



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

CITY OF OCEANSIDE

JOINT MINUTES OF THE:

CITY COUNCIL SMALL CRAFT HARBOR DISTRICT BOARD OF DIRECTORS COMMUNITY DEVELOPMENT COMMISSION

MAY 21, 2008

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**
Rocky Chavez

**Councilmembers
HDB Directors
CDC Commissioners**
Jerome Kern
Jack Feller
Esther Sanchez

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

Treasurer
Rosemary Jones

**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.

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB) and Community Development Commission (CDC) was called to order at 4:00 PM, May 21, 2008 by Mayor Wood.

4:00 PM - ROLL CALL

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

CITY COUNCIL, HDB, and CDC CLOSED SESSION ITEMS

Closed Session to discuss litigation, property acquisition, labor relations and personnel matters

CITY ATTORNEY MULLEN titled the following agenda items to be heard in closed session: Items 2A and 2B [Item 1 would not be heard].

Closed Session and recess were held from 4:01 to 5:02 PM.

5:00 PM – ROLL CALL:

All Councilmembers were present. Also present were Assistant City Clerk Trobaugh, City Manager Weiss and City Attorney Mullen.

Invocation: Pastor Carl Souza

Pledge of Allegiance: Nichols Elementary School Students

PROCLAMATIONS AND PRESENTATIONS

Presentation – “Pet of the Month” presented by Julie Bank, Executive Director of the North County Humane Society & SPCA

Proclamation – Safe Boating Week

Presentation – Mayor’s Youth Sports Recognition and Appreciation Award

Presentations were made.

3. CLOSED SESSION REPORT BY CITY ATTORNEY

CITY ATTORNEY MULLEN reported out on the following items previously heard in closed session:

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.

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

A) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (SECTION 54956.9(a))

Alvis et al. v. City of Oceanside, U.S. District Court Case No. 06CV0911

Item was discussed; no reportable action.

B) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (SECTION 54956.9)

Consideration of amicus support – Costa Serena Architectural Committee v. The Superior Court of San Diego County/Costa Serena Owners, Superior Court Case No. GIN053352, Appellate Court Case No. D052235

In closed session, by a 5-0 vote, Council authorized the City Attorney to file an amicus brief in support of the Architectural Committee.

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

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

Advance written request to reserve time to speak: None

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

LARRY BARRY, 3973 Brown, discussed recent crime in Oceanside and stated we don't need this type of publicity or this type of incident in the City. It will take a community effort to clean up our neighborhoods. There are multiple families living in one house. He sees many cars from Arizona and Oregon. Both states put more restrictions on illegal immigrants, and a lot of immigrants are moving to Oceanside. People are parking on lawns, etc. There are also squatters breaking into foreclosed houses. In the year 2000, 14% of the students were ESL (English as a Second Language) students; now 60% of students in the Oceanside School District are ESL. Deportation should be expedited.

CONSENT CALENDAR ITEMS [Items 5-13]

All items listed on the Consent Calendar are considered to be routine matters or formal documents covering previous 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 Council/HDB/CDC or the public through submittal of a Request to Speak form prior to the commencement of the agenda item.

The following Consent Calendar was submitted for approval:

5. Council/Harbor/CDC: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)
6. Council: Approval of a purchase order in an amount not to exceed \$121,000 to Dispensing Technology Corporation of Moorpark, California, for the purchase of a graffiti mitigation truck for Code Enforcement; and authorization for the Financial Services Director, or designee, to execute the purchase order
7. CDC: Approval of Amendment 1 to the Option Agreement extending the term of the agreement from May 31, 2008, to May 31, 2009, for the sale of property located north of Lake Boulevard between College Boulevard and Thunder Drive to Southern California Presbyterian Homes for the development of an affordable multifamily senior residential rental complex; and authorization for the Chairman to execute the document (**Document No. 08-D0322-3**)
8. Council: Approval of Amendment 1 in the amount of \$87,258 to the professional services agreement with Foothill Associates of San Diego to complete the Subarea Plan and present the final to the City Council in 2008, and authorization for the City Manager to execute the amendment; and approval of a budget appropriation in the amount of \$40,000 from the Drainage District 1-A Unallocated Fund Balance to the project account (**Document No. 08-D0323-1**)
9. Council/CDC: Approval of a five-year professional services agreement with Stone & Youngberg, LLC, for bond underwriting services to assist the City in the structuring, marketing and sale of negotiated bonds to meet the financing requirement of specific future projects, when necessary, with compensation to Stone & Youngberg to be paid from the bond proceeds upon successful sale of the bonds; and authorization for the City Manager to execute the agreement - **a) Document No. 08-D0324-1 (Council); b) Document No. 08-D0325-3 (CDC)**
10. Council: Approval of a five-year CPI property lease agreement with Hobie Cat Company, a Missouri State corporation, for the use of City-owned property at 4925 Oceanside Boulevard, for a minimum total revenue of \$2,368,538.53; and authorization for the City Manager to execute the agreement (**Document No. 08-D0326-1**)
11. CDC: Approval of a loan application in the amount of \$95,460 under the Community Development Block Grant (CDBG) Housing Rehabilitation Program

12. Council: Adoption of **Resolution No. 08-D0327-1**, ". . . regarding intention to issue tax-exempt obligations," for the Emergency Land Outfall Replacement project, to provide an option for the Wastewater Fund to reimburse the Water Fund using tax-exempt bond proceeds in the future if it becomes necessary
13. Council: Authorization to award a contract in the amount of \$700,465.55 to Grindline Skateparks, Inc., of Seattle for the Oceanside Skatepark Project – Bishop and MLK Parks, and authorization for the City Manager to execute the agreement upon receipt of all supporting documents (**Document No. 08-D0328-1**)

DEPUTY MAYOR CHAVEZ moved approval of the Consent Calendar; **COUNCILMEMBER SANCHEZ seconded** the motion; **motion was approved 5-0.**

Since it was not yet 6:00 for the time certain public hearings, Item 16 was heard next.

MAYOR AND/OR COUNCILMEMBER ITEMS

16. **Request from Councilmember Feller for presentation by Karen Johnson of the Gibraltar Foundation on "Overweight by EIGHT – Curbing Childhood Obesity," and possible endorsement of the program by Council**

COUNCILMEMBER FELLER stated this project that Karen Johnson has been working on for 4+ years is about physical fitness. The Gibraltar Foundation's mission is to halt childhood obesity and increase activity in all generations. She has recently become an official President's Challenge advocate and is working with the President's Council on Physical Fitness. Sports are the way we get the word out to the youth in our community. It will help Americans get the picture that we need to stay active. It is important that we support an organization that has taken the effort to build a track at Ivey Ranch School, as well as an artificial surface, with no school or City money. We need to raise the awareness. This is an opportunity for our children.

KAREN JOHNSON, Gibraltar Foundation, stated we realized that our middle and high schools had ¼-mile tracks and athletic fields, and our little kids did not. It is the little kids who are getting bigger by the day. So they created 1/8-mile tracks and athletic fields so they could start at an earlier age to pursue some of the sports. If one of these is put at every elementary school, it would serve a 2-mile radius, with parents going out every night and on weekends to walk. The Ivey Ranch track has become a center of activity since it has been open. We are looking at working together with Council to get a resolution similar to the one just passed by OUSD, that would recognize all the things we need to do at a younger age through our schools, communities, City and Chamber of Commerce. She then introduced additional speakers and provided their background.

PHILIP GOSCIENSKI, professor of pediatrics, stated the United States is in the midst of 4 epidemics, only 2 of which are recognized (obesity and type 2 diabetes) and none of which are being addressed in a manner that will prevent future crises. The incidence of obesity has quadrupled among children since 1970, mostly as a result of not enough physical activity. Overweight children are likely to become overweight adults. In any major medical center, approximately 50% of diabetics will be Type 2, which is described as an exercise deficiency disease. The Center for Disease Control and Prevention predicts that 30% of children born in 2000 would have Type 2 diabetes by the time they reached middle age; among Hispanic females, that number is 53%. The complications of diabetes occur more rapidly in young persons with diabetes. Life expectancy in this country has peaked and is about to decrease. More than 1/3 of Americans are obese, and obesity lowers life expectancy by approximately 12-14 years.

Osteoporosis is the 3rd epidemic and is mostly the result of inadequate weight-bearing exercise. The incidence of hip and spine fractures will increase several-fold compared with the generation that grew up without TV, computer games and 32-ounce soft drinks.

Alzheimer's disease is the 4th epidemic, and neurologists predict that by the year 2050 Alzheimer's disease will quadruple. Both obesity and Type 2 diabetes greatly increase the risk of Alzheimer's disease.

Other communities have recognized the problem, are doing something about it and are getting results. He would like to see Oceanside among those. The pay off for a program for increased activity includes a healthier community, better school performance, fewer disciplinary problems in school and an eventual reduction in the cost of health care. Oceanside has the opportunity to do something now.

ASH HAYES, instructor at UCLA and former Director of the President's Council on Physical Fitness and Sports, is involved with both the Gibraltar Foundation and the San Diego Council on Physical Fitness and Sports. Physical education has the same general responsibilities as other subjects regarding social and emotional growth and development. He covered the physical fitness and motor skill components. Adequate physical fitness and motor skills are essential to provide health benefits and job performance. There is research data that establishes a significant positive relationship between academic achievement and the physical fitness of students. Job performance benefits are increased work production, lower health and accident costs, lower worker compensation costs and better worker attitudes. Preparation for work has always been a significant responsibility of education, and physical education should be a part of this responsibility.

He recommended that Council support work of the OUSD to provide quality physical education for all students, support work of the Gibraltar Foundation to help kids be fit and lead the City to take the steps needed to provide opportunities and encouragement for citizens to be physically active.

ARLEEN HAMMERSCHMIDT, 2390 Ivey Road, retired physical education instructor and supervisor, stated that we specifically request that Council take a stand for the health and wellness of our City's residents. She cited a quote from a pediatrician that said if we don't stop the accelerating rates of obesity and diabetes, this generation of children will be the first not to outlive their parents. The California Endowment Policy stated that the high levels of obesity in our children, particularly in Latino, African-American and Native American youth, indicate the need for our schools to make physical education a priority. If we add Pacific Islander, that is our demographic in Oceanside. Therefore, OUSD has made quality physical education a priority in a resolution adopted by the Board of Education. Our legislators have taken a public stand for health and wellness of all Californians by adopting Senate Concurrent Resolution No. 76. May is Physical Fitness and Sports Month, and we urge Council to take a stand, continue their commitment to an active Oceanside and pass a similar resolution.

DEPUTY MAYOR CHAVEZ felt this was extremely important. We need to do more than a proclamation. He asked if there is anything specific the Foundation could give the City to actually do something about.

MS. HAMMERSCHMIDT believed the first step is to come to an agreement on a resolution that states the vision that this Council has. The OUSD resolution is not a proclamation but a stand for the health and wellness of our students. There are many phrases in the OUSD draft provided that could be tailored to a city. Staff might find something that addresses specific Oceanside visions. However, the first thing is to take a stand and resolve to make it possible that members of our community have venues to be active.

DEPUTY MAYOR CHAVEZ felt Council could work something out for a resolution that would be appropriate for the City. He again asked if cities have done something specific. He appreciated what OUSD has done, but we have 5 school districts. We should ask Vista, Fallbrook, Bonsall and Carlsbad to do the same thing, since we have children in all of those school districts. This is a serious issue. We need to find a way to partner with the Foundation for something specific.

MS. JOHNSON clarified that we really just wanted to open up the discussions tonight and continue to work together in the big picture. She is starting to work with schools in Vista, Bonsall and Camp Pendleton.

COUNCILMEMBER FELLER stated this is a great opportunity for us. The school districts have to dedicate the property if they are going to put these tracks out there. We could ask City staff to work with the Foundation to work out a resolution and then come

back with that resolution; that is the start we need. Beyond that we can come up with ideas such as parking, etc.

CITY MANAGER WEISS indicated staff would meet with Ms. Johnson and will process something through the Parks and Recreation Commission.

[Recess was held from 5:52 – 6:02 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.

14. CDC: Consideration of a resolution approving Tentative Map (T-201-07), Development Plan (D-207-07), Conditional Use Permits (C-202-07 and C-204-07) and Regular Coastal Permit (RC-210-07) for a mixed-use development consisting of 10 condominium units and approximately 2,000 square feet of ground floor office-retail uses located at 314 North Cleveland Street (formerly Yellow Cab) – Tradewinds – Applicant: Michael Chegini

(This hearing was continued from the April 16, 2008, and May 7, 2008 meetings)

- A) Chairperson opens public hearing – hearing opened
- B) Chairperson requests disclosure of Commissioner and constituent contacts and correspondence – disclosures reported
- C) Secretary presents correspondence and/or petitions – None
- D) Testimony, beginning with

SHAN BABICK, Associate Planner, reviewed that the project consists of a 4-story, 10-unit residential condominium with the ground floor commercial/office retail at approximately 2,000 square feet. It is located at the former Yellow Cab site. The project proposes 23 parking spaces, including 6 lift spaces, which means they allow for a hydraulic lift for 6 parking spaces. This system has been utilized for a long time. The proposed project is a contemporary style; however, this is a historic district (subdistrict 1A). We want to make sure that the project is consistent with the historic flavor of the district. For example, the brickwork ties into the historic bricks of the Travelers Hotel located to the north. Additionally, we want to create a pedestrian atmosphere. In the historic block, the Travelers Hotel is set back about 4-5 feet, and a couple of properties to the south are also set back. The rest of the buildings are on the property line. This project provides a 2-3 foot setback to bring that pedestrian feel to the ground floor, creating a pedestrian atmosphere. The building is also stepped back, which reduces the bulk and scale of the building, which also makes it consistent with the historic district. The historic district’s maximum height is 45 feet; for the rest of Subdistrict 1, the buildings can go up to 140 feet. We have several buildings at 90 feet; and this is half that scale with the 45-foot height limitation. It also has defensible space with the balconies. While they don’t have to replicate the historic building, they have to compliment it.

The project is processing a conditional use permit to reduce the parking. According to the parking analysis, they can reduce 10%. They have done that, reducing it from 26 parking spaces to 23 spaces. That is allowed under the Zoning Ordinance. We believe this project meets the intent and goals of the Redevelopment Plan, General Plan and the Zoning Ordinance, especially the historic district. The project provides a mixed-use component, much needed office space downtown, office retail and a residential component to support the office retail space. The Design Review Committee approved this by a 3-0 vote, and the Redevelopment Advisory Committee (RAC) by a 5-1-1 vote. Staff recommends adoption of the resolution.

Applicant

JENNIFER BOLIN, Principle Architect, AOS Architecture, stated the design issues and intent of this project were covered. Regarding the historic nature, we did a similar feeling and also scaled the building intentionally to the adjacent one, which is the most

historic on the block; however, it is nice to also make a statement for modern architecture so that over time it ages gracefully, rather than mimicking something that was built in a different time period. We exceed all of the zoning requirements for open space, and we conform to the height limit.

Public Input – None

Rebuttal – None

MAYOR WOOD closed the public hearing.

COUNCILMEMBER FELLER stated this is a “wow” project; it absolutely fits. It brings in approximately \$70,000 in tax increment for this vacant land. He **moved** approval.

DEPUTY MAYOR CHAVEZ **seconded** the motion. He highlighted the quality material being used for this building. There are set backs at different levels. He wished the applicant could have acquired the property just to the south; it would have been nice to expand this. This building compliments the Travelers Hotel.

COUNCILMEMBER KERN noted that the building is pretty close to the ocean and asked how well the brushed aluminum around the windows will hold up.

MS. BOLIN explained that they will do a factory finish on the aluminum, so it will be fine.

COUNCILMEMBER KERN felt the bricks were a little light; he did not want them the same color as the Travelers Hotel, but it seems like there is a big contrast with color.

MS. BOLIN stated that they explored using a darker brick, but it made the building heavy. It is more to reference the texture than the color. Those are actually painted bricks at the Travelers Hotel. We are using an authentic brick. We explored the other color schemes, and it just made it too heavy for the building. They also have incorporated a yellow colored brick.

COUNCILMEMBER KERN noted there is a lot of glass and aluminum, and he was concerned about reflection and having light bouncing off, especially towards the evening, and cars driving down the street.

MS. BOLIN stated that at night time, the building will be lit up from the inside and be very dramatic. We can use a lower reflective glass for the tower. The rest will be just the lower residential. If Council wanted us to look at using a non-reflective glass, they would.

COUNCILMEMBER KERN felt that could be worked out since Cleveland Street is a white concrete street, with the added reflection off this building. That is his only concern. It is a great project.

COUNCILMEMBER SANCHEZ asked the amount of residential versus the commercial.

MR. BABICK responded it is 10% commercial versus residential.

COUNCILMEMBER SANCHEZ clarified that she was asking about square footage. That includes parking for the residential versus the parking for the commercial. Commercial is only 5 parking spots.

MS. BOLIN responded that it is 2,000 square feet for the commercial and 21,000 square feet for the residential, including the elevator and circulation.

COUNCILMEMBER SANCHEZ pointed out that this is a historic district, and she has seen a proposal before to actually move other historic houses and truly make this retail, converting historic buildings into some kind of retail historic district in downtown. This is definitely not that. Most of the first floor seems to be parking. Because this is zoned commercial, she was hoping to see truly retail restaurant/entertainment on the first floor,

not parking or residential. Because the building is on 2 lots, it looks pretty massive. It is not consistent with historic resources, looking like it is going to tower over the Travelers Hotel. She did not like the Mexican fan palms in the landscaping. The reduction in the front setback from 10 feet to 2.5 feet, instead of trying to build for a restaurant that may want to have some place for outdoor dining, will prevent that. Solana Beach passed an ordinance recently to exclude office on the first floor to keep its sense of a walkable community, bustling downtown. This project does not encourage a walkable community. It is not a mixed-use project; it is parking on the first floor, with a small strip being retail or office. That does not fit the criteria. She would like to see more restaurant, retail, entertainment on the first floor. This is on top of what we did for the 5 blocks, which is mostly parking and residential. It is not getting us to where she would like to see us as a truly walkable community with exciting shops. We are approving ourselves out of a walkable community. We talked about the general concepts of a walkable community about 8 years ago, and we seem to be going farther and farther away from that by building more and more residential in the commercial area and not sticking to the idea of a true mixed use that would really work and encourage a daytime crowd so that we can attract restaurants and other higher end retail. She liked the design, but not for this site, which is the heart of downtown. She hoped to having people walking around, looking at shops. It is a bad fit.

Motion [to approve staff recommendation and adopt **Resolution No. 08-R0329-3**, ". . . approving a tentative map, development plan, regular coastal permit and conditional use permits for the construction of a mixed-use project consisting of 10 multi-family units and 2,000 square feet of ground-floor office-retail uses located at 314 North Cleveland Street – Applicant: Michael Chegini"] **was approved 4-1**, with Councilmember Sanchez voting no.

15. **Council/CDC: Consideration of a resolution for Zone Amendment, Zone Text Change and Notice of Availability of the Review Draft of an Amendment to the Local Coastal Program for Zone Text Changes to Articles 4, 12 and 41 of the "D" Downtown District Zoning Ordinance (ZA-200-07 and LCPA-200-07)**

(This hearing was continued from the May 7, 2008 meeting)

- A) Mayor opens public hearing – hearing opened
- B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – disclosures made
- C) City Clerk presents correspondence and/or petitions – copies of emails received by the Mayor/Council
- D) Testimony, beginning with

KATHY BAKER, Redevelopment Manager, reviewed that the City has been working on cleaning up our Zoning Ordinance for the Redevelopment Area for the past 3 years. The City has been trying to create a more user-friendly document for the downtown. Toward the end of the process a letter was received from the Executive Director of the Coastal Commission advising cities up and down the coast that, if you are going to be proposing a project that had a use that was not already permitted within your city, the city is required to do a Local Coastal Plan Amendment and also to amend their Zoning Ordinance to allow for these types of uses. We knew that the Beach Resort Hotel was proposing fractional timeshare units, which the Zoning Ordinance did not currently have a definition for. In order to comply with the Executive Director's direction, we decided to add these definitions to our Zoning Ordinance. In April 2007, Council did approve those amendments to the Zoning Ordinance, in addition to an amendment to the Local Coastal Plan (LCP) since our ordinance is our implementing document for the LCP. The Coastal Commission held a hearing in December 2007. At that hearing, Coastal Commission staff had added several suggested modifications. In response, the City expressed concern with a number of those suggested modifications. The Coastal Commission did delete and make revisions to some of the modifications and directed their staff to work with the City's staff to work out additional concerns. The Coastal staff was prepared to bring back the revised findings and suggested modifications to the Coastal Commission at the meeting last April in Santa Barbara. However, at this point, the City felt there were still many issues that we were at an impasse on, so the item got continued. That is what is attached to the staff report as Exhibit 1. Since April, City staff has been meeting with Coastal Commission staff and have

again expressed our concerns. Although many of the changes have been made, there are several items that are still lingering in the Coastal staff, and City staff are in disagreement with them.

Primarily, there are 2 issues at this point: an in-lieu fee for the redevelopment of existing visitor-serving accommodations and operational issues for condo hotel and fractional timeshare units. The in-lieu fee is a \$30,000 fee that is being proposed for any existing visitor-serving accommodation that redevelops with new units that are not considered low cost. The City strongly believes that there should be no fee imposed within Oceanside. As acknowledged by the Coastal staff, the City's LCP is required to protect 375 low-cost visitor-serving accommodations within our coastal zone. Therefore, the City feels we already have a built-in mechanism to protect these low-cost units, which most cities do not have. In addition, the City provided evidence at the hearing and letters to the Coastal Commission that our City not only has the minimum, but has an overabundance of low-cost visitor-serving accommodations. The evidence was presented and showed that there were 562 rooms in our coastal zone as of October 2007, of which 90.8% were considered low cost. So the nexus for imposing this fee was discussed by the Coastal Commissioners themselves at their December 2007 meeting, and they questioned the nexus. When Oceanside's percentage of inventory of low-cost visitor-serving accommodations is so large compared to so many other cities, we questioned why they would impose such a fee.

When the Commission took action on the in-lieu fee at the December 2007 meeting, staff believes there was a great deal of confusion due to other issues raised at that meeting. Therefore, staff strongly feels that a lot of the Coastal Commissioners were not really aware that they were imposing the fee when they voted. We are arguing against the fee and believe the Coastal Commission will accept the City's argument.

The other issue relates to the operations and restrictions for both the condo hotel and the fractional timeshare units. The City is proposing revised language based on changes that the City wants, as well as feedback that we have received from consultants that are experts in the field. Our hotel developer, S.D. Malkin, has an attorney who is well-known in this field with fractional timeshares and condo hotels and has an extensive background in real estate. We were looking to him to advise us. The most important thing for us is to have our hotel project approved, but we don't want to accidentally get some kind of conditions approved on the City's project that will then be difficult for any hotel operator to come in and manage. By virtue of doing that, maybe we won't even get a decent hotel operator. It was really important to us to nail down these operational issues.

City staff has met with Coastal staff, and further modifications have been made. However, we are still at an impasse on some issues. Attached to the staff report is the current Coastal staff's suggested modification language, with the City's changes. If approved by the Council, staff will submit the proposed language to the Coastal staff, which will need to review it, prepare a staff report and provide their recommendations to the Coastal Commission. Since there are only 2 points that we are taking forward, we are hopeful that this item will be brought before the Coastal Commission at their July 2008 meeting, which is in San Luis Obispo.

This item was reviewed by the Redevelopment Advisory Committee 2 weeks ago and again today; it was unanimously approved by a 5-0 vote. Staff recommends that Council adopt the resolution approving the revisions to the LCPA.

Public Input

KAY PARKER, speaking as an individual, supports the staff recommendation and hopes the Coastal Commission understands that we are an older City with older buildings that are not up to code. The purpose of redevelopment when we established it 30 years ago was to remove blight and to bring our City up to code for safety and economic reasons. What we have is an adherence to our plan. As an old City, we have an abundance of low-cost, substandard visitor-serving accommodations. This is pivotal to completing our goal of establishing a destination resort hotel.

DAVID NYDEGGER, President/CEO of Chamber of Commerce, stated we have only taken the first steps in this project; there are a lot more to go, and we have a lot of work to do. The affordable cost that the Coastal Commission is talking about is \$100 per

night. This is southern California on the beach, and 98% of our hotel/motel rooms in the City are at \$100 or less. That is amazing. To consider that we then have to put the onus on the hoteliers to improve their property so they could possibly charge \$105, a \$30,000 per unit fee is ludicrous. He urged Council to support this item and go forward.

On a side note, MSNBC did an inventory of the top 100 communities in the nation that were the best places to raise families. Oceanside was 27th on that list. We have arrived.

Public input concluded; hearing closed

MAYOR WOOD stated that Council had attended the Coastal Commission hearing. None of us could understand the \$30,000 per unit tax in a redevelopment area. It would kill the project, and an attorney for hotel management groups told the Coastal Commission that he did not understand how they could even contemplate their having the right to concern themselves with management of the hotel timeshare. It was confusing and complicated. This is something we should send and let the Coastal Commissioners, not their staff, finally make that decision.

COUNCILMEMBER KERN stated that Mr. Nydegger had mentioned \$100, and he asked if there was a real definition for low-cost visitor serving. He had not seen anything.

MS. BAKER indicated they have had verbal discussions with the Coastal staff but they have yet to articulate something in writing. We have heard anything from \$100 – 120. There is a Coastal staff report out now for the City of Carlsbad that actually starts to define low cost, moderate and high cost. It is a moving target.

COUNCILMEMBER KERN noted that the Marriott Residence Inn that was just built 4 miles from the beach starts at \$150-159. To say that they want to keep low cost visitor serving in the coastal zone, when 4 miles off is \$150, is an unrealistic expectation. When they are talking \$100, they were probably talking \$100 ten years ago, too. That is a number that got picked out of the air, and everyone is sticking with it. Things have changed. The other thing is the nexus. What is the nexus for this fee? The Coastal Commission was talking about a hotelier company that builds things at \$30,000 per bed, but they did not say where. Building something in the coastal zone to replace it with, the land cost under a single bed is probably more than \$30,000. There is also the idea of where the money is going.

Regarding the operational stuff that the Coastal Commission wanted, he understood what they are trying to do. However, the idea of having the Coastal Commission say that you have to put electronic locks on your doors, it is not the purview of the Coastal Commission to tell you what kind of locks to put on your doors. Also, changes in CC&Rs have to be approved by the Coastal Commission. They stepped way out of bounds on this one, and he liked the changes that we made. He **moved** approval of staff's recommendations.

DEPUTY MAYOR CHAVEZ seconded the motion.

COUNCILMEMBER FELLER asked for an explanation of near shore and shore front.

MS. BAKER explained that this requirement goes back several years ago when the LCP was originally devised. There was a requirement that a lot of the visitor-serving accommodations be actually built at shore front. Subsequent to that, they realized that there was a shortage of land, that they could not actually build the amount they wanted to because the land wasn't there. So Coastal staff approached the City years ago and said they would like us to prepare a market analysis and see if we could even meet this requirement. As a result of the market study, it was determined that we could not. Therefore, a decision was made that we could transfer a lot of those visitor-serving uses that they originally wanted shore front, or down on The Strand, up above to what they called the pier area, which in essence is now the 9-Block Master Plan. That is why the 9-Block Master Plan has such heavy restrictions on the amount of hotel units at a minimum of 240 hotel units. In that 9-Block Master Plan, there must be at least 81,000 square feet of visitor-serving commercial. That was to accommodate for any of what we called shore

front. Also subsequent to that, the Manchester project came forward, and we submitted an inventory of our hotels at that time, identifying where the low-cost accommodations were. Even Coastal staff said that anything that was considered to be adjacent to Coast Highway was considered near shore front. We have moved that boundary from shore front up to Coast Highway. We more than adequately cover that minimum 20% that we are supposed to be covering.

COUNCILMEMBER FELLER asked why we are arguing about it if they asked us to do this.

MS. BAKER stated it keeps coming up, but we keep contending that right now we have 513 affordable accommodations in the coastal zone when we are technically required to have 375.

COUNCILMEMBER FELLER noted that, if approved at Coastal Commission, it would come back to Council for final approval and then forwarded again to the Coastal Commission for final certification of the LCP amendment. He asked what the chances are of this coming back to us if there are no citizen objections.

MS. BAKER hoped to package up the information and send it to the Coastal Commission. Coastal staff will have to analyze it and determine what their position is. Hopefully, this will be heard at the July meeting. We feel pretty confident that the Coastal Commissioners will rule in our favor, in which case it comes back for Council approval and returns to the Coastal Commission. Then we are done. We have not heard a lot of opposition from the community on any of these things. We have heard in particular about the fee. All of our existing hotel operators are outraged that they could be hit with this potential fee. In terms of the operational issues, it does not affect anyone else since it has to do with condo hotels and fractional timeshares. Right now we only permit those 2 uses technically on our hotel site.

COUNCILMEMBER FELLER read the fiscal impact portion of the staff report, which indicated that imposing a fee for existing properties to redevelop, the property owners would not be inclined to redevelop or develop properties because it would be cost prohibitive. This would result in a loss of potential increase in tax increment and TOT. Basically, this would hog-tie us forever.

CITY MANAGER WEISS clarified that the fractional issue is the only portion of the project, as Council has approved it to date, that is affected by this. The hotel project at this point does not have any approval to do condo hotels. That would have to be a separate, future action of Council.

MAYOR WOOD hoped that we would not allow Coastal staff to continue this item. If it is a July item, he hoped it was set and would stay there.

MS. BAKER stated the Coastal staff indicated that they still plan on having this at the July hearing.

COUNCILMEMBER SANCHEZ studied our LCP amendment and the language proposed and followed the dialog on this at the previous Coastal Commission hearing. Perhaps she looks at it differently in that she remembers when there were low-cost accommodations right on the beach. Most of it changed when we had the San Miguel project come in. We had a series of LCP amendments. She understood the definition of shore front versus near shore. The Coastal Commission report that was attached as an exhibit does analyze the study that basically says that 3 should not have been included: Oceanside Marina Inn (52 units), Marina del Mar (42 units) and Roberts Cottages (24 units). She would have welcomed a workshop to talk about these things. She did not appreciate hearing that at the RAC meeting last week, there was presented to the members language from the developer's attorney, without any notice and asking them to approve it. She does not get the sense that we are working together on coming up with a resolution. It seems that what we have is all or nothing. This amendment is mostly project driven, but it also will affect us in other areas of the City. That is what her problem is. She has been supporting this project and was a cheerleader for this developer because she saw his vision. When we first talked about this, we said we wanted nothing other than hotel rooms. There were some developers who actually were disqualified because they included

condos and timeshares since they knew there would be cost challenges. We basically cut them out of the consideration. We got down to finalists and said that costs are going to be a challenge, and they agreed to change what it is really going to be in order to financially be able to build the hotel, especially since the City's part is going to be \$27,000,000. That is asking a lot for the residents.

She is having problems in the way we are trying to resolve this; she can't vote for this. This is an all or nothing that we are doing. She does not see why we can't have one operator, work with one party rather than having to work with more than that. It does not make sense. She understands the criticism that we are getting too involved in the details. She doesn't ever want this to come back to us to say that we have a problem with this project. She would have liked to have worked this out in a workshop and not have it brought to her worded already without any chance of real discussion.

DEPUTY MAYOR CHAVEZ agreed that the devil is in the details; we have been doing a lot of details on this whole project for a number of years. We made decisions early on that impacted the economics of this, in particular the restrictions of height, parking, moving the Top Gun house in the middle of the project, etc. He also sees that this decision does affect other projects in the City. We are investing \$27,000,000 in the beach hotel, and everybody has said it is a catalyst. It does not make any sense to make the beach hotel a \$27,000,000 investment as a catalyst if we do not allow other projects around the beach hotel to be successful. The only way we can pay off the \$27,000,000 for this hotel is from the entire area around, such as CityMark, Oceanside Terraces, etc., all of the projects that Councilmember Sanchez has voted against. Every one of the projects is going to make tax money to come back in the City to pay for the beach hotel.

As far as public outcry and workshops, no one spoke against this tonight. Our staff has done everything they could to get public input. The same was true with CityMark, Oceanside Terraces and everything else we are doing in the downtown area. He wished we had done this sooner. After the discussion back in December with the Coastal Commission, he stated that if they are going to play hardball, then let's play hardball. He lost that discussion, and now 5-6 months later we are going back. He believed we would be successful. He planned on attending in July and listening and hopefully we will not have another councilmember, as Councilmember Sanchez did, speak against this project. It is not just the hotel; it is the future of this City.

COUNCILMEMBER KERN wanted to highlight a comment made by Ms. Parker that the accommodations were not just low-cost visitor serving, they were substandard. While his colleague likes to wax nostalgic about low-cost visitor serving on The Strand, he stated that they were a blight. There was a reason that previous councils got rid of those; they were not serving the City in its best interest. We ended up with this 9-Block Master Plan, which we are following now. This is a good project, and he agreed that we have talked and talked about this. He **called for the question**.

DEPUTY MAYOR CHAVEZ seconded the call for the question, which was **approved 5-0**.

Motion [to approve staff's recommendations and adopt **Council Resolution No. 08-R0330-1/CDC Resolution No. 08-R0330A-3**, ". . . to revise the amendment of the Local Coastal Program (LCPA-200-07) (City of Oceanside – Applicant) (ZA-200-07 & LCPA-200-07)"] was **approved 4-1**, with Councilmember Sanchez voting no.

Agenda Addendum Item

- 15A. **Council: Adoption of a resolution confirming the diagrams and assessments for FY 2008-09 for the Douglas Park Landscape Maintenance District, Assessment District No. 5-1981**

(This hearing was continued from the May 14, 2008 meeting)

DEPUTY MAYOR CHAVEZ and **COUNCILMEMBER KERN** recused themselves from this item due to a conflict of interest.

[Deputy Mayor Chavez and Councilmember Kern left the meeting at 6:56 PM.]

- A) Mayor opens public hearing – hearing opened
- B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – disclosures made
- C) City Clerk presents correspondence and/or petitions – none
- D) Testimony, beginning with

DOUG EDDOW, Real Property Manager, stated staff is recommending that Council adopt the resolution confirming the diagrams and assessments for the Douglas Park Landscape Maintenance District and levy the assessment for Fiscal Year 2008-09. California law requires that we approve the assessments annually. The assessments are being increased per the Consumer Price Index (CPI) over the last year, which is basically 15 cents per month for Douglas Park and 8 cents per month for the annexed portion of Douglas Park.

No public input; hearing closed

COUNCILMEMBER FELLER moved approval [and adoption of **Resolution No. 08-R0331-1**, “. . . confirming the Fiscal Year 2008-2009 diagram and assessment for the Douglas Park Landscape Maintenance District, Assessment District No. 5-1981”].

MAYOR WOOD seconded the motion; **motion was approved 3-0**, with Deputy Mayor Chavez and Councilmember Kern absent due to a conflict of interest.

[Deputy Mayor Chavez and Councilmember Kern returned to the meeting at 7:02 PM.]

GENERAL ITEMS – None

INTRODUCTION AND ADOPTION OF ORDINANCES

The following items are ordinances for introduction or adoption by the Council/HDB/CDC. Ordinances are laws of the City of Oceanside and require introduction and adoption at two separate City Council meetings. The 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 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 Council/HDB/CDC or the public through submittal of a Request to Speak form prior to the commencement of this agenda item.

- 22. Council: Adoption of **Ordinance No. 08-OR0332-1**, “. . . amending Chapter One of the Oceanside City Code by the addition of Sections 1.7(i) and 1.15 relating to the procedures for establishing a Safety Enhancement Zone and establishing enhanced penalties for violations of City Codes within the Safety Enhancement Zones and establishing a Coastal Safety Enhancement Zone during the Fourth of July (*introduced 5/7/08*)

Following the reading of the title, **COUNCILMEMBER KERN** moved adoption; **COUNCILMEMBER FELLER** seconded the motion; **motion was approved 5-0**.

- 23. Council: Adoption of **Ordinance No. 08-OR0333-1**, “. . . amending Section 20.40 of the Oceanside City Code to prohibit consumption of alcohol in specified areas (*introduced 5/7/08*)

Following the reading of the title, **COUNCILMEMBER KERN** moved adoption; **COUNCILMEMBER FELLER** seconded the motion; **motion was approved 5-0**.

- 24. Council: Adoption of **Ordinance No. 08-OR0334-1**, “. . . authorizing designated lifeguards of the City to exercise the powers of arrest pursuant to Penal Code Section 836.5, and repealing Ordinance 87-42 (*introduced 5/7/08*)

Following the reading of the title, **COUNCILMEMBER KERN** moved adoption; **COUNCILMEMBER FELLER** seconded the motion; **motion was approved 5-0**.

CITY COUNCIL REPORTS

17. **Mayor Jim Wood** – mentioned citizens Ray Scott and Joe Kratoski who recently passed away. He congratulated Diane Nygaard for winning the 2008 National Wetlands Award for her work as a community leader in founding the Preserve Calaveras, an organization promoting wetland conservation and restoration.

Mayor Wood noted that last week he had left the Council meeting early, and there were comments regarding that. In the last 6 years, he had only missed 1½ Council meetings and usually for business. He was not concerned about the outcome of the votes on the remaining items due to general conversation in the City, particularly on the CityMark project. He felt that would pass, and he did support it. The meeting he attended was the IM Foundation in San Diego, which is an organization that gets books for self-esteem for children around the world. They recently indicated they would give a lot of books to the youth of Oceanside, and those were in many languages. Also, a sorority in San Diego was going to collect books and present those books to the citizens of Oceanside on July 26. He was asked to attend the charitable event to give a speech of gratitude for their gift to our citizens and our youth.

He announced he would hold a moment of silence prior to adjournment for those who had passed away. We have the largest number of World War II Pearl Harbor survivors in Oceanside. We have a lot of veterans and war heroes.

18. **Deputy Mayor Rocky Chavez** – took a ride-along with the Humane Society and highlighted the Pause for Paws fundraiser for the Humane Society; the new leadership of the Oceanside Newcomers and Friends, which is about 300 ladies who socialize and raise money to give to causes. He also requested that the moment of silence include Johnny Lozano, who was a retired Marine and involved in education and this City.
19. **Councilmember Jack Feller** – spoke to the Political Club at El Camino High School; MainStreet had their Arts Alive Banner Auction, with a lot of money raised for the parade; Operation Appreciation event; the Transportation Commission approved new signage for Via Clemente and Cosana Way, which will have flashing signs and radar to let drivers know how fast they are going in a school zone. He added the name of Jon Shepard, a City employee who passed away, who painted trash enclosures and beach bus stops in the harbor with beach scenes. Additionally, Jack Cassan, who has been involved with the airport issues for 50 years, also passed away. The community has lost a gentle giant of a man whose handshake was his word. He built the first bridge across the river, and there are people who are interested in naming the bridge for him as a tribute.
20. **Councilmember Jerome M. Kern** – attended the Coastal Cities Issues Group of the League of California Cities that talked about the Coastal Commission; everyone there was interested in the action taken tonight [LCP issue], especially the Planning Director from the Port of San Diego about their project. If the fees stand, it will cost them about \$6,000,000 in fees. Imperial Beach to Fort Bragg watched to see how we proceeded with this.

Councilmembers Kern and Feller and Mayor Wood were in a meeting with the Assistant Secretary of the Army, talking about the San Luis Rey River. The Mayor did an excellent job expressing our concerns and what we need to get done. The Army Corps wanted to get the job done.

The Grand Jury Annual Report is out today. He added the name of Lionel Van Deerlin to those who passed away, stating he was the highest elected official to come out of Oceanside High School. He was in Congress for 18 years.

21. **Councilmember Esther Sanchez** - spoke to a point of personal privilege. During the discussion of the LCP for the hotel, words were said that were a little more personal than she would like to see from the dais. No one questions anyone's motives for what they do at City Hall; they all work for the best of the City and understand that we have a difference of opinion on how we do our jobs. She has a background in urban planning/studies, is a lawyer, goes for the details and wants what's best for the City. She does not vote "no" because she doesn't like a developer or person; she really studies what is before her; she takes her decision seriously. She doesn't want to be second to any other city. Being part of a 4-generation family, maybe she sees things from another perspective. She does support

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the hotel; she did not speak against it at the Coastal Commission hearing, but she wants what is best for the City.

She noted that cell phone numbers were made available to marketing groups as of yesterday. If you do not want these calls to come in, you have to call the "Do Not Call Registry." The number is sponsored by the State Attorney General's Office, as well as the federal government. Your number stays on for 5 years.

There will be upcoming graduation ceremonies. There have been a lot of articles on the fact that this class has the toughest time ever in getting into a college. First, the competition is so stiff, there are so few spots available, and financial aid is not available anymore. Therefore, a lot of kids are going to Community College and then transferring.

ADJOURNMENT

MAYOR WOOD held a moment of silence in memory of those citizens who had recently passed away. He then adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 7:27 PM, May 21, 2008.

ACCEPTED BY COUNCIL/HDB/CDC:

Barbara Riegel Wayne
City Clerk, City of Oceanside