of life at the beach.

DEPUTY MAYOR MACKIN questioned if the project had changed since June of 2005.

MS. BAKER responded that architecturally it has changed significantly. The footprint has not changed significantly. For the most part it has driveway grade issues, parking garage issues, etc. Architecturally it has increased in the overall appearance. The landscape plan was enhanced.

DEPUTY MAYOR MACKIN just wanted that clarification. She met with the Planning Director when this was first presented to her as a new Councilperson, and he had issues with the node/the open space at the end. This rendering does not truly depict the extent of the length the building will stick out towards Pacific Street. Clearly the majority of Council will support this; however, she has issues with the land aspect. It is a nice project, however \$100,000 is a drop in the bucket to what she would consider the value of that land to the public.

MS. BAKER questioned if the developer had a current concept plan to display showing that now the sidewalk meanders and has other features, but the overall footprint is the same.

DEPUTY MAYOR MACKIN wanted that clarification that there has been no change in the footprint. She cannot support the project.

COUNCILMEMBER CHAVEZ believes it is a great project and what is needed in the City. The staff report says this project provides a high-quality development as explained, which meets and exceeds all development standards, including meeting

residential guidelines that have not yet been developed. Every unit will have an ocean view. He would like to take the \$100,000 to have the money start to get the trains quiet.

DEPUTY MAYOR MACKIN noted that in the staff report, it does discuss the Pacific Street vacation. It states that in order for the City to consider vacating this portion of Pacific Street, it must be determined that the road is no longer necessary for public purpose and that abandoning the remnant piece of property is in the public interest.

CITY ATTORNEY MULLEN wanted to clarify that this project is dependent upon the vacation; it cannot be built without the vacation. The actual vacation is not in front of Council right now, but it is appropriate to talk about it. The vacation will be brought forward at a future public meeting. The project is specifically conditioned (Conditions 23 & 35) on that vacation being granted.

MAYOR WOOD wanted clarification on whether the motion included accepting the \$100,000.

COUNCILMEMBER FELLER responded his motion was to accept it unless he heard from others not to. He is in favor of the quiet zones as well. He is not sure it is Council's responsibility to extort, since he is not sure this was voluntary.

COUNCILMEMBER SANCHEZ questioned if the City forced the developer to give \$100,000.

MS. BAKER responded no. There was a discussion. In essence, what the developer conveyed to staff was that they are very vested in Oceanside and redevelopment, and they wanted to donate the money to some future project in the redevelopment area. They came up with the dollar amount.

COUNCILMEMBER SANCHEZ questioned whether, if they did not have the underlying fee title to the property, there would be discussion of the cost to buy it from the City.

MS. BAKER responded affirmatively; they would buy it at fair market value at residential property values for 4,800 square feet.

COUNCILMEMBER CHAVEZ clarified that he met with the developer several times, and the last time was when he heard the \$100,000 figure. As told to him, they would include a \$100,000 as a gift to the City, and there was no indication of any extortion. They were adding it as support and an investment in the community. They suggested possibly adding that amount to the quiet zones.

COUNCILMEMBER FELLER wanted to make it clear that he knows they were not extorted. But this is a quality project, and it should stand on the merits of the project without anyone feeling they have to add money to it. This is an outstanding project without the \$100,000. He would have been willing to not accept the money, but he will obviously take it.

MAYOR WOOD stated they try to examine the projects on an individual basis. They are concerned in the Coastal zone with coastal issues and the Local Coastal Plan, which they need to pay close attention to, otherwise the Coastal Commission will. There had been issues of height, footprint, etc. The developers had a lot of outreach with the public. There is concern with height in the area, including elevator shafts and stairs that go above a certain height. If it fits within the guidelines of our City, it is hard to say no to it. If the City says no, then the policies/procedures should be changed.

He saw a lot of drastic change in the project. It is a good looking project, and it does not block many people's views with the height as has been complained about.

Motion was **approved 4-1**, Deputy Mayor Mackin voting no.

13. **City Council/Harbor: Consideration of a resolution approving Regular Coastal Permit (RC-16-06) for a property line adjustment within the Oceanside Small Craft Harbor affecting the Marina Towers Leasehold Property to place tide and submerged land into one parcel, and authorization for the Mayor to execute related documents – Marina Towers Property Line Adjustment – Applicant: City of Oceanside**

This hearing, continued from September 13, 2006, has been pulled from the agenda to be re-noticed for a future date.

[Recess was held from 7:35 to 7:45 PM]

GENERAL ITEMS

General Items are normally heard after any 6:00 p.m. Public Hearing Items. However, if time permits, some General Items may be heard prior to any 6:00 p.m. Public Hearing Items, following the Consent Calendar.

14. **City Council: Approval of: Amendment 1 [Doc. No. 06-D0622-1] to the professional services agreement with HDR Engineering for the El Corazon Master Plan Environmental Report to remove the planning approval process requirements and reduce the agreement amount by \$79,024; approval of Amendment 1 [Doc. No. 06-D0623-1] to the professional services agreement with RRM Design Group to assist the El Corazon Oversight Committee in the development of El Corazon to include the planning approval process requirements originally contained in the El Corazon Master Plan Environmental Report agreement and increase the agreement amount by \$76,000; approval of Amendment 1 [Doc. No. 06-D0624-1] to the professional services agreement with Project Design Consultants for the El Corazon Master Plan Engineering for additional plan and site analyses and increase the agreement amount by \$87,500; approval of Amendment 1 [Doc. No. 06-D0625-1] to the professional services agreement with Geocon for supplemental geotechnical investigation of the El Corazon tailing ponds to include a slope-stability evaluation of the westernmost mine pit and increase the agreement amount by \$29,700; approval of a budget appropriation in the amount of \$114,176 from the General Fund Unallocated Fund Balance to fund the amendments; and authorization for the City Manager to execute the amendments**

GARY GURLEY, Senior Property Agent, stated there are 4 amendments, all related to the El Corazon Master Plan. Two are a wash because the RRM contract provides the oversight for the Committee, and RRM is doing the strategic plan. It was felt they would be better served to have the person doing the strategic plan to also do all the planning documents and requirements. So those tasks are being removed from the HDR contract, which is doing the EIR, and the planning tasks are being placed in the RRM contract. It is a straight wash on the money.

The Geocon amendment is to do some geotechnical investigations on the slope on the big pit. None has ever been done to date. And none was done during the reclamation plan on the property since that was outside the requirements dictated by the State. As the City moves forward on a trail area or some other type use, this slope investigation needs to be done first.

The Project Design Consultants' amendment is to add money into their contract for some specific tasks that may or may not be needed and time and materials at the direction of the El Corazon Oversight Committee.

Staff recommends that Council approve all four amendments and also a budget appropriation to fund the Geocon and the Project Design Consultants amendments.

TYRONE MATTHEWS, Chair of the El Corazon Oversight Committee (ECOC), commented on the work done thus far by the consultants. The ECOC recently had its public scoping meeting on El Corazon, and while it was not heavily attended as hoped,

there was a good turn out. The project is moving at a reasonable pace. He is asking Council to approve this request for additional funding so that they can keep this project moving forward.

DEPUTY MAYOR MACKIN had sat on this committee about 4 years ago. Even though the outreach might not have been well attended, she has been listening to plenty of folks about this project. She **moved** approval.

COUNCILMEMBER SANCHEZ **seconded** the motion.

COUNCILMEMBER FELLER questioned how much is left in the unallocated fund balance. It was not listed in the staff report.

PETER WEISS, Public Works Director, responded the last time he discussed this with Financial Services Director McKay, he believes the number was around \$2,200,000 in closing last year's books.

COUNCILMEMBER SANCHEZ commented that this is a project the whole City got behind, especially the sports organizations, and it has the potential for bringing in a lot of revenue for the sports organizations and the City. There is a lot that needs to be done, and if it is done right, then this will be a great project.

MAYOR WOOD stated he hears constantly from people about this project. Everyone is in favor of El Corazon and hopes it moves forward.

COUNCILMEMBER CHAVEZ stated his issue is the amount of money on the addendum that has been involved in El Corazon. He knows it is now at \$1,300,000 that has been allocated for this, and in the report it says to be repaid to the City. He asked if there has been discussion on how this is to be repaid.

MR. WEISS responded that the Council adopted a resolution as part of the original El Corazon Committee's process that any expenditures that are made now for El Corazon will be paid back from future revenues that are derived from El Corazon. As you know, El Corazon has about 50 acres of commercial. So the overall plan and a primary assumption was that it be as financially stable as possible. It has the potential for bringing in significant revenues to the City. So Council's investment today should be able to be returned to the City at some point to repay the City through sales tax, lease revenues, TOT and other sources.

MR. MATTHEWS echoed Mr. Weiss' comments that in all of their ECOC meetings they are operating with the paradigm that El Corazon will be a self-sufficient project. The idea is that those expenses spent now will be repaid at some point and hopefully in the near future with the projects that are decided upon regarding the commercial portion. It is critical to approach this project in the right way, because it is necessary from an economic standpoint that we do this in a manner which presents the least burden on the City's general fund but also creates a lasting legacy for the City.

COUNCILMEMBER CHAVEZ had a number of discussions with previous City Manager Jepsen on how the City would set up a mechanism to fund this. He also talked with Hugh LaBounty, when on the committee, about such a mechanism. Sometimes the tracking and paying back method becomes porous. He wants the soccer fields there, and he knows they cost money and do not make money. So we already have a debt of \$1,300,000. It will take money to install the fields, and he questioned the cost.

MR. WEISS reported that the Mance Buchanon Park is roughly 30 acres and will cost over \$12,000,000 to complete.

COUNCILMEMBER CHAVEZ noted it will take some money to make this all happen. Regarding the \$114,000 from the general fund unallocated fund balance, he noted they did not have the balance several weeks ago either. It would be good for the

City Manager to bring to Council how we closed out last year for when we see these unallocated fund balances. Council needs to be tracking this because \$92,000 is a number he recalls when we started this 2-year budget cycle. Therefore, he would like to see how this is all measuring up.

INTERIM CITY MANAGER MARTIN would also ask that on the fiscal part of the staff report, Council be given a balance of where it is exactly in that statement. Financial Services Director McKay is working on getting Council a quarterly report to see the figures.

COUNCILMEMBER CHAVEZ stated Council needs to be cautious on this when talking about the money, and they need to know where it stands in order to prioritize.

COUNCILMEMBER SANCHEZ stated this was the subject of a Citywide visioning process for El Corazon back in 1997/98, and the promise made was that it would pay for itself, with the idea being to have economic development activity to make it eventually pay for itself. The City was running out of land, and this is the last large piece that was given to the City, with \$1,400,000 for reclamation, which is probably long gone by now. Even after that, this is what the residents want, and it is with the notion that it will pay for itself.

Motion was **approved 5-0**.

MAYOR AND/OR COUNCILMEMBER ITEMS (Continued)

14. **Request by Councilmember Chavez for a discussion on Quiet Zones within Oceanside, and direction to staff**

COUNCILMEMBER CHAVEZ brought this item up because Council discussed this about 16+ months ago and gave direction to staff to go forward with this. Many things have happened since then, so he asked staff for an update, along with North County Transit District (NCTD), and also asked for an economic perspective.

PETER WEISS, Public Works Director, stated the City has received several proposals from engineering firms that specialize in railroad design and quiet zone assessments. Staff is proceeding with the diagnostic phase, which NCTD will review. What that includes is getting together with the various user groups, doing a detailed assessment of each of the crossings and coming up with a plan and cost estimate for what it will take to improve each crossing to meet the quiet zone standards. Since the Council gave the direction to staff, there was some research and background done through the prior transportation folks. That is available with a complete assessment of what is needed to implement quiet zones, but it stopped short of looking at each of the crossings, which is where the process is now.

The final rules have been adopted, and NCTD has looked at some of the liability issues and has come up with a plan that would probably work. The reality of this is that the City is the lead agency in forwarding the quiet zones. We would have to work in close cooperation with NCTD, but the cost for each of the crossings would have to be borne by the City. The implementation of the quiet zones, including the upgrades, long-term maintenance, and the additional insurance cost, is cost neutral to NCTD. Those are costs the City would have to absorb.

At this point there is no detailed estimate of the costs to upgrade the crossings. There are 5 primary crossings. For information, the City of Carlsbad looked at their 4 crossings and estimated roughly \$2,500,000+ to do those upgrades. He would like Tom Lichterman to discuss the process to establish the quiet zones, followed up by where staff is headed.

TOM LICHTERMAN, Director of Rail Services for NCTD, provided an overview of the train horn rule as it applies to quiet zones. The rule is to provide additional warning to motorists and pedestrians of approaching trains in order to improve public safety at all grade crossings. The practice goes back to the 1980s because of studies done during a

period when the State of Florida conducted a whistle ban, and accident rates went up about 500%. As a result, the State started to regulate, and the PUC instituted a requirement for horns and bells before the Federal Government stepped in.

Then the Federal Government established rules and what is known as FRA's (Federal Railroad Administration) Final Rule 49 CFR Part 222, implemented on June 24, 2005. It requires the sounding of train horns at all grade crossings for safety. It is a train horn rule and not a quiet zone rule, although the rule has extensive discussion about how public authorities (cities and counties, but not railroads) have the right to pursue the establishment of quiet zones, where the train horns would not normally be sounded provided certain supplementary safety measures be present at the grade crossings for a level of safety that meets the index that the FRA has established. The public authority is the agency that controls the roadway over the crossing, which would be the City of Oceanside in this case.

NCTD recognizes that quiet zones will require cooperation by both the City and NCTD since almost always there will be needed modifications to the existing grade crossing equipment, as well as quite often to the roadway, i.e. medians, pavement changes, detector strips, etc. The City and the District have joint objectives in ensuring improved grade crossing safety and ensuring that any changes meet industry standards, are consistent with the rest of the railroad improvements both for operation and maintenance purposes, etc., and are in compliance with the PUC's requirements.

NCTD, in June 2006, adopted a policy of cooperation and support for agencies pursuing quiet zones. The City would be the lead agency; however, the District will provide technical and other assistance such as evaluating railroad improvements to meet Federal regulations, etc. The quiet zone has to be per the District Board's policy, i.e. cost neutral to NCTD. Also, the PUC requires the railroad to make any changes to the signal equipment; it cannot be made by a city. The scenario is that NCTD would have a consultant design the actual hardware and grade crossing changes, and NCTD would do this under a contract with the public agency/City. Then the District would have these constructed per those design requirements. Non-railroad changes (sidewalk/paving etc.) would likely be designed and constructed by the City.

The NCTD Board's policy also indicates that the net maintenance costs associated with the quiet zones, i.e. the increase in maintenance associated with it, is to be borne by the City, and that the incremental increase in the cost of insurance that results from the implementation of a quiet zone would also be reimbursed by the City.

The District established a 2-phased program with a number of steps, which he briefly highlighted: Phase I is the application, diagnostic evaluation and risk assessment; and Phase II is the final design, construction, and maintenance agreement.

In Phase I a critical process is the diagnostic meetings, which are a process where every affected entity that uses the railroad corridor, or interested party, has to participate in a diagnostic meeting at each grade crossing to evaluate what is on the site now, what will be needed for the quiet zone, and how they are affected. Principle parties in addition to the City and NCTD will be the BNSF freight railroad, Metrolink and Amtrak. He further briefed Council on Phase I items.

They have not yet finished Phase I with any city at this point. The City of San Diego is the farthest along in the process, and they have been in the process for quite some time with 13 crossings.

Phase II elements were reviewed.

He provided examples of supplemental safety measures to improve safety, such as four-quadrant gates, traffic management/exit systems, automatic gate arms for pedestrians, wayside horns in some areas, enhanced road medians, etc.

COUNCILMEMBER CHAVEZ asked the City Attorney to weigh in on this.

CITY ATTORNEY MULLEN believes the question is: does the City face potential liability if the City moves forward with quiet zones. There is always a potential for liability. The question is how do we manage it. First, the emergency use of horns is still permitted even after the establishment of a quiet zone, so a railroad operator cannot be fined for sounding their horn to avoid injury or property damage, is that correct?

MR. LICHTERMAN responded that was correct. The engineer retains the discretion to use the horn if they see anything unsafe ahead.

MR. MULLEN therefore stated there are still those safety mechanisms to avoid potential damage or injury. Second, he believes that should the City be sued, the City would have strong arguments in court, and that this federal regulation would preempt any lawsuits. This regulation basically establishes a federal standard of care. If the City complies and implements the supplemental safety measures, he believes any lawsuit brought forward would not be actionable in federal court. The Rule explicitly states that its intent is to eliminate the failure to sound a horn as a cause of action against a public entity, so the City would have strong arguments in court.

Third, there has been a misnomer that the City automatically assumes all liability in the event that a quiet zone is established. The actual agreement the City would enter into with NCTD includes a cross-indemnification provision, whereby the City would defend and indemnify claims against NCTD and railroad users for the City's negligence, and NCTD in turn would defend and indemnify the City for causes of actions/claims for damages that arise out of their alleged negligence.

The bottom line is that, although the City would have good arguments, the City needs insurance. Once we have insurance, we are managing the City's risks. He had discussed this matter with NCTD's Counsel. Insurance is to be made available. NCTD would procure that insurance as the quiet zones are established, and the prorated cost would be passed along to the City. Their Counsel believes it could be attained at an amount around several hundred dollars per intersection annually. It appears it is a risk that could be manageable.

COUNCILMEMBER CHAVEZ felt there was also an issue as we develop hotels and other projects that there is an economic impact. He knows there is no data on the economic value of a quiet zone, but asked staff for their perspective.

JANE McVEY, Economic and Redevelopment Director, does not have any specific data but agreed that quiet is better than not quiet.

PUBLIC INPUT

BRETT ANDERSON, 737 Sea Cottage Way, President of the Home Owners Association (HOA) for Sea Breeze Cottages, with 41 homes, reported the situation from a year ago has not gotten any better. There are more trains all the time. To represent how bad it is, even though he still owns this property, he does not live here anymore. The horns were too bad. After 3 years, he moved. It appears the quiet zones may take 2+ more years to implement. He emphasized how many thousands of people in Oceanside along this corridor want these horns quieted. Last time he appeared, he had a letter from S.D. Malkin stating it was imperative for the economic success of the hotel that these quiet zones be implemented. He referenced Carlsbad's actions yesterday and quoted that the horns are ear-splitting. The train horns are blowing many times up to and through the intersections. He asked Council to get this stopped as soon as possible.

CLIF CAULFIELD, 481 North Cleveland Street, reviewed what people have done on railroad tracks and the reasons for the horns and the safety measures. So, this action would be making the crossings safer, with the quiet zones.

LYLE STOTELMYRE, 449 North Cleveland Street, stated he downloaded FRA information. It said trains can go 90 mph through Oceanside, which is unsafe, so we need to approve the safety of our crossings. We have 5 crossings on the coastal corridor, all with 2 gates, and we need 4 gates to be safe. On Wisconsin it also does not have a median divider, which is very unsafe. The newspapers reported that SANDAG or NCTD can insure the City for \$500-700 per crossing, which is cheap. That tells him the insurers feel the crossings would be safe. He asked Council to proceed with this safety project.

KENT PASEK, 425 North Cleveland Street, lends his support, and members in their North Beach group support this request to begin the funding for the quiet safety zone. They have a 50-member core group and 200 associated members. He asked Council to move forward to establish the quiet safety zones. This would help protect the tourists and residents alike by improving the crossings, even for deaf people, with gates across the sidewalks. The federal government has authorized the establishment of these zones, and we need to implement it.

RON ROBBINS, 489 North Cleveland Street, is excited about the possibility of a quiet zone. He is sobered by the reports and information. This is noise pollution, and it has been a cost to the residents. There is talk of the beauty of the new buildings and look, but attention should also be given to the sound and noise of Oceanside and what affects us all. He asked that this be a high priority. He is a bi-coastal person and would like to come back to see that real movement has occurred on this issue.

With no further public input, **COUNCILMEMBER SANCHEZ** appreciated the status report. It takes time for the finalization of the rules – June 24, 2005. Then NCTD adopted their position/policies in June of this year. Trains have been here for years. She is 50 years old this year and has heard trains but does not really hear them. Two blocks away and she does not hear them, because living here that long, it is just part of the ambient noise she got used to. It is the urban setting, and she does not really hear it. However, she does understand if you live on Cleveland, it is a bigger issue. Council has already given direction on this, and staff has been working diligently. Staff is looking at proposals.

MR. WEISS responded that staff has proposals from 3 engineering firms that are being evaluated right now, and a selection is expected by early next week to initiate the diagnostic phase. There was money set aside from the City's neighborhood traffic calming program (\$40,000) for the preliminary diagnostic phase for this effort. They will work with NCTD, hire a firm to look at each of the crossings, and get all the stakeholders together. Staff was hoping to return to Council within a 90-day period with preliminary estimates. Council can then give further direction.

COUNCILMEMBER SANCHEZ stated staff was going to do this regardless of this item on the agenda and questioned the date.

MR. WEISS stated they restarted the proposal process about a month ago.

COUNCILMEMBER SANCHEZ stated when talking with Mr. Weiss at the beginning of the week, he indicated bringing this forward in January or February.

MR. WEISS responded staff's initial anticipation was to bring to Council a contract for one of these firms; however, given the preliminary estimates, they will be less than the \$50,000 that would require Council action. So the contract can be approved by the City Manager. When this contract is awarded, they will advise Council. They7 anticipate awarding the contract within the next week.

COUNCILMEMBER SANCHEZ understood that was the step staff was taking regardless of this item tonight. She also understood staff would be returning with a status and request for further direction.

MR. WEISS stated the 2 top firms have both indicated they could do the preliminary diagnostic assessment within a 90-day period.

COUNCILMEMBER SANCHEZ stated the information tonight was that there had to be the Final Rule to be effective with rules/regulations; NCTD had to do their work. Carlsbad is looking 4 crossings and Oceanside is looking at potential 5, plus 12 (Sprinter) crossings for 17 crossings. San Diego was 13 crossings.

She did download the Carlsbad's agenda information, and their estimate was \$2,700,000 for 4 crossings. So for 5 crossings, about \$3,000,000+ for implementation, and above and beyond that would be the maintenance and insurance.

MR. LICHTERMAN responded it should be noted that each grade crossing has to be evaluated individually because each one will have its own issues. There is no average because of the circumstances. A key factor to consider is traffic volumes at intersections.

COUNCILMEMBER SANCHEZ questioned the east/west corridor and asked whether staff was coming forward with that as well.

MR. WEISS responded that staff presently is not working on the east/west corridor. The current effort is on the coastal north/south corridor. They are aware of the Sprinter line, but with no trains running, they cannot initiate an assessment. He believed some improvements have been made along the Sprinter line, but, depending on the volumes and speed of the trains and the difference in the Sprinter horn, those issues would need to be reviewed after the train is running.

COUNCILMEMBER SANCHEZ questioned if NCTD was utilizing the same strategies they would normally implement for this discussion issue now.

MR. LICHTERMAN responded they are installing standard grade crossing warning devices that would call for the use of horns. The Sprinter vehicles are considered a light rail vehicle so the decibel output of a horn is regulated by the PUC at 85 decibels (dB). The locomotive horn you hear on the Coaster, Amtrak, etc. is in a range of between 96 and 110 dB, which is a big difference.

COUNCILMEMBER SANCHEZ questioned the north/south hours of operation.

MR. LICHTERMAN responded the current schedule calls for operations between 4:00 AM and 9:45 PM on that line. It would hit Oceanside around the 4:30 AM timeframe.

COUNCILMEMBER SANCHEZ believes staff is moving forward on this. One delay was that the plan, when Council first gave direction, had been reviewed by Ms. Watson.

MR. WEISS stated that is correct. Staff has a report done by Ms. Watson looking at the initiation of quiet zones with all the federal regulations. What was missing in that report was looking at each individual crossing and doing the assessment required to identify the improvements needed at each of the crossings. That is where staff is headed right now.

COUNCILMEMBER SANCHEZ stated there were things that had to happen in order for this to come to Council, so it seems staff has been working diligently. She looks forward to the report in January/February. Cost is also an important thing to look at. She does not know what the parameters of an assessment district would be, but that should also be considered. There needs to be a funding mechanism. Perhaps some of this can be borne by the redevelopment fund, etc. So Council needs to look at priorities and what things are coming up faster than this. Council has given direction and the work is proceeding.

DEPUTY MAYOR MACKIN concurred with Councilmember Sanchez. She had reported this out as the representative for NCTD as soon as it was voted on. Staff had direction to move forward with this, so she is surprised to see it here tonight. It is definitely something the City needs. The trains have been really loud. When we talk about quiet zones, we cannot just look at the north/south corridor. The Sprinter line also impacts

the City. There is no other city in North County that has 2 transit corridors as Oceanside does, with its impacts. She is surprised that Oceanside has to shoulder the cost of these quiet zones for so many. She wants to see what NCTD will do to help the City.

She was also surprised to see that when the improvements were done to the Sprinter corridor, the technology and these upgrades were not included. She has concerns about both corridors.

COUNCILMEMBER FELLER questioned the cost of trenching for the train to lower it through the City.

[Deputy Mayor Mackin left the dais at 8:59 pm]

MR. LICHTERMAN responded that one example was the Solana Beach grade separation, which was about 2 miles long but not entirely lowered, was about \$18,000,000, which is much shorter than through Oceanside, and that cost was in the 1990s.

COUNCILMEMBER FELLER is trying to put this in perspective. Council had heard from Frank Watanabe that he thought these would be \$400,000 intersections approximately. It depends on the intersection with the number of tracks going through. No one can protect people from themselves and from doing foolish things. However, with this project of public safety, it is a benefit. With the Sprinter corridor project, he asked if there was a way to build the crossings with the upgrades and whether there would be any cost-savings measures.

MR. LICHTERMAN responded it would still need to be an action initiated by the public authority, the city, as the lead agency. The same processes and phases would need to be factored in. That process needs to be followed to the letter.

[Deputy Mayor Mackin returned to the dais at 9:30 pm]

COUNCILMEMBER FELLER stated he was just trying to determine if there was any cost-savings measure there. He thinks it is critical to move forward with this as fast as possible for our City.

MAYOR WOOD stated this is an item that was already being addressed. There are a couple of concepts missing, i.e. what the possibilities of quiet zones were, and Council has been waiting to hear from staff on this. The City tried to save funds by piggybacking with the City of San Diego and other cities that were working on this. The Mayor sent letters to all the cities along the rail line requesting their assistance and involvement in this, so the City was on top of this when it was brought up awhile back. We knew it would probably be a long process because of the complications with legal and liability aspects and the cost factors, etc. Of course an issue was who would pay for it. San Diego has taken the lead on this. At the time we also threw in the issue of Oceanside Boulevard and the Sprinter corridor. The other complication is the Sprinter and the Coaster lines will be double-tracked so there might be more traffic, noise and safety work.

All these things and the money issue have to be weighed in relation to the City's other priorities. Many things are coming up with financial issues. The City is worried about the total cost. With 17 intersections, we were waiting to see what the costs would be and how it will be paid. The safety issues must be considered. Whether this is paid for through a district or other mechanism, Council is waiting for the details from staff.

The Mayor has had some problems with NCTD over the Sprinter line. But it is a money issue and Oceanside is impacted more than any other city since we have the most intersections and trains. We are trying to fix this problem.

COUNCILMEMBER CHAVEZ stated he brought this forward for open government and talking to the public about what the City is doing. The Sprinter will also have an impact; the City will have to go through the same process when the Sprinter is running to

know the impacts. He asked for further explanation of the difference in the horns and technology of the Sprinter and the difference with the current trains.

MR. LICHTERMAN stated the Coaster uses conventional locomotive equipment: 3,000 hp engines, and they are loud and are regulated by the FRA, which calls for a horn volume of between 96 – 110 dBs. The Sprinter is a diesel multiple unit considered a light-rail vehicle and is regulated by the California Public Utilities Commission (PUC), which is more like the San Diego trolley. The PUC governs those horns at 85 dB, which is a big difference. Its engine is equivalent to 2 truck engines.

COUNCILMEMBER CHAVEZ highlighted that tonight Council approved \$2,158,000 on the consent calendar: It is a matter of priorities, and he wants to take on this project. He **moved** to have the staff report back on January 10, 2007, to provide a timeline for Phase I, with funding options. The next step then would be workshops and discussions on how to fund it. This is a priority with him, and he wants this to be addressed. We need to address this now to catch the full economic value and help all our citizens.

COUNCILMEMBER FELLER **seconded** the motion.

DEPUTY MAYOR MACKIN clarified that the \$2,200,000 on the consent calendar was money that was budgeted for expenditures. It is not pulled out of the hat for a whim. It has gone through the budgeting process. We had concerns about the unallocated funds, etc. Council's schedule is rigorous, and the City ran into a bump in the road regarding Ms. Watson's work. She had thought this was to be an item with the budget talks, so she is confused as to how we shift priorities. She has an issue with that. This is not budgeted.

COUNCILMEMBER FELLER responded that Council hears quite a few things a year that are not budgeted. He will support this because the money is out there, and we can find it.

MAYOR WOOD heard from NCTD on the items and costs and that there is Transnet tax money. He wondered about other funding.

MR. LICHTERMAN is not aware of anything specifically identified for this type of project.

COUNCILMEMBER SANCHEZ believed the City has a responsibility to the public. The Council voted to do something about this. Her concern was giving a neighborhood high expectations that it will be done soon. There is a process that is a requirement, and that process must be followed to be safe. She **moved** to support staff's direction that Council already gave them, and they have already said they will return in January/February and that they are looking at costs. Staff may need more time. If this is not just noise abatement and it is a public safety issue, then it is the public safety of everyone going through the City. So, why should the City bear the burden; it should be borne by a larger agency like SANDAG and maybe the federal government.

Giving staff 2-3 months to come up with a funding mechanism when the budget is already set for the next 1-½ years, she felt Council would have to take something pretty major out of the budget to be able to do this. A grant writer coming on board might look at options. Giving staff a drop-dead date is not helpful. Staff has been waiting for the final federal and NCTD rules in order to bring this forward. Staff already has one proposal selected. We need to proceed with due diligence, deliberately but with due caution. We are all trying to figure out how this will happen.

MAYOR WOOD stated staff is working on this.

MR. WEISS stated staff understands this is a priority for Council and the community. Staff will bring this item back as soon as possible, and staff will provide a monthly update regarding the process, selection of the consultant, the meetings, etc. We

will try to target January 10 or soon thereafter. Staff will include in the assessment any funding options that can be identified, etc.

COUNCILMEMBER CHAVEZ called for the question [to end discussion]. He noted January 10 is a date he worked with Mr. Weiss on earlier.

COUNCILMEMBER SANCHEZ seconded the call. Motion was **approved 4-1**, Councilmember Feller voting no.

On Councilmember Chavez's motion, **motion failed 2-3**; with Mayor Wood, Deputy Mayor Mackin and Councilmember Sanchez voting no.

COUNCILMEMBER SANCHEZ restated her motion to support staff's recommendation, which is the addition of the monthly pass-through status reports and with staff reporting back in January/February as soon as they have all the information (including possible funding options, etc.).

DEPUTY MAYOR MACKIN seconded the motion.

MAYOR WOOD suggested that this monthly update be on the City's web site for public information.

Motion was **approved 5-0**.

CITY COUNCIL REPORTS

18. **Mayor Jim Wood -- MAYOR WOOD** reported on Casa de Amparo's groundbreaking ceremony October 5 at Ivey Ranch. Also, the Senior Citizens' Expo is October 14 at 10:00 AM. Also on October 14 at Noon is the Eastside United Community Fall Fair and Car Show.
19. **Deputy Mayor Mackin -- DEPUTY MAYOR MACKIN** reported on Coastkeeper's Gala, which highlighted Oceanside. The Cultural Arts Foundation Festival starts this weekend, as further reviewed. Also, Saturday is a Car Show/Carnival at Palmquist Elementary School at 9:00 AM.

She also noted that it was brought to her attention that a recent phone survey indicated she was in favor of eminent domain. She wanted to assure all that this is false information.

20. **Councilmember Rocky Chavez -- COUNCILMEMBER CHAVEZ** reported on the Senior Commission and the status of the San Luis Rey River, which is at the point of the environmental report. It should be completed and a meeting held on November 9.

He further reported on the Senior Expo. He also reported on the Angels Depot, now at 200 meals.

21. **Councilmember Jack Feller -- COUNCILMEMBER FELLER** reported that Henry's Market had its ribbon cutting this morning. Also, the El Camino Boosters' auction is Saturday at 6:00 PM.
22. **Councilmember Esther Sanchez -- COUNCILMEMBER SANCHEZ** stated she would forgo her report tonight to address the adjournment time/date.

INTRODUCTION AND ADOPTION OF ORDINANCES -- None

ADJOURNMENT:

COUNCILMEMBER SANCHEZ has a job during the day, and when she was asked whether she would be available next Wednesday at 2:00 PM she immediately said 'no'.

She understands the reason to adjourn to 2:00 PM is because members of the Council would like to go to a fundraiser for the Boys and Girls Club. She understands the importance of the Club, but she would propose that Council meet the following Wednesday at the regular time so that she can attend, and the public will know it is at the regular time of 5:00 PM. She would **move** to postpone the meeting of October 18 to the 25th.

COUNCILMEMBER FELLER stated notice of the meeting was forward to Council about 6 weeks ago. The reason for that October 18 date was to also honor Randall Godinet here in the Council Chambers with KOCT because he is moving to Kansas. The fundraiser is also in honor of Randall.

COUNCILMEMBER CHAVEZ also reported that he and Council received the meeting notice. He has changed his schedule to accommodate this. He has a conflict on the following Wednesday. We are very busy right now, and he already has commitments because he responded 6 weeks ago. If the intent is to cancel the Council meeting outright, that would work, but he cannot make the meeting on October 25.

COUNCILMEMBER SANCHEZ stated she responded 6 weeks ago saying no. Two days ago she found out by the agenda that the adjournment was to 2:00 PM on October 18. She did not know that others had agreed. This has been a standing thing for her for 6 years. She knows Randall very well and that he resigned about 6 months ago as Executive Director. She values what Randall has done for the Club. She is sure he would be willing to come back on a different day for us to honor him. This was not on the preliminary agenda for next week. If it is better to cancel next week's meeting, that is fine with her.

MAYOR WOOD stated the City Manager made a recommendation to cancel October 18 and October 25, which is normally a workshop day but has nothing scheduled so no meeting is needed.

INTERIM CITY MANAGER MARTIN stated, in looking over the agenda items coming, it would appear that the items could be combined into the November 1 meeting.

Following further discussion, **COUNCILMEMBER SANCHEZ** stated her **motion** now is to cancel the October 18 meeting [with those items to be heard on the November 1 meeting agenda]. **DEPUTY MAYOR MACKIN** **seconded** the motion.

DEPUTY MAYOR MACKIN called for the question. **COUNCILMEMBER SANCHEZ** **seconded** the call; motion was **approved 5-0**.

On the main motion to cancel the October 18 meeting, motion was **approved 3-2**, with Councilmembers Feller and Chavez voting no. [Therefore, the next regular meeting is November 1]

MAYOR WOOD adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 9:51 PM on October 11, 2006. [Next meeting: November 1 at 4:00 PM]

ACCEPTED BY COUNCIL/HDB/CDC:

Barbara Riegel Wayne, CMC
City Clerk, City of Oceanside



California

NOT OFFICIAL
UNTIL APPROVED AT SUBSEQUENT
CITY OF OCEANSIDE MEETING BY CITY COUNCIL

MINUTES OF THE CITY COUNCIL

November 15, 2006

SPECIAL MEETING 4:30 PM COUNCIL CHAMBERS

Mayor
HDB President
CDC Chair
Jim Wood

Deputy Mayor
HDB Vice President
CDC Vice Chair
Shari Mackin

Councilmembers
HDB Directors
CDC Commissioners
Rocky Chavez
Jack Feller
Esther Sanchez

City Clerk
HDB Secretary
CDC Secretary
Barbara Riegel Wayne

Treasurer
Rosemary Jones

Interim:
City Manager
HDB Chief Executive Officer
CDC Executive Director
Barry E. Martin

City Attorney
HDB General Counsel
CDC General Counsel
John Mullen

This special meeting of the Oceanside City Council was called to order at 4:41 PM, November 15, 2006 by Mayor Wood.

ROLL CALL

Present were Mayor Wood, Deputy Mayor Mackin and Councilmembers Feller and Chavez. Councilmember Sanchez was absent. Also present were City Clerk Wayne, Interim City Manager Martin and City Attorney Mullen.

CLOSED SESSION ITEM:

CITY ATTORNEY MULLEN titled the following agenda item to be heard in closed session:

PUBLIC EMPLOYEE APPOINTMENT, PUBLIC EMPLOYMENT, PERSONNEL EVALUATION AND DISCIPLINE (54957(B))

Public employee appointment: Title: City Manager

Closed Session and recess were held from 4:41 – 5:37 PM.

CITY ATTORNEY MULLEN reported out of closed session that there was no reportable action.

November 15, 2006

Minutes of Special
Council Meeting

ADJOURNMENT

Mayor Wood adjourned this special meeting of the Oceanside City Council at 5:38 pm on November 15, 2006.

ACCEPTED BY COUNCIL:

Barbara Riegel Wayne, CMC
City Clerk, City of Oceanside



California

CITY OF OCEANSIDE

MINUTES OF THE:

CITY COUNCIL

SATURDAY, JANUARY 6, 2007

SPECIAL MEETING 10:00 AM COUNCIL CHAMBERS

Mayor

Jim Wood

Deputy Mayor

Rocky Chavez

Councilmembers

Jack Feller

Esther Sanchez

Jerome M. Kern

City Clerk

Barbara Riegel Wayne

City Treasurer

Rosemary Jones

The special meeting of the Oceanside City Council was called to order by Mayor Wood at 10:00 AM, Saturday, January 6, 2007.

ROLL CALL

Present were Mayor Wood, Deputy Mayor Chavez and Councilmembers Feller, Sanchez and Kern. Also present were Assistant City Clerk Holly Trobaugh, Interim City Manager Barry Martin and City Attorney John Mullen.

CITY ATTORNEY MULLEN titled the items to be heard in Closed Session: Items 1 and 2.

COUNCILMEMBER SANCHEZ stated for the record that she had received several phone calls and emails on Item 2, requesting that this item be heard on the open session agenda and not in closed session. She believed there would not be a lot that Council would be discussing in closed session that has not already been stated in several newspapers. She understands and appreciates the Mayor's desire to discuss this at the earliest possible convenience with the rest of the Council. However, this is not an urgent matter. There is no time restriction, and time is not of the essence. She asked that this be placed on the next agenda and properly noticed, and that the Mayor make a report at the end of the meeting included within his reports. An argument can be made that this could be discussed in closed session; however, an argument can also be made that this can and should be heard in open session. Council has already directed staff regarding Center City Golf Course to return with potential uses, including the golf course and other uses. Having already discussed it in open session, there really is no need to discuss it in closed session.

Therefore, she was first presenting that request to Council to hold off. In the event that her request is denied, she asked that staff bring the item to the next agenda for discussion so that they can state in open session what will probably be stated in closed session. If staff is not able to do that, she would place the item on the agenda under her items. She is as eager as anyone else to start talking about this with fellow Councilmembers; however, to move in a positive direction it would be wise to allow this to be done in open session and allow the public to provide their comments.

CITY ATTORNEY MULLEN indicated that, if Council wants to discuss this in closed session to get some tentative direction, they can do that. Staff can also agendize the item for the next available open session. At this point, it is whatever the will of the Council is.

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UNTIL APPROVED AT SUBSEQUENT
MEETING BY CITY COUNCIL**

MAYOR WOOD would deny that request and go to closed session to discuss the item.

DEPUTY MAYOR CHAVEZ agreed with Councilmember Sanchez that it is important that this matter be discussed in open session. He had no problem with putting it on the agenda as soon as possible for open session. However, he felt it was extremely important that the Council not make decisions or move in a certain direction strictly from a 3rd party interpretation in the newspaper. He personally wanted to hear what the Mayor has to say directly since this is the beginning phase of negotiation. It is totally appropriate to have the beginning of the negotiation in closed session since they are dealing with a significant amount of City assets.

The Mayor has requested to share with Council the initial phase of negotiation, which is appropriate in closed session, and Deputy Mayor Chavez supports that. As the 2nd phase, he also agrees with Councilmember Sanchez that this immediately be put on an open session so Council can hear from the public. He thinks the time is critical. Oceanside needs to understand the ramifications. He does not want to make a very important decision, which he believes will have more impact than decisions made in this City since the building of the harbor, without allowing the Mayor to share firsthand what was discussed. After that, he would support immediately putting the item on the agenda for a public meeting.

MAYOR WOOD added that, when this first meeting took place [Tuesday, January 2, 2007 with Charger representatives] he was surprised at the people involved. It was obvious at the end of the meeting and from the comments at the meeting, that the Chargers wanted some immediate response. They asked if he could get the entire Council's response back to them as soon as possible. Since today's meeting was already scheduled, he felt it would be appropriate to address this issue.

[Closed Session was held from 10:09 AM to 11:32 AM.]

CITY ATTORNEY MULLEN reported out on the following items:

CLOSED SESSION ITEMS:

1. **PUBLIC EMPLOYEE APPOINTMENT, PUBLIC EMPLOYMENT, PERSONNEL EVALUATION AND DISCIPLINE (SECTION 54957(b))**

PUBLIC EMPLOYEE APPOINTMENT

Title: City Manager

At this time there was no reportable action.

2. **CONFERENCE WITH REAL ESTATE NEGOTIATOR (SECTION 54956.8)**

Property: Center City Golf Course (approximately 95 acres) bounded by Interstate 5 to the west, Division Street and Greenbrier Drive to the north and east, and Oceanside Boulevard to the south (APN 151-011-11); Negotiating Parties: City of Oceanside and the San Diego Chargers; Negotiators for the City: John Mullen, City Attorney, and Barry E. Martin, Interim City Manager; Negotiators for the San Diego Chargers: to be determined; Under Negotiations: Potential terms for the sale, lease, exchange, or other disposition of the property

During closed session, the Mayor advised the City Council of his meeting with the Chargers on Tuesday. The Chargers had made a request to see if the Council would be interested in having further discussions with respect to a possible stadium site in Oceanside. Council has unanimously voted to indicate that they are interested in having further discussions. They will be calendaring an open session meeting once the City hears back from the Chargers.

3. **Public Communications on City Council Matters (non-agendized items only) – None**

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ADJOURNMENT

MAYOR WOOD adjourned this Special meeting of the Oceanside City Council at 11:34 AM, January 6, 2007.

ACCEPTED BY COUNCIL:

Barbara Riegel Wayne, CMC
City Clerk, City of Oceanside