ITEM NO. 6

NOT OFFICIAL
UNTIL APPROVED AT SUBSEQUENT
MEETING BY CITY COUNCIL

CITY OF OCEANSIDE

California

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

JUNE 17, 2009

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
Vacant

Councilmembers
HDB Directors
CDC Commissioners
Rocky Chavez
Jack Feller
Esther Sanchez
Jerry Kern

City Clerk
HDB Secretary
CDC Secretary
Barbara Riegel Wayne

Treasurer
Gary Felien

City Manager
HDB Chief Executive Officer
CDC Executive Director
Peter Weiss

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.

4:00 P.M. – ROLL CALL – None: Due to prior notification by the City Attorney that no closed session would be held, no Councilmembers were present.

CITY COUNCIL, HDB, and CDC CLOSED SESSION ITEMS

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

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 (WCE), and Unrepresented]

No Closed Session was held.

5:00 P.M. – ROLL CALL

MAYOR WOOD reconvened the meeting at 5:02 p.m. All Councilmembers were present. Also present were City Clerk Wayne, City Manager Weiss and City Attorney Mullen.

The invocation was given by John Lundblad. The Pledge of Allegiance was led by Girl Scout Troup 1227 members.

PROCLAMATION AND PRESENTATIONS

Proclamation – 4th Annual "Dump The Pump Day"
[Presentation – Mayor's Youth Sports Recognition and Appreciation Award]

Presentation was made.

CLOSED SESSION REPORT

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

No closed session was held.

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

No action will be taken by the City 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.

3. Advance written request to reserve time to speak:

WOODROW L. HIGDON, 2544 Rudder Road, spoke about police corruption and conspiracy to obstruct justice aiding and abetting the criminal insurance fraud of citizens. He asked why Council is reluctant to look into these issues. We cannot have Police Departments obstructing complaints against insurance companies. He had an insurance fraud complaint that he was defrauded on and it cost his family over $60,000.

He referenced a police officer who recorded conversations and investigations for 8 years; that is called obstruction of justice, a felony crime. He is proud to be an ex-cop and enforced the law. He expects the City to do an investigation because he will never back off of this; the police came after his family

4. Communications from the public regarding items not on this agenda

DONNA McGINTY, 2405 Mesa Drive, said that she went to the Senior Center opening a couple of weeks ago and she is not happy because there is no kitchen.

Also, she read a letter on behalf of the Friends of the Loma Alta Creek stating they are pleased that the North County Place project has been withdrawn. This project should never have gone forward since the proper environmental review was not done. Why doesn't the City formulate a Resources & Environmental Advisory Committee to come up with a standard framework for environmental review and sustainability guidelines?

CATHY NYKIEL, MainStreet Oceanside, reviewed upcoming events, including the Farmers Market, Sunset Market, the Freedom Days Parade on June 27 and 4th of July events, etc. Information is on the City website and on the MainStreet website: msoceanside.com.

LESLEE GAUL, California Welcome Center, talked about the Amgen Tour of California in 2010 and getting the Council's support in submitting a bid for Oceanside to be

a start city in the final leg for the 2010 race. The Amgen Tour is America's version of the Tour de France. The cycling event is the largest annual sporting event in California and the largest cycling event in North America with more than 2 million spectators attending in 2009. It consists of 17 world class teams representing 24 countries. The California Welcome Center in Oceanside has partnered with the San Diego North Convention and Visitor's Bureau to create an ideal route.

This event provides tremendous exposures, media value, hotel occupancy and visitor spending for the host cities. She gave examples. This high profile event provides Oceanside with tremendous exposure and fits perfectly as part of our brand image as a bike-friendly community.

HOWARD LA GRANGE, 2575 Jason Court, Co-Chair of the Bicycle Committee, reported that Saturday, June 20th, The Strand will be closed to motorized traffic to promote cycling. The event is called Saturday at The Strand and will be held in conjunction with the Race Across America and a sports expo. Bring your bikes and cruise The Strand.

There are more cycling events in Oceanside. Last month, our committee supported two bike safety rodeos. We conducted the City's first bicycle count, counting the bicycle corridors. On two Saturdays, at Coast Highway coming to Oceanside, we counted 549 bicyclists in a 3 hour period from 8 am to 11 am.

Regarding the Amgen Tour, our committee has been working to support the start in Oceanside and a route. Because Oceanside has been recognized as a bicycle-friendly community and has a Bike Committee, it helps attract this type of world event.

POLICE CHIEF FRANK McCOY said that one of the ways that people are becoming victims of identity theft is throwing away items of identity in their trash. To promote an event on identity theft, we are hosting a Shred It Day, this Saturday, at the Police Station. We are allowing citizens to bring 3 file size boxes of items to be shredded free of charge.

DAVID NYDEGGER, President and CEO of the Chamber of Commerce, reported that almost a year ago, Brian Kammerer, came to him and they helped develop a Citizens' Academy for 25 citizens to learn about our City. The feedback from the 25 graduates was outstanding. He and Brian are going to refine the program and would like to go forward with the program.

CONSENT CALENDAR ITEMS [Items 5-12]

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.

COUNCILMEMBER SANCHEZ requested to pull Item 12, and **moved** approval for the balance [Items 5-11] of the Consent Calendar.

COUNCILMEMBER CHAVEZ seconded the motion.

Motion was approved 5-0.

The following Consent Calendar items were submitted for approval:

5. City Council/Harbor/CDC: Acceptance of Joint Minutes of the Small Craft Harbor District Board of Directors, Community Development Commission and City Council of May 6, 2009, 4:00 p.m. Regular Meeting

6. 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)

7. City Council: Approval of Change Orders 18 (**Document No. 09-D0376-1**), 19 (**Document No. 09-D0377-1**), 20 (**Document No. 09-DO378-1**), 25 (**Document No. 09-DO379-1**), and 27-30 (**Document No. 09-DO380-1, Document No. 09-DO381-1, Document No. 09-DO382-1, Document No. 09-DO383-1**), in the amounts of $17,380, $34,038, $20,501, $63,752, $63,430, $383,606, ($34,002), and ($38,535), respectively, to Flatiron West, Inc., (formerly FCI Constructors, Inc.) for additional unforeseen work and for closing adjustments to the various bid item quantities for the Pacific Street Bridge over the San Luis Rey River project, and authorization for the City Engineer to execute the change orders; and approval of Amendment 1 (**Document No. 09-DO384-1**) in the amount of $800,000 to the professional services agreement with Harris & Associates for construction management for the project, for additional work requested by the City, and authorization for the City Manager to execute the amendment; approval of a budget appropriation from the Water Utilities Department in the amount of $369,192 for the installation of a 16-inch waterline; and approval of a budget appropriation from the Harbor and Beaches Department in the amount of $14,000 for sidewalk and ADA ramp improvements

8. CDC: Approval of Amendment 1 (**Document No. 09-D0385-3**) in an amount not to exceed $100,000 to the professional services agreement with Best Best & Krieger, LLP, for consulting services on the Downtown Beach Resort Hotel project, for additional work to conclude the project; approval of a budget appropriation in the amount of $100,000 from the unallocated fund balance in the Redevelopment Debt Service Fund account to the project account to fund the amendment; and authorization for the City Manager to execute the amendment

9. City Council/CDC: Approval of amendments to the ten-year property lease agreement (**Document No. 09-D0386-3**), tenant improvement loan agreement (**Document No. 09-D0387-3**), and promissory note (**Document No. 09-D0388-3**) with the California Surf Museum (CSM) for renovation and facade enhancement to enable the CSM to relocate from 223 N. Coast Highway to the Premises, increasing the amounts by $31,265 ($606,380) for administratively approved change orders for additional, unforeseen work on the project; approval of a budget transfer in the amount of $575,115 to move the original funding for the project within Redevelopment accounts; approval of a budget appropriation in the amount of $31,265 from the Redevelopment Unallocated fund balance to Redevelopment operating funds to fund the additional work; and authorization for the City Manager to execute the amendments

10. CDC: Approval of Amendment 3 (**Document No. 09-D0389-3**) in the amount of $17,500 to the professional services agreement with Project Design Consultants for engineering services for the Storm Drain and Myers Street Improvements project, for additional work related to the project; and authorization for the Executive Director to execute the amendment

11. City Council: Acceptance of Supportive Housing Program renewal grant funds in the amount of $146,702 from the U.S. Department of Housing and Urban Development (HUD); approval to appropriate these funds to the Neighborhood Services Department–Housing and Code Enforcement Division; approval of an agreement with the Women's Resource Center (**Document No. 09-D0390-1**) for use of these funds for operation of the 21-unit Transition House; and authorization for the City Manager to execute the agreement

12. **Removed from the Consent Calendar for discussion** [trailed to the end of the meeting]

MAYOR WOOD determined to hear Item 20.

MAYOR WOOD asked the City Clerk for any changes on the agenda.

CITY CLERK WAYNE announced there is one change on the agenda. It is regarding public hearing Item 15 for North County Place. That Public Hearing and the application for that project have been withdrawn, so that has been removed from the agenda.

MAYOR AND /OR COUNCILMEMBER ITEMS

20. **Request by Councilmember Chavez for a short briefing by Richard Hannasch, NCTD's Director of Administration and Finance, on services to the citizens of Oceanside and the NCTD budget**

COUNCILMEMBER CHAVEZ asked to be briefed on this item because we know that the North County Transit District [NCTD] public transportation is extremely important to our residents. There are financial issues that are going on outside the control of the City and local agencies like NCTD. He asked NCTD to give a presentation. This is an opportunity to ask any questions on bus services and the impact that will happen to our community.

RICHARD HANNASCH, NCTD'S Director of Administration and Finance, clarified that there are no decisions being requested of the Council at this time. This is just to keep the Council and the other cities in the District informed on the current status as they move through a transitional year dealing with the economic situation.

He provided some background as to how public transit is funded, particularly in California. Transportation is something that governments do. Airports, highways and public transit are part of that. There is a portion of the operating funds that are paid for through fares, but that is only a portion. The bulk of the operating funds for a transit agency in California are done through State and local sources. The primary mechanism to fund public transit is by sales tax. Regarding operating budgets vs. capital budgets, the federal government gets involved with capital with federal sources. But for operating funds, that is considered to be a State and local responsibility, and in the current economic environment, that is the particular difficulty. It is unfortunate that at the very time when a lot of people are willing to look at the public transit alternative, the funding sources dry up. During this current fiscal year ending in June, our ridership and revenues are the highest they have been. Last year we began the operation of Oceanside to Escondido Sprinter. The difficulty really has been at the State level most recently. During this current fiscal year, the State reduced transit funding, and then recently announced ending it entirely.

Other transit districts face the same situation because they have a similar funding model. The particular problem for us is in the out years. During this current fiscal year, we are forecasting a small surplus, but going forward, while our expenses have been projected to increase with the rate of inflation, we are looking at a significant collapse in available revenues. The State is the big factor. There are varieties of mechanism at the State level that were intended to fund public transit, the State has a lot of leeway as to whether or not to fund them.

He displayed a graph showing the history for the past several years. There have been several years when funds that were expected to go to public transit were diverted to other state purposes. The big news for this upcoming fiscal year 2010 and beyond, is that all of it will go away, and that is a very large number. The other significant piece is local sales tax revenue.

There are two main sources that transit agencies rely on: Transportation Development Act; a portion of the sales tax collected in each county funds the public transit in the county; and the voters in San Diego County funded the half cent sales tax initiative - TransNet, of which about a third goes to transit districts. The economy is struggling; it is very bad, and the amount of money that was projected to be available from sales tax revenue has declined dramatically.

Our portion of local sales tax is down. Our total budget is about $90,000,000, and we've seen about $10,000,000 of state funding go away. We've seen $10,000,000 of local funding go away. For local sales tax revenues, we are looking at a slow recovery. So that is the funding challenge. This is not a onetime issue. So the $20,000,000 swing in the operating budget will be a factor the next several years. To give a sense as to the scale of that $20,000,000 number for us, if we laid off all of our bus operators and most of our fleet maintenance workers, that would not get us to $20,000,000. $20,000,000 out of the $90,000,000 budget is a very large number, and so we will have to look at alternatives to make this work. The fiscal year that starts in July is a transition year for NCTD. We do have a balanced budget, and we were able to do that without having a significant change to service or fares at this time. But the forecast for all the out years for 2011, 2012, 2013 show these large and growing deficits.

So our challenge is to work within what we expect to be the existing funding streams and provide the maximum amount of service with that revenue. Our first priority is to deliver transit services to the public. That is what the district is there for. Other than that, all options are on the table. So as we look at how to respond to this challenge, we are going to be reshaping our business model. We are currently conducting financial and performance analyses of all our business units and exploring options. We will be looking to reduce costs and minimize the impact on the public to the extent possible.

[No public input]

COUNCILMEMBER KERN questioned their fare box recovery rate and asked how it compares to and other major transit systems.

MR. HANNASCH responded about 25% overall. In comparing service for different agencies, the more urban areas generally have a higher fare box recovery because they have higher concentrations. So MTS and other urban areas will usually have fare box recoveries of 30-35% total. One of the things that we do every year is take a look at their comparative statistics to other comparable transit districts that have a comparable level of population and ridership to NCTD. We are about in the middle. Our bus fare box recovery is about 21%. On the commuter rail side which is coaster service, our fare box recovery is about 36%. That is one of the highest among comparable agencies. We don't have a full year of service for the Sprinter, so we will have that a year from now.

MAYOR WOOD commented that through our local media the routes or potential cuts of services should be put out ahead of time to give the community time to address it at NCTD meetings. Also, regarding the settlement for litigation against the Sprinter line, that cost a great deal of money. He hopes that is aggressively addressed and maybe we could recover some of this loss.

COUNCILMEMBER CHAVEZ brought this item forward because it impacts our community. In the past few weeks he has been riding on the bus. In talking to people, there is definitely a need for these services. As we look at smart growth and densities up, it is important that NCTD is healthy. He attended a series of NCTD briefings throughout the communities, and a number of Oceanside residents work for NCTD who will be impacted. It will impact not just the customers but also the employees. It is important that NCTD grow to provide the services for the future economic vitality of the City.

MAYOR WOOD decided to hear Item 19, followed by Item 21.

GENERAL ITEMS

19. **City Council: Introduction of an ordinance of the City of Oceanside amending Chapter 15, Section 57 of the Oceanside City Code by increasing bingo limitations for a single bingo game prize from $250 to a maximum of $500**

SHERI BROWN, Revenue Manager, Financial Services Department, reported that this item is the increase to the prize limits for a single game in bingo. In January the State increased the prize limit to a $500 maximum in an effort to help non-profits in these economic times to either help increase or maintain revenue flows. In support of that and our bingo operators, we are bringing this one small change, and we are recommending that Council approve that change. We have 11 operators in Oceanside currently and they pay $50 in annual fee to the City, so there is no fiscal impact to the City. It is just an opportunity for them to possibly increase their revenue flows.

[No public input]

COUNCILMEMBER FELLER moved approval [to introduce the ordinance, ". . . amending Chapter 15 Section 57 of the Oceanside City Code increasing bingo limitations"].

COUNCILMEMBER CHAVEZ seconded the motion.

Following the reading of the title, **motion was approved 5-0**.

MAYOR AND/OR COUNCILMEMBER ITEMS

21. **Request by Councilmember Sanchez to adopt an amendment to Article 4(a), section 450H regarding small-scale eating and drinking establishments with live entertainment in the Redevelopment Project Area: "Establishments with 5 or fewer performers, 75 percent food sales compared to alcohol sales, no dance floor and with entertainment provided only during typical lunch and dinner hours (11 a.m. to 11 p.m.)," consistent with section 450.J2(a) of the Zoning Ordinance; and direction to staff**

COUNCILMEMBER SANCHEZ reported that historically in order to clean up the redevelopment area, Council many years ago decided to put in more restrictions on eating establishments and mostly drinking establishments. Over the years, the redevelopment area has been more restrictive in terms of live music. About 1½ years ago, she was approached by a business outside of the redevelopment area, a Cuban restaurant, who wanted to do music during the lunch and mostly the dinner hours. As the law now stands, you could have up to three [musicians]. It was reviewed by the Police Department, and Council agonized over the wording in determining whether or not anything else should change in terms of the live entertainment from 3 to 5 [performers]. Before us is the staff report from May 17, 2006. The staff recommended the change based on the assurances that there was an ability to ensure orderliness at the eating and drinking establishments. The Police Department felt that it was something that they could handle, and felt that since it was retaining that 75% food sales over alcohol sales, that it was truly for restaurants. This means restaurants and other businesses that would have more majority of drinking, would go through the permitting process, the Conditional Use Permits process.

Recently, she received some calls regarding a business downtown and live music and, because she didn't recall any changes, her response was that there has to be at least 75% food sales. That is when she realized we had changed the rules for redevelopment a little over a year ago, along with several other changes. She voted for this and didn't realize, so she is bringing this back. She wants to ensure that restaurants not have to go through a permitting process. Her initial request was to treat the whole city as the same, i.e. taking the actual language that applies to the rest of the City, like the Cuban restaurant to Redevelopment. What we have written is 75% food sales. Since this was on the agenda, she received some communications and, having listened to those communications,

she would like to propose that it be 70% food sales onsite, and there was also a request that it be extended to 12:00 midnight. That would only be in the redevelopment area, not the rest of the City. She did talk to the Chief and asked him for his advice.

POLICE CHIEF FRANK McCOY reported having a conversation with Councilmember Sanchez in regards to the changes that she is looking at, the 70% food sales to 30% alcohol sales, and the change from 11:00 pm to midnight. From the Police Department's perspective, we would not be adverse to that and could support that change.

COUNCILMEMBER SANCHEZ reported that she also got an e-mail from the Wyndham voicing concerns in regard to their Café and how this would apply to them. She proposed that we do this change with 70/30 as a beginning point in the redevelopment area on site, that the hours be extended to midnight, and directed the City Attorney to come back with language and meet with stakeholders and see if this is something that we can all work with. She provided copies of an e-mail she received from Kirk Harrison, Harni Sushi, who is the new chair of MainStreet. His food sales over the last few months have been 70+%, and he could support this. He does see the reason for having some kind of limit, and for him 70/30 worked. That would be her request and that would be her **motion.**

MAYOR WOOD seconded the motion.

COUNCILMEMBER CHAVEZ asked the Chief if he can support the 70/30 split and can he support the current ordinance as it is written.

CHIEF McCOY responded that the ordinance as it is written, the actual enforcement of this activity is not through the Police Department, but through Code Enforcement. He would be concerned with how many businesses may have live entertainment in the downtown area under those conditions potentially. We have supported the current ordinance as it has been in effect for the past year.

COUNCILMEMBER CHAVEZ said that we had a long discussion about this when this came in before. In fact there was a task force directed by Council to work with Redevelopment to develop those standards. He had the opportunity to sit through many of the meetings with then Councilmember Mackin, and it was brought forward with these standards. He likes transparency and openness. He noticed that the e-mail that Councilmember Sanchez submitted to Council was sent to her today at 5:39 pm, after we started the meeting. She forwarded it on to her aide a minute later to provide this to us. One of the items in this memo, the first sentence says, "after extensive talks with Councilmember Sanchez and the City Attorney...". He asked the City Attorney if he was involved in this discussion.

CITY ATTORNEY MULLEN responded he had one phone call from Mr. Harrison today where we discussed this issue. The main issue that Mr. Harrison raised with him was that he has a DJ at his business, and he wants to be able to continue that DJ without having to get a conditional use permit.

COUNCILMEMBER CHAVEZ wanted to highlight the fact that the current ordinance we have went through a very open and public process. Our Police Chief stated he could support the current process. What is being proposed right now is something that was done while we started our meeting; it is not very open and transparent.

MAYOR WOOD explained that this has been an issue for him for months, trying to get clarification on policy because of a local business downtown. His concerns at the time were the changes that we had voted on in the past. He does not remember voting on this. It was one of those that we needed to read and it was minor in nature; we are also looking at trying to improve the downtown community for entertainment aspects, etc. He is concerned about the potential of having youth bands in places where alcohol is sold. We had issues that came up where we were having bands with people who are underage. We

want to clarify and address that. His first concern is when one person in the band can be 18 and everybody else is 16 or 17 in alcohol establishments. His second concern is if the Council approved this on an individual basis and we had made some changes. Those were issues that concerned him, and it seemed like he missed this issue. He had difficulty getting the right answer on what they could and couldn't do on some of the downtown businesses. That caused several people at the Police Department and City staff to try and address this issue. He does not mind trying to entertain the tourism or the public. He just does not want any conflict with youth or youth bands. San Marcos had a similar issue. For the alcohol usage, he wants to make sure that it is onsite, not somebody catering to or from it with ABC aspects. We want to make sure that we don't have the problems we had in the past in downtown Oceanside with a lot of bars. He agreed to **second** the motion with the understanding that this will go back to staff to address these issues and make sure that it comes back properly to us.

Public Input

JOHN BYROM, 1745 Fire Mountain Drive, said that, as stated in the staff report, the regulation of eating and drinking establishments with live entertainment is important for the protection of patrons and the surrounding neighborhoods. With strict regulations, the allowance of up to 5 performers in predominantly eating establishment with no dance floor, would not result in significant disturbance to patrons or neighbors. These types of regulations, are very important to limit the potential for alcohol problems. True restaurants have no trouble meeting a 70% onsite food sale requirement because they are operating as a restaurant. Less than such has a greater potential for business to morph into a bar after 10:00 pm. This can create big problems because minors under 21 are able to go to restaurants like these establishments while they are not permitted in a bar. Having restrictions that are strong make sure that you have a nice eating establishment with some entertainment, but it has to be strong and with no loopholes.

ERICA GARCIA, 1206 Langford Street, member of the Eastside Neighborhood Association, hopes Council takes these steps to bring back the requirement that restaurants have 75% onsite food sales. Councilmembers should study even more ways to reduce problems from the irresponsible sales and service of alcohol. Underage drinking and driving continue to be a big problem in our City.

ERICA LEARY, 4312 Navajo Avenue, Program Manager for the North Coastal Prevention Coalition, commended the Council for looking at the issue of alcohol service and entertainment businesses. They do often lead to problems. She concurred that restaurants can meet a higher threshold of food sales than 50/50. Many times businesses that have 50/50 requirements change into what appears more as bars and create problems in the downtown area. That type of environment often leads to fights and violence. She reviewed a Countywide Place of Last Drink survey that indicates that 44% of people arrested for drunk driving are coming from licensed bars and restaurants. Referring to the graph, the biggest slice are people coming from licensed businesses. A lot of cities throughout the County are looking at this issue. Several have adopted ordinances requiring server training. Other cities are looking at additional options, such as a responsible retailer program that establishes a fee structure for businesses that sell alcohol and funds a full time law enforcement officer to ensure compliance with alcohol sales and service. She hopes this is the first step for the Council and hope that we continue to be involved in ensuring that our businesses operate responsibly in the City.

KINNEY HINES, Co-chair of the North Coastal Prevention Youth Coalition, said our Coalition helps to prevent underage drinking in many ways. They inform parents, as well as the community, about the dangers of underage drinking and informed them of the laws, such as the Social Host Ordinance. Our efforts will be more successful if we can work with adults in our community to make alcohol less available and appealing to teens. Having restaurants that look more like bars where youth are surrounded by alcohol is a recipe for disaster. Underage drinking in our community is a huge problem and we need to do all that we can to prevent teens from getting access to alcohol.

DAVID NYDEGGER, Oceanside Chamber of Commerce, applauds that the Council is looking at it and urged them to continue to do so. The 49/51he thinks is something that ABC put into place. He is not sure, but he would assume that the folks were looking at the redevelopment area when they put that together. We were looking at the ABC law when they came up with this 49/51 with the idea that in the future, our downtown area is going to change. He lived in Oceanside his entire life, and he does remember that, where the Regal Cinema and Harni Sushi are located, was nothing but bars and tatoo shops. It was horrid. We did something in this community back in 1977 called redevelopment. We have come a long way. It is time now for the business community to talk to the stakeholders, the restaurants. He asked the Council to take a long and hard look about what the future is going to be and how we can come up with a plan that will positively satisfy everybody that has spoken before.

DONNA McGINTY, 2495 Mesa Drive, commented that Oceanside's business people who invested money in this place and have gone to the extent of opening a door need as much consideration as possible. She does not care if it is in the Redevelopment area or out by the back gate. The money is the key to making an enterprise work, and if we limit their opportunity we are shutting their doors. This is not a good time to be shutting the doors of any business that is still open.

[Public input concluded]

MAYOR WOOD stated that eating establishments should be just that, and you can serve that drink or two that people want to have. We also like entertainment and have increased it from 3 to 5 [performers]. What we don't want to turn into is the places that push that border line, where we tend to have our fights and problems. We want to make sure we have the guidelines there. The other one that he is adamant about is he wants to make sure that the entire band that plays in a place that serves alcohol are old enough and not juveniles. We just want to make sure we protect the public.

COUNCILMEMBER SANCHEZ wished that we never had the problems that we had through her youth growing up here in Oceanside. But we did. It took a lot of money and years to fix it. There were a lot of lawsuits. There was ABC, but ABC was not enough.

What brought her attention to this was that, while she was walking to one of her favorite eating places down on Coast Highway, she passed by a new business, and there was a banner that was placed up called "Home of the dollar beer". To her that meant that we are going to have a lot of panhandlers hanging out, waiting for that dollar, going in and getting their beer. So she called the Police Department and ABC. ABC was able to address that because they had not heard about the banner going up. It went down almost the next couple of days, and so there are no longer any happy hour prices allowed there. In terms of food, mostly catering, so there you have a bar, you walk in, it is a bar, right next to Sunshine Brooks Theatre which we just allowed Oceanside Unified School District to partner with us. So now we have high school kids going in right next door to a bar where kids can now play in a band if they are under 21. Under the drinking laws, if you are under 21, you are considered a minor. So she is not looking at 18, I am looking at under 21. Under the ABC, if it is considered a restaurant which is 51/49, it is considered a restaurant. That means anybody can walk in; your kids can walk in and they can watch people drinking; this is under 21. This particular business has been cited by ABC, and it has only been open 6 months and is looking at a suspension. We are talking about best intentions, food mostly catering, live bands, live music almost every night, and this compared to what we would like to see. This business is going through a permitting process because they want to comply. We put it on the agenda, it gets published, it is received by the public on a Thursday for Wednesday, that is how everything happens and this is direction to staff. This is not to adopt an ordinance. The process for adopting an ordinance is a very public process. Her motion is asking that the City Attorney meet with the stakeholders in ensuring that what we put together is not as restrictive as before, but something that is going to help us ensure that both the businesses and the City get the best out of this contract. She is asking that we go ahead and direct our City Attorney to do just that,

looking at a starting point of 70/30 onsite and extending the music to 12:00 midnight. Right now it is 11:oo pm in the redevelopment area.

COUNCILMEMBER KERN commented that he has a little problem with the process, too. This was brought forward some time ago after a long process, and he does not think bringing it up under a Councilmember item to change something that went through a long public process is the way to do this. He wouldn't mind looking at it without specific numbers. If you want to go back and take a look at it, talk to the stakeholders, talk to MainStreet, talk to the restaurants to see what they come up with. If you go in with a pre-conceived number, you are driving it before you even started. Basically we are going to come up with a verdict before we have the trial. We should talk to stakeholders to find out what the problem is. It sounds like this establishment had a problem. ABC came in, so the problem has been corrected. So it sounds like the system is working. He talked to the Police Department, the Special Enforcement Unit, and asked if there is a problem. He was told there was no problem. We should constantly look at it. If these issues come up, if it is a complaint about a single restaurant, we deal with it as a single issue and not make a blanket solution for all of redevelopment because we have a problem with one restaurant. He would like to see more venues in the City for people to play music. Right now, he can't support the motion as presented. If the 70/30 numbers are removed and it is direction to staff to take a look at it and talk to the stakeholders, then he can support it.

COUNCILMEMBER CHAVEZ stated there are two issues here: an ordinance that went through a long process and this particular club. He questioned how many Councilmembers have actually attended or have been at the Beachside Grill in the evening when they are having any entertainment. In response, just he and Mr. Kern. He has been there a number of times. They have a variety of different types of music/comedy in there. We have had some issues earlier about the back door opening. He also talked to the Police. He concurs with Councilmember Kern that the system is working. He cited a June 10th letter from Chief McCoy that says they have talked to him about all the issues, and he ends with Special Enforcement Section and Resource Team and Patrol personnel will continue to monitor this establishment and take appropriate enforcement action when necessary. So we are doing the things we need to do to ensure that we don't go where people fear we may be going. Regarding redevelopment, we need to have tourism as one of the major components of the economy of the City in the beach area. When people go on a vacation, they often go out for dinner, have drinks, dance and listen to music or go to comedy clubs. A lot of people do that when they are on vacations. We want to do those sorts of things without hurting the image of the City. We want a place where people can go and have a good time in a safe environment. He is more in line with Councilmember Kern. If the numbers will be struck in a way, and we want to have a conversation in the community with the business owners, with the Chamber, with the Redevelopment, he is all for that. It is always good to look at the ordinances. But what he does not think we should do is be reactionary on a particular business and try to change everything because of one incident. This goes contrary to what he believes we are trying to do in the redevelopment area. That is why we had that extensive workshop, series of meetings, and putting together that book If the numbers are removed, he could be supportive of the motion.

COUNCILMEMBER SANCHEZ commented that she really doubted anybody went to the hearing regarding this specific issue. There were around a hundred changes in this document. What she's hearing is that it has already been aired out, so there is no need to change this. She has a difference of opinion. She does not believe it was aired out. When she talked to Lt. Jones he was pretty upset and very surprised that it was taken out without any Police Department involvement. It did not really get as aired out as much as it was supposed to. She is really disappointed because this Council is giving a green light to the kind of businesses that we had before and she does not want to go back there. This means that any of these businesses can be resold just like what is happening with our real estate. It could be in the wrong hands. It could go back to the people that had the Viper and the Whiskey Dive, etc. They could just put together a hot dog stand, and they've got live music, and they are using our Police Department full time.

COUNCILMEMBER FELLER said the idea of what is trying to be accomplished by downtown, our redevelopment area has been supported by every person on this Council. Prior Council said we want this to be just like a Gas Lamp. That is what everybody on this Council has said. To him, it is just an exciting place to be for people that may be interested in going out, having dinner and maybe listening to music. He said he got a call from Melba Bishop saying to check out the underage bands at Beachside Grill. Maybe this is the opportunity to review that process with all the stakeholders, as opposed to slamming the door shut right now on the effort to go forward. Harni Sushi, made a huge gamble to come to Oceanside, and they are famously successful. He is concerned that every place in downtown would be restricted. He would love to see Councilmember Sanchez say to go forward, have the stakeholders participate and come up with some process that ABC would buy into; have the Police there to help look at these things. Is there currently a rule where bands play in a bar environment or food establishment.

CITY ATTORNEY MULLEN stated that under our Zoning rules for Redevelopment, small scale entertainment is allowed, provided that there are five or fewer performers and there is no dancing. Otherwise, the operator of the facility would need to get a conditional use permit. Outside of Redevelopment there are a little more strict requirements that we had discussed earlier where 75% of the total sales have to be for food, 25% for alcohol; otherwise there is a requirement for a use permit.

COUNCILMEMBER FELLER hoped to move forward with the stakeholders, specifically for the redevelopment area. He does not think that anything that is in place throughout the City needs to change, but maybe there is some merit to some changes.

COUNCILMEMBER SANCHEZ voted against it initially because she thought there were too many changes proposed to go forward without having a process. She understood that the idea was to streamline. She is for streamlining. It has only been in the last year that the law was changed in the redevelopment area. She is concerned. Harni Sushi, Mr. Harrison, was very welcome to the idea of having some limits, as well as the gentleman from the Wyndham because they do not want the City to potentially be back to where it was. They did want to be stakeholders. She knows that the Police Department needs to be part of this. Her new **motion** then would be to direct staff to meet with stakeholders regarding this issue of defining a restaurant which would be allowed to have up to five performers for live entertainment. Otherwise they would have to go through the use permit process. She was not sure if they should include extending music to midnight, which was a request for the redevelopment only.

MAYOR WOOD said he wants some verbiage in there regarding age of band members where alcohol is sold.

COUNCILMEMBER SANCHEZ said she does not like the idea of 50/50, kids under 21 playing. Ideally, she would like a place for kids to play where there is no alcohol. Her motion is to direct staff to meet with stakeholders regarding this issue of defining a restaurant which would be allowed up to 5 performers for live entertainment, on-site, and possibly extending music to midnight, and issue of age of band members.

MAYOR WOOD seconded the new motion.

Motion was approved 5-0.

MAYOR WOOD decided to hear Item 13.

[Recess was held from 6:47 – 6:56 pm.]

6:00 P.M. – PUBLIC HEARING ITEMS

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.

13. **City Council/CDC: Approval of a Disposition Agreement (Beachfront Resort Ground Lease) between the Community Development Commission (CDC) and S.D. Malkin Properties, Inc., including the long-term ground lease from the CDC to S.D. Malkin Properties, Inc., of certain CDC-owned parcels of real property generally located between Pier View Way, Myers Street, Seagaze Drive and Pacific Street in the City of Oceanside for redevelopment as a mixed-use resort development comprised of a 283-room main hotel, a 48-room boutique hotel, a 47-unit time-share project, visitor-serving commercial/retail space and a 503-parking-space underground parking structure**

MAYOR WOOD opened the public hearing. Regarding disclosures, all Councilmembers reported many contacts with staff and community over the years, with a lot of e-mails, phone calls, public, attorneys, consultants, etc. **CITY CLERK WAYNE** reported that for this advertised hearing, there was no additional correspondence

JANE McVEY, Economic and Community Development Director, reported that at this time the project is entitled, and the Local Coastal Plan amendment that took several years to do was accomplished finally in January of this year. The next step in this project is the disposition agreement which the Council has tonight, as well as the lease which is an exhibit to the disposition agreement. There also are a variety of economic reports, the 33421.1 report, the 33433 report and the 33445 report. Those are mandated reports under State Redevelopment Law. This has been a group effort by a large negotiating team, and she announced the names of the negotiating team.

To reiterate, the project is 289 rooms, a 47-unit boutique hotel, a 48-unit fractual timeshare project and approximately 18,500 square feet of visitor-serving commercial. It is located in the 9 block master plan. Of those 9 blocks, there is a requirement that 240 hotel rooms be built in that area so the two blocks in question are the blocks that are located on Pacific Street between Seagaze and Pier View Way. The flag of the Downtown Beach Resort Hotel is either a Hyatt Regency or a Westin. The operator is Interstate or another pre-approved operator.

There is an item called the competitive set, which is a term that is designed to identify the level of quality that this hotel aspires to. For that purpose we have identified a competitive set. The hotels that are included in the competitive set are: The Loews Coronado Bay Resort, Marriott Coronado Island, Hyatt Regency, and the Hilton Waterfront. The financing that the Council previously approved was $27,000,000. It is now proposed to be $27,610,000. The $560,000 more is for offsite public infrastructure, plus $50,000 more for the environmental impact report which actually cost $275,000. We would be paying $250,000 for it.

She discussed the proposed financing system. All of this is information has been heard before in open and closed session. $5,100,000 would be used for offsite infrastructure and the source is current Redevelopment Agency bond proceeds; those are taxed anticipation bonds that have previously been issued, and that cash is available. Next is the $13,800,000 for a parking easement and extraordinary covenants. Regarding the extraordinary covenants, when we RFQ'd for this particular project we requested a ballroom adequate to sit 500 plus, a dance floor and certain amenities, architectural and finishes, that were inspirational for the City. They were above and beyond what the market place would currently build in that particular site. For the benefit of having those extraordinary covenants to build what we have asked for, we are able to pay for that through this financing system. $13,800,000 is proposed through a new Redevelopment Agency Bond fund that would be paid to them as they build the first parking garage and it goes out in 24% increments as they excavate, get to the first level, the second level, etc. This would be a new bond that is timed to come prior to the construction of the parking garage.

The second piece of money is $3,460,000 for the same parking easement and extraordinary covenants. That would be a second Redevelopment Agency Bond after completion of construction for the remainder of the cost of the parking garage up to that amount. And then additionally, it includes the $250,000 for the EIR, and then there is an additional $5,000,000 that is performance based.

There is also a contingency plan. Because we cannot predict what the bond market is going to be doing at the time we issue the bonds or what the interest rates would be, if for some reason the new bonds don't net a full $13,800,000, the agency would pay interest at the agency's cost of funds plus 1.5% with an annual increase of 1% not to exceed a maximum of 12%. For the second new Redevelopment Agency Bond, if the new bond is less than $3,460,000 net, we would pay interest at a rate equal to the tenant's senior construction financing plus 1.5%, again not to exceed 12%. The theory there is that we owe the money. We are not trying to pay more than the price would have been. We are just trying to equate what the borrower's rate would have been. Also, if for some strange reason after the completion of the resort, if the Council has approved no funds, no bonds have been paid to the tenant for this project, the tenant would receive 65% of a term that we have defined as surplus revenues. It works in that the agency gets the gross tax increment of the property tax. 20% comes right off the top for the housing set aside. There is a County administrative fee that would be deducted. There are pass through payments to other jurisdictions, including the City gets property tax. We are also defining any potential state loses such as the Educational Resources Augmentation Fund (ERAF) which this past year, again the legislature tried to take away Redevelopment funds. All administrative expenses would be netted out as well as all capital projects. So whatever is left x 65%, that is what the tenant would be able to receive if the agency has paid zero money. So if you have a contractual agreement and commitment to pay and you choose not to do it for whatever reason, after all those other expenses have been paid, the tenant would receive 65% of the net.

The performance-based piece is based on the property tax, but it is indexed by the TOT (Transient Occupancy Tax). We have a formula in here that says 75% of everything over $1,000,000 is able to be rebated back, but it is not really the TOT, it is actually the tax increment. So we are using the property tax that comes directly off of this project to pay back to the tenant, but we are using the TOT as a measure. It is just a proxy; it is a measure to make this performance based. If for some reason the property tax increment is not sufficient to pay that amount, the tenant may receive a rent credit. We anticipate it to be paid in 15 years or until the tenant has received a net present value of $5,000,000 using a 12% interest rate. The source again is the property tax from the resort hotel project and, as needed, from the Project Area. She pointed out that the disposition agreement is the document that sets up the conditions that have to be met by both the tenant and the CDC to execute the lease, which is already signed by the tenant and is an exhibit in the disposition agreement.

The disposition agreement covers the pre-construction period. This is the document, until construction begins, that governs. The lease would be executed when all the conditions are met and those contain the following: the tenant would have to obtain permits, record their final maps, demonstrate their ownership, and submit their management agreement and their construction contracts. There are a lot of regulatory processes that they must go through to form the timeshare. They have to provide us proof of all their insurances. An important one is their construction surety, their financing plan showing us their equity and their debt financing. This lease is proposed to be a 75-year term and there is a 24-year option.

There are also other assurance provisions. In today's economic climate with many changes in the lending institutions and the economy upside down right now, this team of people have made every attempt to try to think through all the "what ifs" and make sure that the City has some assurance that things will go as they should. So hypothetically, should the CDC default for some reason, the developer can recover amounts expended, not lost profits. If the developer defaults, the CDC can recover amounts expended, amounts

that the City and the CDC have expended. And then disputes are arbitrated. Provisions are contained such that there is pre-disposition to try to get disputes arbitrated and to avoid litigation.

The rent structure has two components. There is a fixed rent structure and percentage rent structure. In the first 12 years there is zero rent while they achieve their stabilization. This is an incentive for them to pay no rent for the first twelve years to achieve stabilization in what some may think of as a pioneering or an aspirational market for this level of a hotel. It goes up over time and then it gets recalculated as you get further out.

The percentage rent is based on other revenue and there are many sources of other revenue. She pointed out again that there is zero rent in years 1 -12 and the rent ratchets up over the period of the lease. There are also recapture clauses. Should the original tenant sell and if he had earned less than a 20% rate of return - so that he didn't achieve what he expected to achieve, the tenant would receive all net funds. Should the original tenant sell and had earned a return of 20-25%, the tenant would receive 95% and the CDC would receive 5% as an additional rent figure, with the cap based upon our investment.

There are also our provisions related to revenue sharing if there is a refinance. In many circumstances people will refinance and take equity or cash out. We want to make sure that there is still equity in the deal and so, should the original tenant refinance, they would pay the CDC a portion of that above their investment and their internal rate of return. However, for subsequent tenants when they refinance, there is a fee of .5% of the refinanced amount that will come to the CDC. Should there be, by the Council, a discriminatory tax, a new TOT rate is imposed, such that this hotel pays more than 50% of the increase in the revenue, that would be a rent credit that they would be eligible to receive. A property tax protest is allowed but not below $113,000,000.

To maintain quality, we have a number of provisions. One is the competitive set discussed earlier. They are required to have a furnishings and a capital reserve fund and it dictates what percentage that must be over time. A furnishings plan is required at year 7; that is another attempt to maintain quality and make sure that the hotel is continually refreshed. In truth, the franchise, if it is franchised, or the flag will dictate a lot of that, but this is a safety net below what the flag will dictate. There is a reasonable agency approval of a change in the flag. There also is an ROFO, which is a Right of First Offer. Should the agency in the future, we are 40 years out and the City decides they want to sell it, the agency would offer it out to the tenant first. If the tenant declines, the agency is eligible to offer it to others. If it is less than a 100% offer, the agency will go back to the original tenant. Then there is an appraisal of the property and there is a whole, long explanation of what happens if we cannot agree on the price. Also at the end game, both the CDC and the City and the tenant can walk away because there is no requirement to either sell or buy.

There are also some special considerations. The tenant may not sell this lease during the construction period. But after the construction period, the sale may be to an approved operator with the City's and agency's reasonable consent. We realize that the current market would dictate probably a 35% or 40% equity into this project to get financing. We have a minimum 20% in there. We have tried to balance as much flexibility as we can to allow the tenant to have as much flexibility to obtain financing as possible while still having a fiduciary responsibility to the City.

There are a number of "what ifs" that she has been asked. What if the tenant defaults? There is a completion guarantee that obligates a third party to finish the project. This is a situation in which we have a partially completed building. What if the contractor defaults? There are performance bonds that are required of the contractor. What if the lender defaults? That is deemed to be an unavoidable delay and depending upon the time frame in which the lender where to default during the period, that would increase the period by 120-180 day delay.

Regarding the revenue impact to the City, stabilization is projected to be at operating year 5. The TOT would generate $2,900,000. The property tax to both the City and the agency is $1,300,000. Lease revenue is $200,000, and the sales tax is $200,000 for a total annual in year 5 of $4,600,000. These are direct numbers. These are not indirect numbers. These are not multiplier effects, these are all direct. For the net present value cumulatively through year 75, the TOT is $42,000,000; the property tax is almost $16,000,000; the lease revenue is $11,700,000; and the sales tax is $3,200,000 for a total of $72,800,000. The net benefit to the City, the net present value of the return on investment over the 75 year period is $35,000,000. We have made a conscious decision not to include the indirect benefit, which is a big number to be absolutely conservative as possible. There is an indirect benefit, which is the revenue that will come to the City due to the materials purchased, the supplies, furniture, fixtures, construction workers buying lunches, jobs, etc. We also have not included the indirect benefit of the visitor spending. When you have that large of a hotel, there will be tourists here, local people at events downtown, etc. The sales tax in restaurants and retail stores is also not included. This is also a catalyst for the 9 block master plan that will allow other projects to move forward, such as the Citymark project. It does meet the goal of the Redevelopment Agency that has been in effect since 1975.

The investment strategy is important to understand. There is no general fund revenue used in this project. The revenue is mainly coming from the project itself, not entirely, but it is built and pays taxes; those taxes are used to reinvest back in the project. The Redevelopment Agency is the financing tool for this project, but the City General Fund is the major beneficiary.

Regarding the timeframe to start, there are milestones to achieve. The tenant has 18 months to obtain financing and begin construction drawings. Once the Council approves this disposition agreement and the other documents, they would then have something they can take to the lender, obtain financing and begin those construction drawings which costs a bundle. There is one six-month extension available and there is also a second six-month extension if the construction drawings are substantially completed such that they could close on their construction loan. Altogether they would have 2½ years to start. Staff's recommendations to adopt the resolution approving the disposition agreement, authorize the Executive Director/City Manager to enter into a lease with S.D. Malkin, make the findings in the 33421.1, 33433 and the 33445 reports and then authorize the Redevelopment Agency to pay for certain offsite public improvements. Those are the traffic signals up and down Mission and portions of the quiet zone crossing at Mission.

Public Input

DAVID NYDEGGER, President/CEO of Oceanside Chamber of Commerce, stated that the Oceanside Chamber of Commerce helped sponsor a coalition of stakeholders in the community about 3 years ago. They have been working tirelessly to monitor/look at this project, and we are very pleased. They urge the Council to support this recommendation, applaud staff for all their hard work and let's get this done.

KAY PARKER, 4377 Albatross Way, said that several years ago when this project was started, Council was told that there would be many steps in this process. The step tonight is the golden step, where it all comes together. They have obtained community participation in defining and developing this hotel. We have the approval of the Coastal Commission, which was a major step, and tonight we have the blueprint for the financing and where to go forward. We know that the financing market right now is not too good. However, we are all ready to go. We all know that Oceanside is paradise undiscovered.

Regarding the financing, this is a partnership. We still own the underlying land, and therefore our participation in this is appropriate. It is in our best interest as a city, community and a region that this project succeeds. She hopes that we have a 5-0 vote tonight to embrace our future.

LARRY BARRY, 3973 Brown Street, said these are scary times in the financial market. Those who have been around remember the Four Seasons, and that skeleton that sat there for about five years. He is a little bit concerned about certain things. He is sure this works out for the owner to develop this. 12% is a lot of money in interest, and it can go up. We are setting ourselves up that we are obligated to this. He asked if all that money has to go back into the Redevelopment for everything that is built in the Redevelopment District. His understanding is everything from Police and Fire are segregated. All the money that will be generated from this area does not go to General Fund. He asked for clarifications on this.

NICK ARTHUR, with Citymark Oceanside Project, 7817 Ivanhoe Ave., La Jolla, said that it was 12 years ago that he was here looking for approval for a project then called Morro Hills, in the middle of another real estate depression; the name of the project was changed to Arrowood in the east part of the City, where we built a fabulous golf course, and the project overall has been a great success and a great benefit for the City. Here we are again in dark times. With 5 positive votes from the City Council, he will be very happy because his project is linked to the Oceanside Beach Resort. We cannot move ahead under the conditions of our approval until Oceanside Beach Resort has at least dug a hole in the ground. Obviously, this is a huge project for the City as is ours. It is a great aspirational project and ours is too. They will be great compliments. He urged the Council vote for this project and congratulated everyone who has worked on it for a long time. The community, as a whole, is behind it.

GARY MYERS, 3928 San Pablo Avenue, represents the Rancho Hermosa Board of Directors who do not oppose this project at all. They have a question based upon the water usage under drought level 2 that we are now under. It looks like we are going to have water problems from here on out into the future as the climate change goes on. He did a little computation and only used the 289-room hotel and the timeshare of 48 which came out to about 337 rooms. At the end of the year about 1,717, 352 gallons of water will be used. He has no problem with that, but as citizens of Oceanside we are trying to save water. Now all of a sudden our savings is going to be shifted over. It is a concern to him when the Board says you are going to be under a water usage level, you can't use water. Council is asking us to save water, and here we are looking at almost 2,000,000 gallons of water a year going to that location, only if they flush the toilet once and take a shower once. We are in trouble. This is going to get bad with water usage, so if you can figure out a way for this hotel to cut down on its water supply to use whatever it needs, great. But otherwise, don't ask us to save water and then give it over here to another developer.

HARVEY SCHWARZ, 1519 Lucky Street, questioned how we could even have this program going on, the Redevelopment Agency. We've had extensions. In that period of time, the public has never been aware of the bond escalation and its numbers. We are going to have to recover all these bonds and everything someday. We just keep renewing and getting a little more; we never pay a principal payment. He thinks that legally, Council is out of order right now. The Redevelopment Agency is shot. There is no way to extend it and do what you have been doing. The public is not aware what the City owes in bonding, the subtraction from what we are going to get in increments, etc. He asked the length of the Redevelopment planning.

[Public input concluded]

In response to questions raised, **DIRECTOR McVEY** stated the TOT is a general fund tax. The only revenue that comes to the Redevelopment agency is the increase in property taxes over the base year of valuation from the year in which the agency was created. So 100% of the TOT will go back to the general fund. On the water shortage issue, the Water Utilities Master Plan is based upon the current zoning, so they take into account the land all over town and what it is currently zoned . They figure out how much water is going to be needed in the future. This property is zoned for commercial, zoned for hotel and according to the Director of the Water Utilities Department, there was adequate

capacity for the water. She is also aware that hoteliers today try to have as many conservation measures as possible with the fixtures in their restrooms, kitchens and other facilities to save on the cost of the water. She knows that there will be conservation as well.

On the question of the bonds and the recovery of the bonds, there are outstanding bonds in Redevelopment. The agency will expire in 2018. However, the agency will be able to pay indebtedness to 2028. It is a good strategy to postpone the debt as much as possible even though you are accruing interest because that is the only revenue you would receive at that point in time. So that has been a conscious strategy of the agency.

CITY MANAGER WEISS added on the water issue that as we go forward and should we get into further drought levels, we do have a program in place that would ration building permits. Non-residential building permits would be a higher priority than residential building permits. Council also adopted a strategy that would allow for water credit offsets, where a developer coming in, we would identify the amount of water they need and they would have to provide equivalent amount of water offsets. So depending upon when this project will move forward and which drought level we are in, there maybe some additional actions that will be necessary to address the issue.

CITY ATTORNEY MULLEN noted there was a comment about the Four Seasons project sitting idle for many years. We have a requirement for completion guarantee in the event of a tenant default. We have requirements for the bonding by the contractor so we can put everything commercially reasonable to avoid that scenario.

MAYOR WOOD closed the public hearing.

COUNCILMEMBER CHAVEZ concurred that this is a golden step. We need to focus on the most important point. Beyond the monies, the City will be a tourist destination point, and that is why we are doing things such as the bicycle friendly community, to ensure that our beaches are clean, and that Loma Alta Creek and San Luis Rey are clean. When we do all those things to be a place where people want to go, this hotel will be the catalyst to kick all the other things off that we have in the Redevelopment area.

The slide titled the "Net Benefits to the City" shows that we get 75 years of considerable money, and that is net present value. We get indirect benefit for construction, the indirect benefit of visitors on taxes, and the big point is that it is a catalyst for everything, is not just the 9 block area. It is the catalyst for everything we did in the previous months for the Coast Highway visioning and what we are going to be doing at Oceanside Boulevard and Coast Highway. This hotel is going to be the catalyst for that entire corridor. So we are going to do much more than meet the Redevelopment Agency goals of 1975. We are going to be moving the City to the vision that people have been talking about for over 40 years. This is the right thing to do even in these down economic times, which is a time to plan and do this. This is 18 months and 24 months out, and that is when this comes in and the economy will be turning.

He **moved** approval of staff recommendations that the City Council and the Community Development Commission to adopt **City Council Resolution No. 09-RO391-1,** "... approving that certain Disposition Agreement (Beachfront Resort Ground Lease) **(Document No. 09-DO393-3)** between the Community Development Commission of the City of Oceanside and S.D. Malkin Properties, Inc., and making certain findings pursuant to Health and Safety Code Section 33445", and **CDC Resolution No. 09-RO392-3,** "... approving that certain Disposition Agreement (Beachfront Resort Ground Lease) **(Document No. 09-DO394-3)** between the Community Development Commission of the City of Oceanside and S.D. Malkin Properties, Inc., and making certain findings pursuant to California Health and Safety Code Sections 33421.1, 33433 and 33445" and authorize the Redevelopment Agency to pay for certain off-site public improvements.

COUNCILMEMBER FELLER seconded the motion.

COUNCILMEMBER SANCHEZ questioned the ordinance on water conservation, remembering that the ordinance included not providing water automatically, providing water upon request. She asked if it included recommendations regarding hotels, not washing linens and towels every day, etc.

DIRECTOR McVey responded that she does not remember that there was that specific detail in it.

COUNCILMEMBER SANCHEZ reported that when she stayed over in Portland, she stayed at a hotel that was certified green. In a recession, it was full of people. She does not know if this is something that we would be looking at. It is a lower cost for hotels. It might be something you might consider at some point. There are things that we could do as a City as time goes on. She thanked those who helped in making this a phenomenal hotel project. We picked the best guy for the job, S.D. Malkin. She heartedly supports this.

COUNCILMEMBER KERN asked about discriminatory tax and if we are binding future councils on TOT that they can't increase that.

CITY ATTORNEY MULLEN responded that you cannot legally bind a future council. If there is going to be a tax increase, a TOT increase, that would have to go to a vote of the electorate. What this lease does is set up a consequence if such a tax is approved. What it essentially envisions is if there is a 2 tier tax system. Let us say 10% for all the hotels in the City, except the Malkin hotel, which could be a 12%, then there will be a rent credit available for that differential.

COUNCILMEMBER KERN said in answer to Mr. Myers' question, a million gallons is only about 3 acre feet. Our operating plant produces about 6,000,000 gallons a day. The City uses about 30,000,000 gallons a day. The water consequences of this particular hotel are pretty inconsequential in the big scheme of things because we are actually zoned out for that. Hopefully in the future we will have more water coming out of the aquifer because we just got a $500,000 grant from the Water Authority to get more water out of our aquifer. But the big thing is not the inside water use of the hotel, but rather their landscaping and their outside use. That is the biggest problem that we have.

COUNCILMEMBER FELLER has a question on the staff report, page 7, that says it is a 20-year lease term. He asked when that lease starts.

DIRECTOR McVey responded they have to provide insurance, all the surety bonds, all the guarantees, all those sorts of things, get their permits, their final maps, and then the lease may be executed, and that starts the term of the lease.

COUNCILMEMBER FELLER said that he made a mental note earlier about the $35,000,000. He asked if we would still be required to use prevailing wages if we became a charter city before they start this construction.

DELMAR WILLIAMS, Best Best & Krieger, City's consultant, responded the answer is yes because it is required in the agreement by contract and it is Redevelopment Agency funds going in and not City funds. So it is not a city-financed project in that sense.

COUNCILMEMBER FELLER said that Redevelopment goes away in 2028 so he asked if the debt on these bonds will be paid by 2028. Everybody needs to understand that you are pushing the debt to the end when the money is coming in to pay for the bonds. He is satisfied with that. He asked if there will be a CDC in 2029.

DIRECTOR McVEY responded that it will be a decision that the Council would make at a later date. There is a 10-year extension but it triggers other requirements that

financially are not in the City's best interest to do so at this time and you would not want to do it until the 11th hour because the moment you do it, it triggers those commitments right away. There may be other redevelopment areas in the City based upon market conditions but this one is slated to expire in 2028. That will be the last time you will be receiving revenue.

COUNCILMEMBER FELLER said he would like this project start tomorrow. It has been a long time coming. With Manchester, we were only paying $15,000,000 subsidies. The other guy offered to buy the property and we would not have to pay anything. We all compromised. He is glad to be part of this.

Motion was approved 5-0.

MAYOR WOOD determined to hear Item 18 next.

[Recess was held from 7:54 – 8:06 pm]

GENERAL ITEM

18. **City Council: Adoption of new City Council Policy 200-09, Financial Reporting Requirements for Non-profit Organizations, and direction to staff to amend all existing professional services agreements with nonprofit organizations to include this new policy**

TERI FERRO, Financial Services Director, presented the new reporting requirements for non-profit organizations. This policy is the result of a Grand Jury report that came out. Based on a citizen's request, there was a grand jury investigation into the City's financial reporting requirements with MainStreet Oceanside and other non-profit organizations. Getting findings/recommendation from auditors or grand juries helps us identify internal controls that might be lacking and it gives us an opportunity to tighten them up and be a little bit more accountable.

The Grand Jury has actually found two recommendations that pertain to the City. One of them has to do with adopting procedures to make sure that MainStreet Oceanside as well as other non-profit organizations provide us with financial reports and requires us to show that we are exercising thorough oversight of the City funds. The other recommendation was requiring us to make a public report describing how we intend to address the problem of obtaining those financial reports.

The policy that is before the Council tonight, Policy Number 200-09, is basically requiring all non-profit organizations that receive funds from the City to submit quarterly financial reports in accordance with the format provided by the Financial Services Department. The financial reports shall demonstrate at a minimum how the City funds were spent. In addition to the quarterly financial reports, we are requesting that the non-profit organizations submit a year-end financial report, along with a single audit performed by a third party CPA firm. All contracts will include language that requires mandatory compliance with this policy. If a non-profit organization fails to comply, it should be the basis of termination and lost funding. The financial report included in the staff report was compiled as a result of the Federal Office of Management and Budget (OMB) criteria and guidelines for non-profit organizations to report on federal grants. We used that as a guideline. This is our first draft of these reports. We are meeting with various organizations to spell out what our requirements are. If we need to fine tune them, elaborate on them a little bit more, design them in a manner that makes it easier for the organization to provide financial data to us, we are willing to work with them. This is just a standard format for all organizations. There are due dates for the reports and they need to be certified by a Chief Financial Officer or Chief Executive Officer, and documentation provided as backup. They will be submitted to the Finance Department to audit and approve them, then they become public records. She looks at this as an opportunity to just get a little bit better.

Public Input

DONNA McGINTY, 2405 Mesa Drive, said it took 2½ years of her life to get this issue before the Council. She brought it in here, presented it to Esther and Mr. Mullen, full blown operations, same thing as the Grand Jury. There was no response and no level of interest taken. Consequently, she took it to the Grand Jury in the form of a 9-page complaint about the lack of accountability and transparency and properly reporting the spending and accounting for public money. She had no idea at that time, nor was she ever told, until today, that there was never a policy in place. She found that disturbing. She does not believe in gifting tax dollars like this to anyone. This will resolve a whole bunch of issues. She has talked to staff and she is willing, as a trained accounting, audit and troubleshooting person, to participate in helping any organization that is in trouble because they do not know whether they can meet this criteria or not. She will personally put in the time it takes to make sure that they comply and Teri agrees with what they are doing and they can go on down the road, and she does not have to see anymore MainStreet Oceanside's ridiculous scenarios take place, and she does not have to watch the Chamber coming here any longer getting $256,000 a year without reporting in detail where the last $256,000 went. She was sorry that she had to go about doing this the way she did but she tried to get attention from everyone, so had no recourse but to go to the Grand Jury; she was glad she did and it will set a new precedent.

MAYOR WOOD said he is sure that she will be working a little closer in the future with our City Manager Peter Weiss.

DAVID NYDEGGER, Chief Executive Officer and President of the Oceanside Chamber of Commerce, stated we have been operating the Visitor's Center since 1988. We took over and changed the name to the California Welcome Center (CWC) in 2000. In that time we have been receiving funds from the City through a fee-for-services contract, a contract that was clearly well spelled out and required us to report back to the Council on things that we did. We take our responsibility very strongly. We are very concerned that all of the monies that the City gives to help the operation for the CWC are used at the CWC. In fact, as he has said many times before, the budget for the CWC is in excess of $480,000, and last year, the $276,000 that we received, obviously did not cover all of the cost for that. We welcome the opportunity to demonstrate precisely where the money goes. That has never been an issue with us. We will provide anything and everything the City wants.

He had some concerns, however, along with the stated reporting requirements. A single audit is something that the Office of Management and Budget in Circular 8133, of standards that apply, states that there should be a threshold on reporting and that threshold is $500,000; and they are expensive. We are audited and he had presented the City Manager with their audit ending in 2008 and we will continue to do those things required. He would like to work out a process that when the City gives money to the CWC, we tell the City precisely how that money is spent, which is what he thinks the City is looking for.

ERICA LEARY, 4312 Navajo Ave., stated she was not here to speak on the item, but as a program manager for various contracts. Our coalition has been a past recipient of Coca Cola Youth Opportunity funds. She asked if there is any minimum threshold. We get many forms, reports, paperwork due for different projects. If a $500 - $1,000 contribution to our coalition for a one-time event requires additional paperwork and additional reporting, she asked the Council to perhaps reconsider and put a minimum amount, $5,000 a year or whatever, if there is not one currently in there.

COUNCILMEMBER SANCHEZ, in response to Ms. McGinty, said she took everything that she was given to the City Manager's Office. Every time a request came in, she was unable to get information about how the money was spent, so she would vote

against it. She wants us to be as transparent as possible and there were questions that were asked. Ms. McGinty was one of the people that asked and we were not able to give her answers. There are still some issues that are not addressed by this proposed policy. One of the issues that kept coming up was the appearance of self dealing, board members getting paid and things of that nature. We need to be very clear that in order to avoid the appearance of a conflict and of self dealing that board members shall not be eligible to be reimbursed for funds. That way if you want to be a board member, then your job is to help the organization and not look like you are using the organization to get a job or to get a contract. That is one issue. We should be able to include that. If you are either the executive director or the board member, you are not paying yourself. The other thing is there is nothing here about receipts and maintaining receipts for some period of time; most requirements say three years. She requested that we include in the policy here , "... how the City funds were expended, including submittal of receipts for City money spent, indicating the name of the business and/or business owner and the description of the work completed and/or item purchased. Receipts must be retained for a minimum..." – perhaps 3 or 2 years or whatever is reasonable. And then to avoid the appearance of a conflict of interest or the appearance of impropriety, that board members of the organization not be eligible for reimbursement with City funds or something to that nature. This is a start. As it is now, this does not respond to the question. These questions will go on and on if we do not include something like that; we need the receipt at least. At the very least we should address those two issues because we will have the same problem with lists of things that say that money was spent but nothing to back that up. Her **motion** is that staff be directed to include those two provisions in this policy.

MAYOR WOOD seconded the motion.

COUNCILMEMBER FELLER questioned if in the financial report it has information about personnel costs and contract labor which is something that we are giving them as part of our contract with them.

DIRECTOR FERRO responded that based on the current contract and the various reports that we have received from these various organizations, considering that personnel is the largest expense, they have been reimbursed for staffing. Responding to Councilmember Sanchez's question on the board, the section that defines personnel where it talks about salary, fringe benefits for positions that are funded by the City, it would also include board members' stipends and allowances. This language was taken from allowable Office of Management & Budget guidelines. They do allow that for non-profits. The City can decide otherwise, but Personnel expenses are allowable.

COUNCILMEMBER FELLER stated that he is trying to sort this out. We can, in each contract, specify something, but he does not think that in a standard contract you can specify, but every nonprofit operates a little bit differently. Having a standard contract with such a variety of non-profits would be difficult. He would like to hear more about that.

PETER WEISS, City Manager, stated that he believes in the current contract with MainStreet, there is a conflict of interest clause. If the Council is interested in doing that, we would add to Policy 200-09 that professional services agreements with non-profits shall include a conflict of interest clause approved by the City Attorney. That way, it will be in the Council's policy and will also then be reflected in the actual professional services agreement with those agencies.

COUNCILMEMBER FELLER commented that he would rather see it worded along those line.

COUNCILMEMBER SANCHEZ first questioned if you have to be a non-profit to get funded by the City; she asked if that is a policy. If so, then with 501's you do have to have a board; you have to be set up. Is that what we are talking about. She had understood that in order to qualify for funding, you have to be a non-profit.

DIRECTOR FERRO responded that when we were looking at this and the Grand Jury's recommendation, the focus was just on non-profits. We can take this to any level, but we were trying to focus it on non-profits because that is what the Grand Jury was recommending.

COUNCILMEMBER SANCHEZ clarified then that this does directly address non-profits and it would already have a board. She asked the City Attorney about the language that would be added to the contract.

CITY ATTORNEY MULLEN said that he was interested in the issues, one of which was the potential self dealing by board members. That was disclosed, in a very minor way, he thinks in a 2006 certified audit that they themselves had submitted. One of the things we did was include a conflict of interest clause, and what that clause basically says is that the members of the board cannot be financially interested in contracts that they then approve using City funds. So we can include language like that.

COUNCILMEMBER FELLER said that is the right language for this.

COUNCILMEMBER SANCHEZ said that is fine. It is better worded and so **amended her motion** with this language.

MAYOR WOOD seconded the amended motion.

COUNCILMEMBER KERN said we have non-profits with board members that sit on certain portions of the board that have oversight, so regarding the self dealing, they cannot basically write a contract to themselves using City funds. He asked if that is basically what they are talking about.

CITY ATTORNEY MULLEN responded yes.

Amended motion was approved 5-0.

MAYOR WOOD determined to hear Item 16 as requested.

PUBLIC HEARING ITEMS - continued

16. **City Council: Adoption of the 2005-2010 Housing Element (Document No. 09-D0396-1) as revised**

MAYOR WOOD opened the public hearing. Regarding disclosures, Councilmembers reported contact with staff. **CITY CLERK WAYNE** reported no correspondence was received.

MARGERY PIERCE, Neighborhood Services Director, reported that every 5 years the State law requires that a city prepares a housing element for adoption and in order to obtain certification from the State, we have to meet certain requirements. In 2007 a draft housing element was approved by the City Council to submit to the State for certification. Since then, we've had many conversations with the State in an attempt to get our Housing Element certified. We want to get our Housing Element certified because without it we could likely lose monies that we could get from the State-transportation dollars, etc. So after going through many revisions, none of them were substantial except for one, which is why we are having this hearing. We have a list of land inventory that we propose for potential rezoning. The State required that we rezone that during this 5-year period. Part of the problem that we have in the City is we do not have a GIS (Geographic Information System) that identifies all of the parcels, so one thing that staff is going to recommend as a follow up to having this Housing Element adopted is to use housing funds to hire someone to go out and do a very thorough inventory of all the parcels in Oceanside. That will certainly help us as we move forward into our next year planning cycle with the Housing Element. There were no other changes. The programs remain the same. We have not

added any inventory in terms of land into the Housing Element, other than to do these zoning changes by December 2010. We recommend that the Council approve the Housing element for final submittal to the State. The State has indicated to us that if Council approves this tonight, that they will certify our Housing Element in this form.

[No public input received]

MAYOR WOOD closed the public hearing.

COUNCILMEMBER FELLER noticed under the analysis in the backup material, it says 6,423 new units: 1,454 for very low; 1,215 for moderate; 2,700 for above moderate. It appears that we are not going to be building very many above moderate income homes going into the future. Everybody is talking only about workforce housing now, not low income or the ranch style. These are going to be simple houses.

DIRECTOR PIERCE responded that there is absolutely no way that we are going to achieve these. These are goals that are set forth, but with the limited resources we have there is no way we are going to be able to get 6,423 new units for low and moderate income. The requirement of the state in terms of the Housing Element is to show that you have the capacity with the appropriate zoning to build those. If all the resources in the world were available and the building industry was booming, we have to show that we have the capacity in terms of our land use to build those units. It is not mandated that we get all of those.

COUNCILMEMBER FELLER clarified that what he is saying is that the Building Industry isn't going to build anything but workforce housing and asked if that is what she is aiming for.

DIRECTOR PIERCE responded that certainly will help us meet a population need in terms of workforce housing; it depends on whose language you are using. She believes that when the Building Industry Association talks about workforce housing ,they are looking at folks that make incomes up to a 150% of the median income. When we talk about low-moderate, we are talking about people that make 80-120%.

COUNCILMEMBER FELLER moved approval [of staff's recommendation and **Document No. 09-D0396-1**].

COUNCILMEMBER SANCHEZ seconded the motion. She asked if staff updated the statistics when the revised report and if the information is still current regarding 51% of single family housing stock characteristics being single family attached homes.

DIRECTOR PIERCE responded that they did not update it, but she does not know that we have any other new data until we get new census information. They did not update it for the purpose of this final element.

COUNCILMEMBER SANCHEZ noted it says housing stock that includes 6% mobile homes high rate ownership, 62% than in the region 54%; median home price $455,000 which is $45,000 lower than in the region (that is 2004 numbers); rents that tend to be higher than those in the San Diego region as a whole and low vacancy rates. Her understanding from this is that it is not just affordable housing that we are talking about. We are talking about housing goals set that are put forth by SANDAG for every city in the region, every community in the region.

DIRECTOR PIERCE said that is correct.

COUNCILMEMBER SANCHEZ said that our total share needs, per Table 1, page 15, a total of 6,423. The title of this document is 2005 - 2010 and it talked about what we've achieved. She asked what we have achieved.

DIRECTOR PIERCE responded that she didn't add them up before coming but she thinks we have achieved around 400-450 units total, including Shadow Way, Country Club, Libby Lake, and La Mission Village. And even though it is off the subject a little, she told the Council, she meant to get a Council update in today, but La Mission Village won the San Diego Federation Housing and Community Development Project of the Year Award on Thursday night.

COUNCILMEMBER SANCHEZ said congratulations to all of us. She asked if 400 is in one specific category or goes across categories.

DIRECTOR PIERCE responded that the way that the City Council's policy is right now, we focus all of our housing subsidy programs on folks only making up to 80% of median income. So all of those would be falling under the very low, which we have not achieved there. We achieved very low income to the Section 8 Rental Assistance Program. The low-moderate income housing figures is where we're really making any leeway towards accommodating. Low-moderate is anywhere from 50 to 80% median income. We focus all of our housing subsidies on units for families making 80% or below median income because that is how we get our affordable housing credits.

COUNCILMEMBER SANCHEZ asked if the housing goal that was set for above moderate was from SANDAG and what do we get from the requirements for 2,713 in 2005-2010 in the above moderate category.

DIRECTOR PIERCE responded yes. In the above moderate, those would be any building permit that was issued without any city subsidy or restriction on affordability.

COUNCILMEMBER SANCHEZ was just asking, since we have these goals, whether we have met the goals.

DIRECTOR PIERCE does not have that information, and she does not believe that we have exceeded any of the goals.

Motion was approved 5-0.

MAYOR WOOD determined to hear Item 14.

PUBLIC HEARING ITEM - continued

14. **City Council: Consideration to extend for 10 months and 15 days an interim ordinance of the City of Oceanside, which places a moratorium on the legal establishment and operation of medical marijuana dispensaries within the City of Oceanside pursuant to Government Code Section 65858 and directs the City Manager to review and consider options for the regulation of medical marijuana dispensaries in the City – Applicant: City of Oceanside**

MAYOR WOOD opened the public hearing. Regarding disclosures, **COUNCILMEMBER FELLER** reported contact with staff, and since we last met, only one threat that he turned in to the Police Department. **COUNCILMEMBER CHAVEZ** reported that he received a number of threats to him and to his family since the last time the Council met on this, but he didn't turn it in;, he just considered the source. He also received a couple of letters and e-mails recently and contact with staff. **MAYOR WOOD** reported that at the last Council meeting we had a discussion on this from the audience, some conversations during the break and contact with staff. **COUNCILMEMBER SANCHEZ** reported receiving some e-mails and contact with staff. **COUNCILMEMBER KERN** reported contact with staff and the public. **CITY CLERK WAYNE** reported that there was no correspondence on this advertised item.

JULIANA VON HACHT, Associate Planner, reported that on May 13th, the City Council adopted an Interim Urgency Ordinance. This ordinance shall expire on June 27, in

10 days, unless an Interim Ordinance is extended. Staff is proposing that the Interim Ordinance be extended for 10 months and 15 days. The extension would continue the moratorium on the legal establishment and operation of medical marijuana dispensaries while staff prepares a report and recommendation for regulating this land use. Staff recommends City Council extend by 10 months, 15 days an interim ordinance which places the moratorium on the legal establishment and operation of medical marijuana dispensaries and direct the City Manager to review and consider options for the regulation of medical marijuana dispensaries.

CITY ATTORNEY MULLEN noted one fact that there is a Court of Appeal case pending involving the City of Anaheim that involves the extent of the City's ability to regulate dispensaries. That case was just set for an oral argument before the 4th District Court of Appeal middle of August and we intend to report back on the decision once that is rendered.

Public Input

CHRIS RICHARDSON, 22712 Marbella, Carson, CA, said he is the one who sent Council the e-mail and presented some pros of opening a medical marijuana dispensary in Oceanside. He also wanted to dispel a couple of the stereotypes that are associated with medical marijuana dispensaries. He believes one of the community's biggest concerns is if you allow a dispensary, it is going to bring in crime. But looking at Los Angeles County, since 2007, it has had medical marijuana dispensaries. Over the last two years it has grown its dispensaries, but if you listen to Chief Bratton, he is very happy that the crime has come down. If Council would allow him to open up a dispensary, it would be discreet. All patients would have to verify and keep with the by-laws of Proposition 215 and SB 420. They would be followed to the exact letter of the law. If Council wants to study what is going to go on with a dispensary, Council should allow one to open up in the City for a year and check it out. If you take it from real time, Council can come up with the data that it is not going to bring in more crime to the City.

ERICA LEARY, 4312 Navajo Avenue, Program Manager for the North Coastal Prevention Coalition, had the opportunity to meet an attorney, Martin Mayer, who has a firm in Fullerton and represents the California Police Chiefs Association and the San Diego County Police Chiefs Association. He is an expert in marijuana law, on the impact that it has had here in California, and is a tremendous resource. She strongly urged the Council to speak with him. He has a wealth of knowledge. She had the opportunity to speak with him by phone following the last meeting when the moratorium was adopted. She asked him what recommendations he gives to local government when they talk about regulating marijuana dispensaries, and he said he urges them not to regulate them, but to ban them. By regulating marijuana dispensaries, you put the City in direct conflict with federal law. She thinks there is a little bit of misrepresentation in the draft ordinance when it states that there is no state regulation or standard on the cultivation or distribution of marijuana. The Attorney General's guidelines do lay out a number of different regulations and the comment that they will ease federal law enforcement on California medical marijuana dispensaries was misrepresented. They are not using enforcement; they are focusing on enforcement that breaks both federal law, and not focusing on state law. Dispensaries are in violation of both state and federal law.

With no further input, **MAYOR WOOD** closed the public hearing.

COUNCILMEMBER FELLER asked if medical marijuana can be dispensed from CVS and Thrifty, etc.

CITY ATTORNEY MULLEN responded that theoretically it could be. No drug store that he is aware of dispenses medical marijuana, but under Prop. 215 and SB 420, he is not aware of any prohibition on a drug store that would dispense in that fashion.

COUNCILMEMBER FELLER stated that since the threatening e-mail, he is very

careful when crossing streets. He would just as soon ban instead of going through the 10 months and 15 days, but he will go along with the Council.

COUNCILMEMBER SANCHEZ said staff is requesting additional time to study this. She **moved** approval [to adopt **Ordinance No. 09-OR0395-1,** "... extending by 10 months and 15 days a moratorium on the legal establishment and operation of medical marijuana dispensaries within the City of Oceanside pursuant to Government Code Section 65858", and direct the City Manager to review and consider options for the regulation of medical marijuana dispensaries in the City].

COUNCILMEMBER FELLER seconded the motion.

COUNCILMEMBER KERN said we need to get the full staff report because we could be on firm legal ground to ban it if it comes back. We are going to have some ideas from the court case the City Attorney mentioned. We will have some clear guidelines in front of us at that time. This gives us some time to come up with strategies on how to deal with this.

Following the reading of the ordinance title, **motion was approved 5-0**.

17. **City Council: Introduction of an ordinance amending Chapter 6 of the Oceanside City Code Section 6.2 (modifications to Uniform Administrative Code) by the addition of Section 304.4.2.1 to allow certain building permit applications a 12-month extension at the discretion of the Building Official; adoption of a resolution increasing the user fee schedule for Development Processing Fees; adoption of revised City Council Policies 300-05 (Extension of Tentative Subdivision Maps) and 300-14 (Enhanced Notification Program); and adoption of new City Council Policy 300-26 (Extensions of Entitlements other than Tentative Subdivision Maps) – Applicant: City of Oceanside**

MAYOR WOOD opened the public hearing. Regarding disclosures, Councilmembers reported contact with the public, staff and BIA. **CITY CLERK WAYNE** reported receiving a copy of the letter from the BIA.

LUCIE DELORME, Administrative Analyst, Development Services Department, presented the proposal to extend development permit time extensions, streamlining the process and fee reductions. Due to the prevailing economic conditions, applicants are struggling to obtain financing for their projects. Allowing these projects to expire is causing a hardship on the applicants, requiring them to resubmit their plans, incurring additional costs and further delaying their projects. By extending the entitlement period for projects citywide, it would provide some flexibility to the development community. In order to streamline our application process and grant these extensions, we need to update our current City Code and policies. Therefore, City staff has developed proposed measures to extend development permits: extending building plan review, extending tentative subdivision maps, and extending all other entitlements, such as development plans, conditional use permits and variances, etc. The process for extension applications has been streamlined in order to expedite the review. Likewise, the fee for the time extension has been revised in order to be commensurate with staff time required to review the extensions. Finally, the notification program has been modified in order to streamline the process for the applicants.

Currently, the City Code allows a 12-month expiration date from the time of submittal for a plan review and allows the building official to grant one six-month extension. Staff is proposing an amendment to City Code Chapter 6 in order to provide one additional extension of up to 12 months. Therefore, an applicant who has already been granted a six-month extension would still be eligible for another six-month extension for a total period not to extend 24 months. Furthermore, the building official would also have the discretion to determine whether or not the plans would be required to comply any technical code updates or any amendments to the laws and ordinances. Currently, the City

Code requires that plans that are extended need to be revised in order to comply with current codes which causes further delays, and their incur more costs having to revise their plans.

Under City Council Policy 300-05, the maximum extension for a tentative subdivision map is 24 months for a total period not to exceed five years. Staff is proposing a maximum extension of 36 months pursuant to the Subdivision Map Act. This would allow for a total period not to exceed a maximum of six years. This is also pursuant to Senate Bill 1185 which allowed for projects that were entitled as of July 15, 2008 and set to expire prior to January 1, 2011, an automatic extension of 12 months.

Currently, Council Policy 300-26; ". . . extensions for entitlements other than tentative subdivision maps" reads that upon expiration, applicants are required to resubmit their application in its entirety. The extension fee for this is 50% of the original application fee. Staff is proposing an amendment to this policy, which would streamline the application process requiring the applicant to submit update documents, not the entire application. The review of the time extension request would be expedited to a maximum of 60 days and the time extension fee would be adjusted accordingly to a flat fee of $600 based on a study of staff time to review the request. In addition, City Council Policy 300-14: "Enhanced Notification Program" has been revised to allow for a more streamlined notification process by allowing the applicant to file one Notice of Application along with the Notice of Public Hearing. This streamlines the process for the applicant and saves them some notification costs. Staff is recommending the approval of the revisions to City Council Policies 300-5 and 300-14, the approval of the revised City Council Policiy 300-26 and the introduction of an ordinance to amend Chapter 6 of the City Code and approve the resolution to revise the time extension fee.

MAYOR WOOD commented it was an outstanding presentation.

Public Input

FABIO MARCHI, 2030 Broadway, said that he is a frustrated applicant. It is very hard when dealing with a city to get a yes or no answer. As an example, he has been calling a few cities this week, leaving voice messages and e-mails, and he did not receive any answer. What is important today is he would like to get a waiver on the fee of the renewal application. He is treated as a developer. He is just one contractor, homeowner, trying to make it. He does not have the experience to deal with a big project, but he does have the belief to improve his house, to improve the City. Unfortunately, he gets a 'no'. What he needs from the Council is to help him. That is the only thing he is here to ask. The reason is that he was supposed to be included on the agenda. Development Services was preparing this report in May. He has been dealing with them since October 2008. He does not know where the mistake is, but $600 for him is a lot of money. Notifying the customers is a $500 fee. He is not the big group of developers; he is just one contractor trying to make it. It is up to the Council if they want to help him.

SCOTT MALLOY, Building Industry Association, San Diego County, represents about 900 member companies and a workforce of 100,000 San Diegans. As everyone is aware now, our construction industry is mired in a deep recession, and it has caused an economic collapse across the country, and now around the world. Just so the Council is aware on how bad the impact is now in San Diego County, there are over 120,000 unemployed people in San Diego County; 40,000 San Diegans are unemployed as a direct result of the downturn in the construction industry. People that he has worked with are gone. The companies that have been around in San Diego for decades are gone. Many publicly traded companies, builders, medium, small and large have left San Diego or simply closed their doors. Our industry is in dire need of economic stimulus and what is before the Council is a key stimulus measure that will help preserve millions of dollars that have been invested in your permitting process and entitlements in your City, and it will also help our industry get back to work sooner. He applauds the City for bringing this forward tonight.

We have one recommendation which is different than what staff has put before the Council and it relates to local permits and entitlements. We believe that any approved entitlement should be granted an automatic one-year extension; they should not be required to resubmit, pay $600 and spend thousands of dollars putting a re-submittal package together and then paying a consultant to manage the process, and wait two months. That is well beyond what other cities have required. Most cities are just simply providing an automatic one-year extension to improve entitlements so we recommend on that issue, that is the direction Council takes. By doing this tonight Council will join over 60 other jurisdictions around the state that have implemented economic stimulus measures in response to the downturn of the construction industry. We need our people back to work. This is everybody, not just wealthy developers.

The construction of the average home creates 3 permanent jobs and helps support up to 2,000 jobs when you look at the direct, indirect and induced benefits of construction. This is a huge driver in the economy and it is hugely beneficial to your City. This will get revenue streams flowing back into the City; both impact fee, permit fee and ultimately tax revenues going back into the City sooner. So this is a great thing that the Council is doing.

With no further input, **MAYOR WOOD** closed the public hearing. Anything we could try to do along the lines with the BIA regarding the $600 fees, etc., he would hope that staff will consider all these and get back to the Council in the future. Regarding Mr. Marchi who has been to council meetings, and, while he is not on the agenda to address an issue pertaining to this and so we cannot vote on this, he would like the recommendations back to staff on this so that this be reviewed. He would be contemplating waiving the fees on this one because this has been an ongoing problem. He would like to see this go back to staff to address this issue on an individual basis and see what comes from there. He does not know the details but if later on they explain to him that is not the reason, then he will understand it.

COUNCILMEMBER SANCHEZ has met with Mr. Marchi twice, and she read the e-mail that he sent. She understood that the step would be that he had to go to the Planning Commission. She asked if that is correct.

GEORGE BUELL, Development Services Director, said that is the process through which Mr. Marchi's project would need to go.

COUNCILMEMBER SANCHEZ said that it will not be fair to Mr. Marchi to go through this whole thing. She knows that staff did waive some fees or did shorten some of the processes and cut down a lot of the costs in terms of the water and all that. She will go ahead and let staff continue on. She would rather get a recommendation from staff regarding that specific case, mindful that what we do for one we have to do for others, which means that somebody has to pay the costs of staff time. Is it going to be general fund again that ends up eating up more of the cost of Development Services. Her concern is that if it is general fund, that means everybody else is helping to fund somebody else's dream.

What we have before us is an extension, a vehicle for the extension and streamlining. She supports the extensions and streamlining. Most of this is sunsetted to address this specific period of time. Whenever you do expedite and streamline, you have to be mindful of ensuring that the public knows what you are doing. When you say that the notice of application is sent with the notice of public hearing in one consolidated notice, and no onsite signage will be required for the time extension request, she is concerned. We are a large City and the ratio of staff to population is a pretty amazing thing. We need to maintain that notice. She is not sure if she can support exactly that. Perhaps, the one notice but put that sign back up so people know what is going on. The sign is not too expensive. Let us not completely take out everything that we worked hard to do. She **moved** approval, but putting back in the sign requirement.

MAYOR WOOD seconded the motion for continuation.

COUNCILMEMBER KERN thinks they went through the public process the first time, so the idea of just extending the time, the public had their input, and all we are going to do is extend the time. A lot of times the sign is still up anyway because the project has been delayed. He is not keen on incurring another cost to make out a sign. He wants to keep this as cheap as possible for everybody concerned. Because of the economic downturn, we just want to extend something that has already been approved and has been to the Planning Commission, had the public hearing or even come to the Council and had the public hearing, so the public is well aware that there is a project coming forward. Because of the economic times we are just going to extend that time. He asked if the State gave us an automatic one year and if the $600 was just to recover staff time.

DEVELOPMENT SERVICES DIRECTOR BUELL responded that the State did grant automatic one year to tentative maps only and our intent here is to match what the State has done with respect to discretionary approvals such as conditional use permit, variances and development plans. Yes, the $600 is to recover staff time.

COUNCILMEMBER KERN understands about having an automatic with no cost, but there is a cost and we have to recover those cost for the taxpayers. He agrees with the $600 right now. The staff has done as much as they can to get it down to the minimum cost, but there is some noticing and things that have to come back to the Planning Commission for approval, etc. He is going to ask staff to bring back on the first meeting in August the other part of the stimulus package about moving all the impact fees to final inspection. We need to help people get through this process so a lot of those impact fees that are not incurred until there is an actual impact, like the water impact fee, that the idea that until people start living there and using the water that there is no impact on the Water Utilities. There is a whole list of them. He talked to Director Buell today about some of those. He does not think the sign is necessary.

CITY MANAGER WEISS clarified the comment that Councilmember Kern made as it relates to both Mr. Marchi and Mr. Malloy's comments. The BIA in their letter, and Mr. Malloy's comments are asking more than what you are just addressing with regards to the time extensions. The time extensions, as they are written here would still require a Planning Commission action which is why the $600 fee. He believes if Council were to go along Mr. Malloy's direction, which would address Mr. Marchi's concern as well, it would be an automatic extension with no need for a fee. An automatic extension would eliminate any Planning Commission action or any ability for the public to come in and look at a time extension. He just wants to clarify that what staff is proposing. Although there is the one year State automatic extension, we are mimicking that for part of it. The other entitlements would still go to the Planning Commission for a time extension, but within a 60-day timeframe.

COUNCILMEMBER CHAVEZ said that he appreciates Mr. Marchi coming here. He is the face of the small individuals investing in this property. He is not with those normally tagged as a developer. He knows that Mr. Marchi wants a clear yes or no answer. Mr. Marchi's regress and direction is actually with the staff through the Planning Commission. That is the answer.

As far as the signs, visibility and connection with the neighborhoods, in our matrix report, they talked about visibility and automation. He asked staff if there is anything they are looking at in automation to provide more visibility to the neighborhoods and the public that they can look online and see what we are doing.

MS. DELORME responded that the new automated software would grant the access online for neighborhoods/communities to look up any type of projects, the status of those projects, any conditions or corrections, any information, when projects were approved, when they were denied and why they were denied, etc.

COUNCILMEMBER CHAVEZ knew that. The sign was a good idea, but now in 2009 we can let the public know what we are doing by asking them to go to our

computer's online website and see exactly what is going on in a lot more detail than by a sign.

Regarding the extension because of the economy now, if we were to give this automatic extension through a request and we were doing it online and we weren't required to go to the Planning Commission, etc. would there be a requirement for a $600 fee. That is the direction he thinks we need to go because of the situation we are in. If this is only an economic issue, then put a sunset clause on this and bring it back and look at it in three years. He would like to see that we do not go through all this bureaucratic operation that is causing not only staff time but also costing people who are trying to invest in a community, money. He would like that to be the direction. He also concurred with Councilmember Kern that we need to look at deferring impact fees until after the project comes through. This way they do not have to carry the investment because people do not generally use their money. What they normally do is take a mortgage on their home or they take a loan, so they are carrying an interest rate on the extension of that loan. If there is any way we can get rid of that as far as the impact fees, that would help people invest here. That is what we want to do. When people invest in a community, then the property values change, people get back to work, etc. It is solving our problem with the private investor, the small investor. He won't be supporting this effort here. He would like to have staff go back and do this automated and not do the $600 staff time, and we start looking at deferring impact fees. He is not supporting this as written. His direction is to go back and rework it.

COUNCILMEMBER FELLER said that the signs are kind of a sore subject with him because they are generally covered in graffiti, split in half, on sideways, etc. The matrix system does allow great detail over the computer. He can count on one hand the number of people in his 8½ years on the City Council that have called him about what kind of projects are coming up in their neighborhood. It is 4 or 5 people, and they are very capable of using the computer. On advanced mail notification, it says discretionary approvals for single family projects, and he asked if these include things like water heaters.

MS. DELORME responded no; this applies to projects that have been submitted for plan review, such as room additions and new single family homes. Water heater permits are issued over the counter.

COUNCILMEMBER FELLER said that is why he said this was discretionary approval. That is what over the counter is. They are almost automatic. He thinks that discretionary probably specifies a little more detail.

DIRECTOR BUELL stated that in the sense of the word discretionary, as we are using in the report, discretionary would be something that goes to either the City Planner, the Planning Commission and possibly the City Council for approval. With respect to the things that we would do over the counter, we would use the term perhaps ministerial for over the counter.

COUNCILMEMBER FELLER asked why we can't, as with tentative maps, do automatic one-year extensions.

CITY ATTORNEY MULLEN responded that for tentative maps you could do an automatic one-year extension. You' would have to have an ordinance in place that authorizes it. Oceanside does not. He believes that our initial life of a tentative map is 24 months and under this proposed policy, you could come in for a one-time extension of up to three years. And then, if you add that to the one-year extension granted by the State for certain maps, that would get you up to six years. There would be no fee if you had a local ordinance providing for an automatic one-year extension.

COUNCILMEMBER FELLER asked, as suggested by Mr. Malloy, if there is a reason why all building permits aren't administerial.

DIRECTOR BUELL responded that we could go back and prepare a new proposal that would presumably amend existing policy and City ordinances to enact what Mr. Malloy has proposed. As the City Manager mentioned, if that were the case, let us say that we have a proposal for something to be built and the zoning on the particular property were changed. The City has a different vision for the area. Then the individual would retain that right to develop the plan as approved. With having the additional review or having the plan go back to the Planning Commission or back to the City Council, it would give the opportunity for the Planning Commission or Council to again give its blessing to the project before it were to be constructed. That would be an instance where additional review may be in the best interest of the City.

COUNCILMEMBER FELLER asked if there is something that would be appropriate wording that would change what that could be.

CITY ATTORNEY MULLEN imagines we could draw up a local ordinance that says you get an automatic one-year extension on your tentative map, unless the zoning for the particular area is changed. Maybe that is one thing that we could look at.

COUNCILMEMBER FELLER would feel more comfortable with that rather than going back through an already busy process for our Planning Commissioners as well as staff. In his estimation, they are going to be getting busier, but it is not there yet. He asked how this affects expired applications.

DIRECTOR BUELL responded that applications that have expired since last July have been considered by staff to be tolling. In essence, we have contacted all the applicants with these types of projects and if they have advised us that they intend to move forward with them and we consider those projects to be tolling. Mr. Marchi's project is one of those projects. He has submitted an application form saying that he intends to proceed with the time extension but he is waiting to see what the outcome of this meeting is or perhaps a future meeting.

COUNCILMEMBER FELLER prefers to go down that path. He is looking for something that is a stimulus for development. Adding another process to anybody, whether it is a single family project or some sort of complex development, we need to give them the opportunity to regroup and come forward without extra dollars expended.

COUNCILMEMBER SANCHEZ said we are believing that our residents are going to be checking the City's website almost on a daily basis. She does think that is going to happen. She does not think that getting rid of noticing completely does it. So she does not think that most of our residents are using a computer. Probably a good 40-45% does, but not a majority. That is not adequate public notice in this time, perhaps at some later time. Building is always going to happen in the City. She feels that the noticing requirement which is part of it should remain. She is withdrawing from her motion the part about the signs, but she feels that the notice that is part of staff's recommendation is something that we need to do. She wants to again say that this is by definition an extension during a certain period of time. It is not a stimulus. If we had power over the banks, it would then be stimulus. People would be doing things, but no one is going to be doing anything; that is why we are here. This is not a stimulus kind of activity. This is so that projects that would have been built, have a hope to be built. We want things to happen. We want buildings to go up. If we keep extending times, then things will sit there and nothing is going to happen until the deadline. To her, it is more of a slowing down of the process if we start to talk about giving these automatic extensions that go on forever. She thinks what staff has done, except for the sign, is the best thing we can do. Her **amended motion** is to approve staff's recommendations.

MAYOR WOOD, as **second,** concurred with the amended motion.

COUNCILMEMBER CHAVEZ commented that staff had a number of items before the Council, a number of ordinances and extensions. Looking at it, the first ordinance that

deals with the modification, as far as the extension, is the addition of Sub-section 304.4.2.1, Article I, Section 6.2. It appears that everybody concurs with this one element for a 12-month extension. We are not dealing with fees, signs or anything like that. So depending on the vote of the motion, he would like to resubmit that we do move approval of the first ordinance that has been provided to us.

CITY ATTORNEY MULLEN said that the first ordinance does not deal with the extension of subdivision maps which is what has been dominating the discussion. The first ordinance deals with the life of a building plan, once the map would have already been finaled at that point. The question in that ordinance is do you give a 12-month extension as opposed to a 6-month extension as presently allowed, and this has an explicit sunset date of July 31, 2010. This is sort of distinct from the discussion about whether to extend subdivision maps.

COUNCILMEMBER CHAVEZ stated that he would make a subsequent motion after we vote on this.

Following titling of the ordinance, ". . . amending Chapter 6 Article 1 of the Oceanside City Code by the addition of Subsection 304.4.2.1 to Article I, Section 6.2(e)," **motion failed 2-3**, with Councilmembers Kern, Chavez and Feller voting no.

COUNCILMEMBER CHAVEZ moved to introduce the ordinance as titled, adding Subsection 304.4.2.1, Article I, Section 6.2 which deals strictly with extension to 12 months, which has a sunset clause that expires on July 31, 2010.

COUNCILMEMBER KERN seconded the motion.

Motion was approved 4-1, with Mayor Wood voting no.

MAYOR WOOD determined to hear Item 27 next.

CITY CLERK WAYNE asked, for clarification, if it is correct that Council is not taking action on any other items under staff's recommendations tonight.

COUNCILMEMBER CHAVEZ responded that is correct. We are only doing the extension for 12 months.

COUNCILMEMBER SANCHEZ commented that it means we are eating up the fees.

INTRODUCTION AND ADOPTION OF ORDINANCES

The following items are ordinances for introduction or adoption by the City Council/HDB/CDC. Ordinances are laws of the City of Oceanside and require introduction and adoption at two separate City Council meetings (urgency ordinances are an exception, and may be introduced and adopted at one meeting as an emergency measure). The City Council/HDB/CDC has adopted a policy that it is sufficient to read the title of ordinances at the time of introduction and adoption, and that full reading of ordinances may be waived. After the City Attorney has read the titles, the City Council/HDB/CDC may introduce or adopt the ordinances below in a single vote. There will be no discussion of the items unless requested by members of the City Council/HDB/CDC or the public through submittal of a Request to Speak form prior to the commencement of this agenda item.

27. **City Council: Adoption of an Ordinance of the City of Oceanside amending the Zoning District Map from Rancho Del Oro Specific Plan and Light Industrial (IL) to El Corazon Specific Plan for property located northeast of the intersection of Oceanside Boulevard and El Camino Real** ***(introduced 6/3/09, 5-0 vote)***

There are no requests from the public.

[Councilmember Sanchez left the dais.]

COUNCILMEMBER CHAVEZ moved adoption [of **Ordinance No. 09-OR0397-1**, "... amending the Zoning District Map from Rancho Del Oro Specific Plan and Light Industrial (IL) to El Corazon specific plan for property located northeast of the intersection of Oceanside Boulevard and El Camino Real"].

COUNCILMEMBER KERN seconded the motion.

Motion was approved 4-0, with Councilmember Sanchez away from the dais.

MAYOR WOOD decided to hear Item 12.

[Councilmember Sanchez returned to the dais.]

CONSENT CALENDAR ITEM – pulled for discussion

12. **City Council: Authorization for staff to enter into negotiations to create a Memorandum of Understanding between the Oceanside Unified School District, Boys and Girls Club of Oceanside, and the City of Oceanside for significant upgrades to and shared use of Jefferson Middle School** [permission only to negotiate]

COUNCILMEMBER SANCHEZ said that when she saw this, she was extremely concerned because we have made a lot of promises to the kids in Eastside. The Eastside community is the largest poorest part of town. As a community, we feel proud that things that were done in Eastside were done with the community. She is talking about lights and paved streets, etc. Some things have not changed and that is the status of this neighborhood. Having lived there, having grown up there, having gone to school with kids who later got into drugs and gangs and were killed, people's kids that she has known, is a very difficult situation. The money that we get from CDBG and grants depends on the statistics of these neighborhoods, Eastside, Crown Heights and Mesa Margarita area neighborhoods, and these funds don't ever go directly to these neighborhoods. It goes to organizations. When we talk about community development, we never have done it in Eastside in the last nine years. By committing to them this past nine years that we were going to do something for that specific park, when we asked the kids what they needed to help them to get off the streets, to not do drugs, to continue on with school, they want a gym, a basketball court. We made promises to them. What is before us today is a deviation from that. We know every time you invest in a community you have less costs later on, be it public safety cost, welfare, emergency room visits, etc. In the end we save money, we save lives. We create a better economic situation when we invest in a very specific neighborhood and its institutions. Now because the Boys and Girls Club would like to, we are doing something somewhere else, which is an old dump for kids. It now has buses parked in it. This is the wrong thing to do. We need to do right by this neighborhood. We just completed an economic development study of the corridor Crown Heights and Balderrama Park and are in the process of redoing Balderrama Park Recreation Center, and here we are going to stop that. Not only that, but we re-prioritize our priorities. We can't do everything. What we need to do is complete the projects that we started out with. Do something in this neighborhood. The CDBG money that goes out to everywhere needs to start having a place at least in Eastside, at least to fix some of the problems that we said we would fix. She cannot agree with this. It is a wrong place. It is a dump. It has so many environmental issues and she does not want to put kids at risk at a dump. We need to do the right thing, and this is deviating from what we should be doing. She cannot support this.

MAYOR WOOD asked staff to address the issue.

MICHELLE SKAGGS LAWRENCE, Deputy City Manager, said that what we are asking for today is simply have the Council's permission to even have a discussion. We

were approached by the Boys and Girls Club. She reminded Council that Superintendent Perondi came and spoke to Council in early February. We did not want to spend any time in discussions with them unless we had the Council's approval to do so. So the action tonight does not commit us to doing anything other than allowing us to talk to them. We don't know if this would even work. We don't even know if this is a good idea at this point. She does not know because we have not spent enough time looking into it.

MAYOR WOOD explained that the School District and the Boys and Girls Club did come to his office and talked about this and asked whether three entities could pitch in on this. We've already committed to supporting Balderrama Park and the new facility. He didn't think it was going to go further than having to go around the Council and try to get input, talk to the neighborhood, and do a little more footwork. He only found out today that Councilmember Sanchez had not been contacted by those groups, which was the first thing that they needed to do considering the neighborhood. He also knows that the Eastside neighborhood group had not been contacted yet. He didn't want to get ahead of ourselves where we look like we are going for Phase II instead of Phase I without ever talking to them. He is a little disappointed if that is what is happening. We are going to keep our commitment to the Balderrama Park, the building that we are going to put there and the upgrades. He does not know if this is a better deal or not. We need to keep our word. He also worries that the Boys and Girls Club might charge a fee which, seems to be a new policy. We might keep some of the local Eastside members from joining or participating in this new facility if it is built there, and it is run by the Boys and Girls Club under a new policy.

COUNCILMEMBER CHAVEZ does not see this as so much as a deviation as an enhancement. It is early and we need to look at the different options and that is what this is asking. Just to the economic reality, he asked staff what the current budget or plan is to actually build the Balderrama Park.

DEPUTY CITY MANAGER LAWRENCE responded that the estimate at this point is $12,000,000.

COUNCILMEMBER CHAVEZ asked if we have that current money put aside somewhere to do this.

DEPUTY MANAGER LAWRENCE responded we do not. It is in the CIP but it is unfunded.

COUNCILMEMBER CHAVEZ said it is an unfunded obligation. We have an opportunity here, just as we did with Mance Buchannon, where we worked with the school district who has bond money to do things like this. He knows that the Boys and Girls Club has had a significant donation with a timeline on it to do something, and we have the opportunity for the City to look and see if we can do this. He thinks that when we passionately talk about our communities, we need to also recognize that there are other entities who are actually involved in the communities themselves. A good example is the School District because they deal with the children every day and gives them the future where they can go. It can also be said if they look at the Board members of the Boys and Girls Club they also do that. We need to recognize what makes a community is not one person but everybody, pulling in one direction for the betterment of everyone. It is more than appropriate that we authorize the staff to carry on this conversation so he **moved** approval to authorize to enter into negotiations regarding creating a memorandum of understanding (MOU) between the Oceanside Unified School District (OUSD), Boys and Girls Club of Oceanside (BGCO) and the City of Oceanside (City) for significant upgrades to and shared use of Jefferson Middle School.

COUNCILMEMBER KERN seconded the motion. He would agree with Councilmember Sanchez if we were taking this and going into South Oceanside and abandoning the neighborhood, but we are talking about a facility that is basically four blocks away from Balderrama and close to a middle school where most of those kids in that

neighborhood go to. We are not abandoning the neighborhood. We are doing the best job that we can. Since he has been on the Council, one of the things that he has been trying to stress is breaking down those silos between School District and non-profits and City. Here is an opportunity to break down those silos and benefit the neighborhood. Otherwise, we will be sitting here another 9 years because there is no money in the CIP budget. There is an opportunity here to actually do something for that neighborhood, and we need to go out and talk to community partners. We are talking about a community coming together and building something for an area of town that really does need it. If we just keep going down the same path, we are going to have the same result. In going forward with this idea and talking with them, he agrees with Deputy City Manager Lawrence that it may not come to anything, but at least we tried to do something for that community instead of saying yes we have a $12,000,000 plan on the books with no money to put anything in. For the benefit of the community, we need to move forward with this.

COUNCILMEMBER SANCHEZ said that the process is extremely important. Growing up in this neighborhood, we all worked together, and it was about empowerment. Now, you are taking empowerment away and giving it to someone else outside the neighborhood. When we apply for funding, we are not going to get funds for two projects. They are going to be in competition. What she sees is this is subverted. Whenever we talk about economic development we are talking about people getting on these boards for these local economic development projects and they decide; this is what gives the kids role models of their own parents. That is called empowering a neighborhood. We have been talking about doing something like that in the business district. To cut this up and say it is four blocks away that is not Eastside and is not even included in the census tract is a wrong thing. She is asking the Council to please do not do this to this neighborhood. You have not even asked them to come to the table and you are deciding for them. That is the absolute wrong thing to do.

COUNCILMEMBER FELLER said asking them to the table is what goes along with developing a plan like this. It breaks his heart to see that neighborhood. We have spent hundreds of thousands of dollars on S.U.N. Project, as well as over in Crown Heights. Regarding some of the upgrades that we have done, he does not know what makes that kind of thing happen, but they're sure not what we left them with. For the families that grew up in that neighborhood, they would love to have had something like this for their future. He thinks this is just a start to find out if that is something that will work for that neighborhood, without one of us going over there and undermining every step of the way. He thinks this is an opportunity for us to include that neighborhood and see what they want in a facility. This is going to be an outstanding opportunity to make it easier for them to go to school at Jefferson. That is the thought process; put in a new entrance to Jefferson and at the same time Mission Elementary School. He **called** for the question.

COUNCILMEMBER CHAVEZ seconded the **call** for the question.

Motion on the call was approved 3-2, with Mayor Wood and Councilmember Sanchez voting no.

On the main motion, **motion was approved 3-2**, with Mayor Wood and Councilmember Sanchez voting no.

MAYOR WOOD announced that it is past 10:00 p.m. There is a policy regarding starting any items past 10:00 p.m. The remaining items are Council reports [Items 22-26]. He needs input or a motion to go forward or finish right now.

COUNCILMEMBER CHAVEZ moved to just end the meeting now.

COUNCILMEMBER KERN seconded the motion since only Council reports remain.

Councilmembers concurred.

ADJOURNMENT

MAYOR WOOD adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 10:03 p.m. on June 17, 2009.

The next regularly scheduled meeting is at 4:00 p.m. on Wednesday, July 1, 2009.

ACCEPTED BY COUNCIL/HDB/CDC:

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Barbara Riegel Wayne
City Clerk, City of Oceanside