ITEM NO. 6

NOT OFFICIAL
UNTIL APPROVED AT SUBSEQUENT
MEETING BY CITY COUNCIL

California

CITY OF OCEANSIDE

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

MAY 14, 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
Jack Feller
Esther Sanchez
Jerome M. Kern

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 14, 2008 by Mayor Wood.

4:00 PM - ROLL CALL

Present were Mayor Wood, Deputy Mayor Chavez and Councilmembers Feller, Kern and Sanchez. 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 agendized items to be heard in closed session: Item 2A, 2B, 3B [No closed session was held on Items 1, 3A and 4.]

See the report out on this item at 5:00 PM, Item 5.

Closed Session and recess were held from 4:01 to 5:00 PM.

5:00 P.M. – ROLL CALL

Mayor Wood reconvened the meeting at 5:00 PM. All Councilmembers were present. Also present were City Clerk Wayne, City Treasurer Jones, City Manager Weiss and City Attorney Mullen.

Pastor Carl Souza gave the Invocation. Members of the Oceanside Valley Little League "Giants" led the Pledge of Allegiance.

PROCLAMATIONS AND PRESENTATIONS

Proclamation	–	National Tourism Week – May 10-18, 2008
Proclamation	–	Water Awareness Month - May 2008
Presentation	–	The Mayor's Youth Sports Recognition and Appreciation Award was presented to the Oceanside Valley Little League "Giants."

Presentations were made.

CLOSED SESSION REPORT

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

CITY ATTORNEY MULLEN reported out on the following items previously discussed 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. **CONFERENCE WITH REAL ESTATE NEGOTIATOR (SECTION 54956.8)**

A) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: Approximately 0.40 acres at 1500 block of South Coast Highway (APN 153-030-16); Negotiating Parties: City of Oceanside and Charles and Carol Buel; Negotiator for the City: Douglas Eddow, Real Property Manager; Under Negotiations: Price and terms for an exchange of City-owned property (portion of APN 153-030-32, approximately 0.40 acres)

Council provided direction; there was no reportable action under the Brown Act.

B) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: Vacant parcels of land at the northwest corner of Foussat Road and State Route 76 (APNs 145-021-24 and 160-270-76, and portions of APNs 145-021-23, 160-270-78, 160-280-56 and 160-280-57); Negotiating Parties: City of Oceanside and Costco; Negotiator for the City: Douglas Eddow, Real Estate Manager; Under Negotiations: Price and terms of a sale of property

Council provided direction; there was no reportable action under the Brown Act.

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

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (SECTION 54956.9(a))
[A) Alvis et al. v. City of Oceanside, U.S. District Court Case No. 06CV0911]

No closed session was held ([will be continued to May 21, 2008).

B) Rock v. City of Oceanside, Superior Court Case No. GIN048560

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

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

No closed session was held (will be continued to May 21, 2008).

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.

Advance written request to reserve time to speak: None

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

CATHY NYKIEL, 701 Mission Avenue, gave a reminder of the Sunset Market Public Safety Night event and the Arts Alive Parade fundraising dinner at the Elks Lodge.

DONNA McGINTY, 2405 Mesa Drive, attended this morning's Redevelopment Advisory Committee (RAC) meeting, where Kathy Baker presented a document that the City Attorney had not seen until first thing this morning and that changes/alters language in the negotiation process with the Local Coastal Plan that is being negotiated in the Coastal Commission for hoteliers and tourist accommodations in the community. It was said to us in the meeting that we could not get the documents unless Jane McVey [Economic and Community Development Director] approved the distribution of the documents. The RAC advisory group did not have this document until this morning. Both of those issues are a violation of the Brown Act.

Also, Ms. McVey had mentioned that the language contained in the document was changed by Malkin's legal staff or reviewed or approved by our City Attorney. It was not even seen by the City Manager at that point. Kathy Baker [Redevelopment Project Manager] was asking the RAC to approve this document, unseen by our legal staff and our City Manager, to be sent on to the City Council. In talking to the advisory group, we managed to persuade them to meet and confer again before they went on to the Council with this. If we had not been at the meeting this morning, they would have okayed the document and sent it on to the City Council.

LARRY BARRY, 3973 Brown Street, stated that the Oceanside Unified School District (OUSD) has made an amendment to their constitution that there could be no display of a flag on the campus. About 2-3 years ago, Mexican nationals walked through the City carrying the Mexican flag. After Proposition G, we spent over $125,000,000 to revamp the campus and put in the Science and Technology building. The Mexican nationals went onto the campus, took down the American flag and tried to put up the Mexican flag. Thankfully, some students grabbed the American flag to protect it. However, because there are so many problems with flags and the racial divide in our City, OUSD has ordered the Oceanside Police Department to keep away from the campus, especially on May Day. He thinks that is wrong. We have taken God out of our schools, and now we have taken patriotism out of our schools. Somebody should start

standing up for the United Stated of America. We are losing ground. He would like some direction from the Mayor that patriotism should not be abolished in our schools. Patriotism is a Constitutional right, and it should be honored.

CONSENT CALENDAR ITEMS [Item 7-10]

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.

7. Council/Harbor/CDC: Acceptance of Joint Minutes of the Small Craft Harbor District Board of Directors, Community Development Commission and City Council of the following meetings:

   April 30, 2003, 10:00 a.m. Adjourned Meeting of the City Council
   June 11, 2003, 10:00 a.m. Adjourned Meeting of the City Council
   April 9, 2008, 4:00 p.m. Regular Meeting

8. 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)

9. Council: Approval of Amendment 1 to the property lease agreement with Crown Castle GT Company, LLC, for the lease of City-owned property at Henie Hills Reservoir for telecommunication facilities, with anticipated revenue to the City in the amount of $27,720 for the first year with CPI increases for subsequent years, extending the term of the lease from February 28, 2011, to February 28, 2016, and providing for two five-year renewal options; and authorization for the City Manager to execute the amendment (**Document No. 08-D0306-1**).

10. Council: Adoption of the amended Arts Commission By-laws to add representatives of MiraCosta College and the Oceanside Museum of Art to the Arts Commission's membership

COUNCILMEMBER SANCHEZ moved approval of the Consent Calendar as submitted [items 7 through 10]. **DEPUTY MAYOR CHAVEZ seconded** the motion, which was **approved 5-0.**

Due to the 6:00 PM time certain items, the Mayor determined to hear Item 16 at this time.

GENERAL ITEMS

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

16. **Council: Authorization for staff to negotiate the terms and conditions of an agreement with Airport Property Ventures of Los Angeles for the development, design, construction and operation of facilities at Oceanside Municipal Airport**

GARY GURLEY, Acting Public Works General Services Manager, stated this item deals with the Request for Proposals (RFP). He clarified some definitions: "airside operations" includes the runways, taxi ways, lighting, navigation aids and all of the operational type things at the airport; and "ground side" operations are everything that is not operations, such as hangars, tie downs, etc. When we took the FAA grants, we became responsible for the operation, safety and upkeep of those airside operations. We can have someone through a contract maintain them, but it is a responsibility that we cannot delegate.

The RFP went out at Council's direction looking for someone to develop the airport. The RFP period closed in October. The goal was to find someone to develop the airport in accordance with the Master Plan as the general guide. They are going to have to be responsible for all development costs, funding and funding guarantees. They would have to assume the responsibilities for the repayment of the existing loans: one is a State loan for the hangars we built, and the other is money we borrowed from the General Fund. There would be no City financial participation in that development. They would have to operate the airport, and they would have to enforce the conditions of the settlement agreement with the Citizens for a Better Oceanside (CBO).

Three companies submitted responsive bids: CMTS of Los Angeles, American Airport Corporation of Santa Monica and Airport Property Ventures. In our initial interviews, CMTS disclosed that their proposal was based on City financial participation, and at that point staff eliminated them from any further consideration. Per Council guidance we have invited both of the proposers here - American Airport Corporation and Airport Property Ventures - to give a 10-minute presentation. He had advised them to be here at 5:30 PM. American Airport is here.

Following discussion, **MAYOR WOOD** trailed this item pending arrival of both parties (to follow item 17).

17. **Council: Introduction of an ordinance amending Chapter 1 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**

FRANK McCOY, Police Chief, spoke about the safety enhancement zone. During the 4th of July of 2008, it has been anticipated that well over 150,000 people will be crowded onto the beach and the surrounding area. The vast majority will be present to enjoy the beach and other activities with family and friends. Unfortunately, history has shown that a minority of those in attendance will be present to consume excessive amounts of alcohol and engage in other behavior.

Council conducted a workshop on February 13, 2008, and their recommendations included the creation of a public safety zone at the beach front for the 4th of July. The City of Newport Beach enacted a public safety zone in 2003, and since that time they have experienced a 50% reduction in arrests within that zone. Newport's experience illustrates the deterrent effect of the ordinance. The Oceanside Police Department anticipates a similar benefit upon enactment of the safety zone in Oceanside.

Staff recommends the creation of a safety enhancement zone to increase public safety and welfare on July 4, 2008. The recommended zone would extend from the north and south city limits, east to the railroad track and west to the shoreline. This area is generally filled to capacity by celebrants and beach goers on July 4. The safety enhancement zone ordinance would authorize the tripling of fines on existing Oceanside ordinances within this zone, which will serve as a deterrent to illegal behavior within the zone, particularly alcohol consumption and public drunkenness. It would not add, delete or modify existing laws or ordinances other than to authorize the tripling of fines within the safety zone. If enacted, signs would be posted at access points throughout the zone, warning of the enhanced fines on existing ordinances. If enacted, the safety enhancement zone ordinance would be published via the press and posted on signs throughout the zone to warn would-be violator's of the consequences of their actions.

Staff recommends amending Chapter 1 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, establishing enhanced penalties for violations of City Codes within the safety enhancement zone, and establishing a coastal safety enhancement zone during the 4th of July.

Public Input

DONNA McGINTY, 2405 Mesa Drive, came here before and haad asked that

the fireworks be cancelled. We have Camp Pendleton with fireworks every year, exactly like ours. There will be 150,000 more people in this community. Expecting our police department, lifeguards and fire department to manage a crowd that big is dangerous to us all. We cannot go to our own beach or participate in our own events because they are overwhelmed. We do not want to be part of the problem and go there and become victims. She would like to see everyone in the other communities stay home. Do not present yourself with a problem.

NADINE SCOTT, 550 Hoover Street, is supportive of this measure. She is not supportive of the 4th of July celebration. We are spending a lot more money on officers and overtime, and she cannot justify that kind of expenditure for the entertainment of out-of-town guests that do not spend a dime here.

KATHY KINANE, 2987 Highland Drive, Carlsbad, stated her family has lived in Oceanside since 1978, and we used to own a business in the harbor. After experiencing the Huntington Beach 4th of July parade riots, she highly recommends and supports this. She would also like Council to consider having the fireworks at El Corazon or the Rancho Del Oro Business Park, where the residents of Oceanside could actually stay in their homes, have a picnic on their front lawns, and watch the fireworks. The Four Seasons does the fireworks in Carlsbad, and they have very minimal traffic problems. At least the Oceanside residents would have an opportunity to enjoy them, and hopefully it would disperse the crowd enough so there is not as much pressure on the police.

LARRY BARRY, 3973 Brown Street, stated his mother lives on the beach, and the traffic jams are horrendous. It has gotten out of hand and is a bad situation. He does not know if fines are going to curtail people; it is going to be more of a management problem. The biggest problem is the exodus when people are leaving. He hopes the fines will be used for something good. . I would like to see some control. If it were not for the drugs and alcohol and everyone acted nice, it would be a great time. Maybe we can get publicity that we are not going to put up with it in Oceanside.

[Public input concluded]

Referencing a newspaper article in the *North County Times* and the *San Diego Union Tribune*, about a letter from the Oceanside Police Officer's Association, **DEPUTY MAYOR CHAVEZ** asked if Chief McCoy received that letter to comment on their concerns.

CHIEF McCOY has not seen the letter, but he read the newspaper article. He understands the Police Officer's Association has been pushing to eliminate fireworks in the City for many years, and he believes their stance has not changed. However, the Police Department has put together a comprehensive plan for the 4th of July. Whether we have or do not have fireworks, it is not going to change our staffing levels for the 4th of July. It may minimize the time that we are there, but it will not change our staffing levels.

DEPUTY MAYOR CHAVEZ is comfortable with all of the work that Chief McCoy, the City Manager, all of our staff, MainStreet Oceanside and other civic organizations have done. He **moved** to **introduce the ordinance** [...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"].

COUNCILMEMBER KERN seconded the motion but wished to make modifications.

COUNCILMEMBER FELLER asked if this requires fewer parking spaces in that zone, and if the Chief has a traffic plan for the area.

CHIEF McCOY responded in the affirmative. In our original presentation to Council, we indicated that there are a number of street closures that we would recommend on the 4th of July, and part of that would hinder some parking on Pacific

Street and a few other different streets so that when the crowds leave the beach area, we do not have safety issues with cars and pedestrians mixing with one another.

COUNCILMEMBER FELLER stated that The Strand will be closed, but there are issues for some people who may have medical issues. He asked if there will be exceptions to the rules to help those people out.

CHIEF McCOY stated that we will do everything possible to help our residents. Trying to get a vehicle down on The Strand with the mass number of people is very problematic. The Fire Department modifies their response with some 4-wheel beach-type vehicles to help ingress/egress from that beach area.

COUNCILMEMBER FELLER asked how many stabbings there were last year.

CHIEF McCOY stated there were 3 stabbings.

COUNCILMEMBER FELLER agrees that there will be 150,000 people at the beach whether we have fireworks or not. You are not changing your staff level, just maybe the time that the people are there.

CHIEF McCOY stated that our staffing plan, with Council approval, is going to allow us to have more police officers on the beach this year than we have had in recent history.

COUNCILMEMBER KERN requested to strike lines 5 through 9 on page 2 of the ordinance. We do not need to put that in the ordinance. It is more of an editorial comment. There was enough justification to pass this.

DEPUTY MAYOR CHAVEZ modified his original **motion** by striking lines 5 through 9 on page 2 of the ordinance.

COUNCILMEMBER KERN seconded the modified motion.

COUNCILMEMBER SANCHEZ stated that a few of us grew up in this City, and the fireworks were a family tradition. Things have changed over the years; we have a lot more people out there. She has lived on the beach for the last 4 years, and you cannot get out of there once you are there. She has heard a lot of complaints about people who needed to get back to their family, were able to escape, and then could not get back in. They are very concerned about leaving children out there. It has become a different event. She cannot say it is a family event anymore. This year we are giving $250,000 to MainStreet for fireworks, etc.; $500,000 for 1 event for 1 day is a lot of money. We need to do something other than this. We could have foregone fireworks this one year to see how things would work, especially since we are in the kind of budget that we are in. She is not sure how this ordinance is going to help. Adding this kind of zone becomes even more out of the loop of a family-oriented event.

DEPUTY MAYOR CHAVEZ commented that this is an important time in our country, and the City has a history of enjoying this event. This may be the last time we are going to have fireworks in the downtown area for some years since perhaps next year we are going to have big holes down there from building hotels. The plan that we are doing today, because of the traffic, we may not be able to do for some years to come. He will be supporting this because it will probably be the last year that we will be doing it for some years as we go forward with redevelopment. He asked everybody to come down and enjoy it; it may be the last time you will see it on the beach area.

COUNCILMEMBER FELLER stated that the event is an expense to the City, whether we have fireworks or not. He requested an explanation of those expenses if we do not have fireworks.

CITY MANAGER WEISS responded that the operational expense in the amount of overtime and staffing for the various departments, which include police, fire, lifeguards and public works, is the same whether you have fireworks or not. The difference is there is an increased cost because a number of those folks would not have

to work as late without the fireworks. Council did approve an additional $50,000 that the City is paying for the fireworks, plus an additional $100,000 for MainStreet to put on the activities that are going to be occurring on that particular day. Those are added expenses that we have not been burdened with in the past.

COUNCILMEMBER FELLER stated that the Oceanside Jaycee's have taken on the task of trying to raise the money for the fireworks. The Jaycee's are reaching out to anybody that is interested in helping out with the fireworks to alleviate that cost. He gave much credit to the Jaycee's for tackling this. They support the patriotism and the fireworks. It is very appropriate since this is a trying time in our community. He is supportive of doing fireworks. We are going to have 150,000 people down there no matter what. We are trying to help with the additional cost.

Following the reading of the title, motion to introduce the ordinance as amended was **approved 4-0**, with Councilmember Sanchez abstaining.

At this time, Council returned to Item 16.

[Councilmember Feller left the dais at 5:54 PM.]

16. **City Council: Authorization for staff to negotiate the terms and conditions of an agreement with Airport Property Ventures of Los Angeles for the development, design, construction and operation of facilities at Oceanside Municipal Airport - CONTINUED**

MR. GURLEY introduced American Airports Corporation, followed by Airport Property Ventures for their presentations.

EDWARD SAUSE, President of American Airports Corporation, stated that American Airports Corporation started in the aviation business in 1985 and in the airport management business with the formation of our airport management in 1997. We have over 10 years of experience and are one of the largest general aviation airport management companies in the United States. We have developed our own facilities under the name of American Airports Corporation (AAC), and have also built fixed based operations. Staff is trained in both firefighting and first response. Today, with over 20 years of experience, we have 1,600 tenants. We manage over 2,400,000 square feet of buildings on 3,000 acres of land. Our operational experience is greater than 84 years, and our management team and our corporate team have more than 61 years, and 60 years in our development and management. Our chairman and founder was a naval aviator and a flight instructor at Pensacola, and our board member was the Chief Administrator and head of the FAA. Regarding our management experience now, we operate 5 airports for the Council of Los Angeles. We did a development in Santa Monica, California and have municipal airports that they currently run. The Los Angeles Municipal Group is a group of 5 airports. We have a well trained staff in first response. Our capabilities and assets include our employees and managers. They would all be available to work and share best practices with our contract here in the City of Oceanside.

One of the key aspects of our proposal is that we have an existing company and a strong balance sheet. We have cash on that balance sheet and a negotiated line of credit with a bank today. We presented to staff a financial statement from our Chairman with over 5 times cash on hand for the projected cost of the project. We have no financing contingency, and many cities we present to like to make sure the projects get started and get finished. Therefore, the fact that there is no financing contingency is a very strong point of our proposal, and we can start today.

[Councilmember Feller returned to the dais at 5:58 PM.]

Our concept for the building is to develop an administrative terminal on the south side and develop all of the hangars on the south side that need refurbishing. Some are dilapidated and in need of repair. On the north side of the airport, we would master plan it through sub-leases and control the building and the design of those through those leases. This is a practice that is consistent with all municipal airports that I am familiar with for several reasons: 1) the cost of capital; 2) the ability to provide

competition on the field so that the users, pilots and people that hangar their planes there have competitive rates that are not set by one manager or operator of the airport. The point would be similar to if one person owned all of the apartment buildings in Oceanside; that would drive rents through the ceiling. To have competition and sub-lease it is not only consistent with practices on municipal airports across the country,; it is also in the best interest of the pilots so the rates and the lease rates for the hangars are most competitive. AAC reserves the right to develop a portion of that north side, but we think it is best that it be divided through sub-leases and parceled out through competition.

For our master planning strategy, we would begin our rents at approximately 65 cents a square foot. We have a configuration of our plan (on page 11) for the north side and through sub-leasing we can control the size, design and timing that those buildings go in. They have been configured in the most community-friendly way so that when planes start up their engines, the hangars have been segued so that they buffer sound and it does not go back into the community. We tried to design our concept and our layout in the most efficient way, from a land-use standpoint as well as a community-friendly standpoint.

In terms of community outreach, we have school days and encourage our managers and require them to bring in local schools to show and explain what happens at the airport. They have safety briefings, both in terms of keeping it secure so people do not wander onto the airport and how first response works. Fueling planes for fires are fueled at our airports. Therefore, we have safety training, customer response training, and work well with the firefighters, the firemen of the community, and life rescue teams. Through our discussions with the community and the Citizens for a Better Oceanside (CBO), we know that noise is a big issue. We have experience at the Santa Monica airport, which our head of operations dealt with to significantly reduce noise complaints, planes from pilot outreach and education, a fly neighborly program, and a real vigilant program to make sure that visitors to that airport did it correctly. We would institute the same programs and make those available here for the community of Oceanside.

Our proposal is to do a 40-year lease. We would lease the land and run the airport for that period of time. We would pay 10% of the gross rental revenue and 7 cents per gallon on fuel flowage fees. We provided our rent projections to staff, and they have been included in your staff report. Regarding regular maintenance to the runway, we would take care of those expenses. We do that as a current practice in the County of Los Angeles at this time.

We prepared our proposal being very conscious of the requirements of the RFP to be a qualified firm. We have an existing company with employees, and we manage airports. We have the financial capability to do the project right now with no contingency. We perform similar work today at the municipal airports that we operate. Our conceptual plans have been provided, and we have the ability to get started in a timely manner. One key element was that there was to be no City participation. We have taken all of those responsibilities on in our proposal: to assume the State and the General Fund loan, as well as to pay 10%.

We believe that we have met our final goals. We presented a realistic development plan and a vision for a regional transportation hub here to fold in the airport with both the trains and the highways so that it is a pristine asset of the City. Our municipal experience speaks for itself in our references. We have the financial capability to begin today.

JACK DRISCOLL, a principal with Airport Property Ventures (APV), stated that we feel we know Oceanside very well, having been here innumerable times to visit. We provide superior experience in development concepts, community engagement, investment, and financial return. We have many years of combined aviation operations and development experience. We will staff the airport with trained local aviation professionals. We possess very strong FAA relationships, which I think are important in terms of the development of the airport. We are also highly skilled in the area of government and community relations.

Our team consists of the principals: Robert Clifford, who has been in the aviation business for a number of years and was the founder of our competitors company, and has been in real estate development and sales; Lydia Kennard, who is the most recent Executive Director of Los Angeles World Airports, developed and was successful in negotiating the master plan, was called back by Mayor Villaraigosa to settle the litigation, which she did, and now Los Angeles International Airport (LAX) is going to start building out. Mr. Driscoll was a previous director, and Ms. Kennard was his assistant at Los Angeles World Airports. He developed the new facility in Ontario, so we are very use to dealing with different communities. Our Federal Aviation Administration (FAA) coordinator is Woodie Woodard. His most recent job was as the Associate Administrator for airports in the FAA. That is the top job in Washington, D.C. for airports under the FAA. We have an association with HNTB, which is our aviation planning and architectural firm, and Joe Barden is the principal there. They have done numerous airports, both GAA and commercial all over the world. Lynn Capouya is our landscape architect. Our construction and program management group is KDG Development and Construction Consulting and GHT, all who do aviation construction and program management.

We have a huge background in developing and administering comprehensive noise and abatement plans to include some of the noisiest airports in the country: LAX, Van Nuys and less so at Ontario. We will engage the community and everybody here to ensure that we comply with the 2003 settlement agreement. We will involve the pilots, residents and government in the planning process, and we will engage the broader public in the airport activities with programs for youth and the regular community.

Our commitment to the City of Oceanside is to develop and build out. We are a developer and a manager. We will build out 256,000 square feet of new buildings. The total development cost for us will be $21,064,000. The proposed development on the south side includes administration, office and retail complex, whose design will be consistent with the new fire station that you have built down the street. We will add 39 new hangars of various sizes. Landscaping becomes a major issue; it is around all airports, so that you basically enhance it, but in some respects hide part of the property from view. As opposed to chain link fences, we have a design concept that would allow for trees and other bushes to enhance and beautify the area. We are going to add additional tie-downs, as well as the airplane wash area. A photo depicting what the south side layout would look like was shown.

On the north side we will engage the total community and the city pilots during the planning process. We see a multi-tenant aviation services being developed of 10,000-12,000 square feet, to include avionics, engine, interior, propeller. That means jobs and additional economic impact to the community. We will have an airport parking area for display, a grass park area and tie-downs, as shown.

Our development investment for the south side is close to $7,000,000. For the north side, it is close to $14,000,000. That is $21,000,000. We are financed through George Elkins Mortgage Banking Company. They have committed to both equity and debt financing.

The benefit to the City under our net basis calculation would be $11,255,000 that the City would receive through that 25-year period. We had a gross rent option in the proposal as well. It is still an option if the City decided they wanted to negotiate an option as opposed to the net calculation. In that case, we would have to re-study our analysis of the new development, but he wanted to put it out there so that you knew we were flexible in trying to meet the needs of the City.

We have decades of experience in general aviation operations and management. We have a proven track record of successful project delivery. We will invest over $21,000,000 in the Oceanside airport. We will provide Oceanside with $11,200,000 in revenue over 25 years, with significantly more over the lease term beyond 25 years. We understand how to develop airport uses that are compatible with the local community. Ms. Kennard and I have managed close to a $800,000,000 operations budget and close to $3,000,000,000 worth of capital improvement projects. We have a vast knowledge of FAA rules and private-public partnerships.

To show our competitive advantage, APV will provide $11,000,000 to Oceanside, while AAC will provide $4,000,000; that is a $7,000,000 benefit for the City. APV will spend $21,000,000 in development; AAC will spend $6,000,000 in development. We are going to be responsible for development and operations. Notwithstanding the concerns about having 1 developer, we think it is the best way to go. You get consistent development, consistent design and consistent management, and the City does not have to run around to various places to find out what is going on. AAC will lease out the land to other developers. We are committed to you for the full term of the agreement. AAC provides for a 5-year walk away clause, which means that if after 5 years they decide they want to leave, you will be back where you were. We are supported by the Citizens for a Better Oceanside, while AAC is not supported by them. The Oceanside Airport Association is neutral, and APV has been recommended by Oceanside staff to be awarded the contract.

In discussions with the community and the pilots, they believe that we have a better vision for the project, a better layout, a better development schedule, better experience on noise and community involvement issues, better experience on airport planning and development, better experience on FAA relations, better plan for office and retail and are positive on the public viewing areas and the 1-acre display.

Public Input

PAT ELLINGER, 4452 Old River Street, a 17-year resident, had not seen the lease until tonight. The last time the City had a lease, the City had to go to court to end it. He hopes there is some provision that they have to pay the court costs this time, because the guy went bankrupt and we got stuck with it. That was when we had the flight school there.

He wants to make sure that we can enforce the noise abatement pattern. Currently, they have a phone number that goes to a tape, and it does not work. The number of hangars here is not going to give you what they have in Santa Monica. Santa Monica has a full-time noise manager and noise technicians there 24 hours a day, 7 days a week. I do not think you will be able to afford that. It would be good if we had somebody on a radio that could talk to the aircraft. That way if somebody called in to the airport, they could contact the person and get them on the right flight path. Most of the pilots pay attention, but there are always 10% that do not know, and the other 10% do not care.

He understands that no flight schools are permitted. He would like to see the touch-and-goes leave as well because people on the west side really have a problem if you have a lot of aircraft. Providing premier hangars to pilots with the financial resources is a way for the City to go. They would have good financial backing and would be less likely to be renting their aircraft to other people.

KARL HIGGINS, 1517 Roma Drive, Vista, is a registered lobbyist appearing on behalf of his client, Aircraft Owners and Pilots Association (AOPA), a 417,000-member national organization. Airports and runways are like main streets in our community. They are also important for transportation infrastructure at the national, state and local level. They are critically important for public safety reasons, in addition to economic reasons.

Recently, with what we all have been seeing going on in China, with the earthquake, etc., you understand the value of preserving public infrastructure like airports. That is what is saving a lot of those nations right now in terms of emergency relief supplies.

This has been a terribly contentious issue for the City, and I would like to thank each of you on behalf of AOPA for your leadership and best of luck on your negotiations.

NADINE SCOTT, 550 Hoover Street, has concerns with AAC; they are not going to guarantee income, and they are going to put you in the business of being the landlord over the sub-lessees. She likes the fact that APV will have their own development team. That way we are not going to be responsible as a City if some of the sub-lessees default. It is very costly and very expensive legally to chase those

defaults, and in the meantime the City would get no income because AAC is not guaranteeing income.

It is premature, but the north side should have a full Environmental Impact Report (EIR) due to the sensitive nature of the surrounding properties. She would like staff to respond to the actual amount of loans to the airport enterprise fund, and what that current amount is as of the last quarter of 2008. Both of these companies have a good quality design, but it looks like AAC will be using the City property for free for several years, with no income generated to the City. Guaranteed minimum rent is the most important. We are going to tie up this land for a minimum of 40-50 years, and she does not find that to be a wise investment of extremely valuable land. She realizes these gentlemen are making a substantial investment; however, to tie something up for half a century when we do not know what the future brings, she does not find that to be the wisest of ideas, and she would like to look for shorter options on their agreement.

BEN MEYERS, 5119 Via Malaguena, President of the Oceanside Airport Association (OAA) and an Oceanside resident, stated this is a good day for the Oceanside Airport. We have a number of the OAA members in the audience, and we want to thank the Councilmembers who stood by this airport through it all.

To get this airport to a place where private developers could have a chance to develop and operate it and where the City would benefit from the results is smart. It is the way things should be done, especially knowing that the City does not want to operate the airport. It is a great asset, and we have proven it with what we have seen through the proposals. With private developers operating our public assets like this, we get the best of both worlds: they benefit and so does the City without our treasury being tapped.

Both proposers have made a great effort at this, and they both have put together wonderful proposals. We think APV has aligned themselves with the OAA from the standpoint of concept. We thought their concept was a little stronger. We think their development of the administration building and what they have in mind for open space is a very positive thing. Still, the AAC proposal included some of the aspects of the OAA vision, but their strength is in operating currently small airports and understanding how to develop them. They are self-funding, which has some thoughts of interest to all of us. The OAA would be pleased to work with either of these 2 developers. No longer will we be talking about if the airport will be saved, lost or turned into something else. I think this City will be very proud. We hope that it is a speedy time to put the lease together and get this activity moving forward.

RON STEWART, 3259 Canyon View Drive, on behalf of Citizens for a Better Oceanside (CBO), supports Mr. Meyers' comments. Both proposals were very compelling. He clarified that the CBO is not supporting one company over the other, although we have been very supportive of both of their proposals.

As the City goes through the negotiation process, he wanted to summarize their thoughts over the past 2 years that they have been working on: implementation and enforcement of noise abatement procedures - it seemed like both proposals had that in there; all details of a legal settlement with CBO must be respected and enforced; repayment of the loans to the general fund must be scheduled; assurance of substantial income to the City for services; an EIR on the north side is mandatory according to us; and reconsideration of tying up the assets for 40-50 years. I do not think you want to tie the hands of future City Councilmembers. Both of them had plans for beautifying the airport as well. We would ask that you include park-like settings and effective landscaping throughout.

There is at least 3,000 people in the airport neighborhood, and we would hope that you would keep them in consideration. There are obviously 150 airplanes at the airport, so please keep in mind the masses of Oceanside.

DONNA McGINTY, 2405 Mesa Drive, has lived in her home, which overlooks the airport, for 38 years. There is no airplane that she does not hear. I get to hear the medical helicopters come in and watch the guys taking off and coming in. It is a great place for kids and families and to teach kids how to fly. It is as important to this

community as the harbor, a golf course or any other recreation or anything else. For the last 20 years she had heard bickering about shutting it down. Now she will get to watch them fly.

Public input concluded

MAYOR WOOD noted that he had a commitment out of town and so wanted to speak at this time. He stated that this has been a contentious issue over a long period of time. The airport has been here forever, at different locations. He has heard the pros and cons on it. He approaches it from what is best for the City, not just for the CBO or the people with the noise complaints, or the pilots, etc. There are a lot of other people in Oceanside that do not get involved in either side. We need to look at what is best for Oceanside. Because of all of the issues that have come up over the past, we decided to let somebody else take a look at it, try to improve it and make it a better place and an income property for the citizens of Oceanside as a combined group, not just a few. That is where we are at right now.

We have seen all of the information that is necessary, more so than the public. He clarified that what is best for the entire City, not just a couple of bickering groups out there, is what is most important to me. There is no doubt that it looks like the airport is going to be here, no matter what happens, and that is a good decision that we made. If we are going to do it, let somebody else take it on and run with it.

His concerns are that in the past the airport pilots and groups have indicated that they want it to be the crown jewel in Oceanside. He wants it to be that if it is going to go forward. It bothers him that a while back they said crown jewel, and we put bargain basement hangars out there. He did not see it going in that direction. That is going to be a main east-west corridor in the North County on SR-76. We want something that shows Oceanside people coming from any direction that when they first see it, it is going to be a beautiful jewel. We have 2 good prospects, but one of them seems to be a little higher end. We are a little lean here, and I am looking for somebody who can say that they will put a project together, stay with it, not have a pull-out clause, are going to represent the citizens of Oceanside and bring an income to us with the top airport in the community.

Understanding that across the street is going to be a 1,000,000 square foot shopping mall, and we want it first class with top notch restaurants. We want that in conjunction with a top notch, first class airport. He has been called by people who do not want any airport here. That is a small minority, but he understands the concerns of the people that have to listen to the airport noise all of the time. A good management team is what it takes to get that taken care of. It is important that we move forward.

Responding to questions asked by the public speaker, **MR. GURLEY** stated that the total amount in loans and operating short falls is approximately $480,000 at this point.

DEPUTY MAYOR CHAVEZ is excited that we are here. There had been previous discussion on who would possibly bid on the airport with all of the restrictions that the City put on it. Now here we are with 2 great corporations vying for this. It is great to see such corporations of quality and experience here fighting for the Oceanside Airport.

He asked if the term "lease relationship" is different between the 2 bidders; is there more control of the City over APV versus ACC in the way that they have structured it?

MR. GURLEY stated that the level of control we would have over either one of them would go down to their tenant. It would be virtually the same for both. The difference comes in as how they would be able to enforce their rules and regulations. That was our take on that. The more layers you put between yourself and the end user, the more difficult it is to enforce the rules and regulations.

DEPUTY MAYOR CHAVEZ thinks that what we are doing here is not uncommon. For a master developer like Rancho Del Oro, we have somebody come in

who sublets it out to subsequent developers, and we have control over that. That did not resonate with me. Regarding guaranteed income, he asked if one is guaranteeing something.

MR. GURLEY responded that APV has a guaranteed minimum rent that starts the first year, which begins at the signing, once Council approves the agreement.

DEPUTY MAYOR CHAVEZ asked APV how soon they would be able to start once the agreement is signed between them and the City; if the rent for the first year would be in effect; and if APV has the financing to start immediately.

MS. LYDIA KENNARD stated that we would begin immediately because we would take over the operations in total of the airport. Starting on day 1, we would begin the planning and development process for the south side immediately, as well. The rent for the first year would be in effect, and APV has the financing to start immediately. Their financial partner is a $3,000,000,000 publicly traded company that is committed, and we have a letter that has been provided to the City, and equity financing.

Referencing the slide presentation in which APV defined themselves as having the most experience, **DEPUTY MAYOR CHAVEZ** requested that APV quantify that statement. He noted that they have individual experience, but asked if as a newly formed corporation, they have any experience.

MS. KENNARD stated that as an entity we have been in business for 1 year. We have not been in business for 20 years, but we have a vast amount of experience. You are really hiring 3 individuals; you are not hiring a company. Jack and I have run the biggest airport, the second largest system of airports in the country, including the largest general aviation airport in the world. We have seen it all; we have done it all; and there is nothing that we have not seen. We are very confident in our ability to run and develop Oceanside airport.

Referencing $21,000,000 that APV is investing in the airport, **DEPUTY MAYOR CHAVEZ** requested confirmation that it would be $7,000,000 on the south side and $14,000,000 on the north side.

MS. KENNARD confirmed the amounts. We find this to be an extraordinary opportunity. Although this would be our first airport as a company, we will not fail. Our success and our future are dependent on our success in Oceanside. You have our full commitment to do that.

[Mayor Wood left the dais at 6:37 PM.]

DEPUTY MAYOR CHAVEZ asked AAC when they would be able to start if they signed the contract on October 1; if they have financing to get started right away, and to define their experience as an entity.

MR. SAUSE stated they could start that day, and we have the cash in the bank today. We do not have to raise equity, or debt, or have any financing risks to the City.

We have experience in both the general aviation space and airport management - the difference being that airport management is taking care of the entire airport, runways, taxi ways, lights, Instrument Landing Systems (ILS) systems, safety, security, community noise, community outreach, pilot education and pilot outreach so that the gentleman that showed the flight pattern and wanted that enforced, we have relevant experience today in the municipal airport space. In addition, we have done fixed base operations (FBO) development for general aviation, not for the entire airport, but just taking care of the planes, landing, overnight rental, service and catering, safety, light maintenance type checks, etc. for the planes.

[Mayor Wood returned to the dais at 6:39 PM.]

DEPUTY MAYOR CHAVEZ asked if their current corporation does that right

now, and asked about total development costs, which they did not include. He saw a number that said you are going to develop $6,000,000 on the south side of the area.

MR. SAUSE responded that the current corporation does airport management today. He confirmed that $6,000,000 is correct. We would develop the south side and sub-lease. We believe that the total investment, based on developers that we have spoken with, those people that do airport/hangar development at community airports, would probably be about $17,500,000 total for the south side, our contribution, as well as the north side. We also reserve the right to build out on the north side, but we do not believe that it is in the best interest of the City or the pilots to sub-lease. You do not lose control over the tenants. They would be responsible for paying us, the operator. We would be responsible for turning around and paying the rent to the City. In a proposition of guaranteed rent or payments to the City, you do not have financial risk there, and we are responsible for that.

DEPUTY MAYOR CHAVEZ asked how much total investment is going to be in the south side of the airport under your plan.

MR. SAUSE responded that it would be slightly more than $6,000,000.

DEPUTY MAYOR CHAVEZ asked how much is going to be invested on the north side of the airport, under your plan.

MR. SAUSE responded that it would be approximately $11,500,000.

DEPUTY MAYOR CHAVEZ stated that is fewer hangars than APV.

MR. SAUSE does not know what APV's construction assumptions are.

DEPUTY MAYOR CHAVEZ asked if AAC could guarantee the payment to the City.

MR. SAUSE stated that our proposal does guarantee both the repayment of the state loan, as well as the general fund. We believe we are the correct choice because of our cash in the bank and our ability to perform. We think the worst thing a City would want is to see a project sit on the sidelines while debt or equity is being brought into place. We have relevant municipal airport experience, have dealt with both of the issues that are important to the City, as well as to the community, and we believe we have a realistic build-out plan. We would love to do business with the City of Oceanside and look forward to getting started as soon as we can sign a lease.

DEPUTY MAYOR CHAVEZ asked how long the negotiation process will take, and what the salient elements are that you will discuss in that process.

CITY MANAGER WEISS stated that should Council select someone for us to negotiate with, we would enter into negotiations to develop an agreement to develop, design and construct the improvements at the airport. You already have the majority of the deal points before you because they are the basis of the proposals that have been submitted. There are going to be some operational and other details that will need to be worked out. It would be our hope that within 60 days we could come back to Council with that type of an agreement, but it is going to depend on the negotiations.

CITY ATTORNEY MULLEN stated that 60 days is optimistic. Depending on who Council selects, we may need to consult with the FAA. If Council does a lease with any of these entities, I think your grant assurances require FAA consent to that lease, so it may be a condition that you need within the lease. I am not sure that that would necessarily affect the time table when we come back to Council for approval.

CITY MANAGER WEISS added that the Transportation Commission did ask that upon negotiations of some type of an agreement, the item go back to them. That would delay an action coming back to the Council.

DEPUTY MAYOR CHAVEZ wants this to make some money, but on the same token I want to be very respectful of all of the neighbors, CBO, etc. As we negotiate this lease, I want to be sure that they are taken care of. That is number 1 for him.

APV is 50 years with two 10-year extensions. AAC is 40 years with a 5-year extension. One is longer than the other. As soon as possible we need to negotiate that the money in the General Fund come back as soon as possible. I am totally open and here to dialog with the Councilmembers. I do not think that we can lose on either one of these. We have 2 great corporations, and I am ready to hear what everybody else has to say.

MAYOR WOOD noted that we have all had the back-u for more than a week and talked with everyone. All the questions tonight should have been asked previously. He wished to make this quicker.

COUNCILMEMBER KERN stated that we are going to make a 40-year decision tonight. He, the Transportation Commission, OAA, and CBO studied all of the materials. The Transportation Commission voted 3-3. It sounded like OAA is neutral. CBO, even though they say that they are for one, Mr. Stewart said tonight that they are neutral so iIt is going to be a tough decision. This is a decision that we have to get right because we are going to be stuck with this for 40 years. Rushing through this just to get it done in 15 minutes versus an 1½ hours is not a valid argument. He has read this material probably 6 times and has changed his mind probably 7. He complimented OAA and CBO because they did take the time and they were the citizen input on this. Everybody went to the table, and they took it very seriously.

We have an established company that has had experience, and they are ready to go. We have another group that has a ton of experience, but they are the first time as a company. He has to weigh that out.

He is a little disappointed because when he sent this back to staff before, he asked for a 25 year side-by-side comparison of the pay out and a 40 year run out. He never saw that coming back to Council. That would have been helpful in making these decisions. It is not here, but we will go forward from there.

Regarding participation by the FAA, what is that process? Previous Councils said that they did not want to take FAA grants. However, in order to make this airport work well, we are going to have to take FAA grants. Is it part of your proposal for FAA grant participation, as far as runway, refurbishing, security fencing, etc.?

On behalf of APV, **MS. KENNARD** stated that for both proposals the intent would be to utilize FAA grants. The point is what team can work the best with the FAA to maximize those, because there is discretionary entitlement money.

On behalf of AAC, **MR. SAUSE** stated that they would use FAA grants. We ask that the City be the sponsor, and you have to be as the landlord. If the City did not want to participate in the grant, then we had the right to go out as our company, put up the sponsor share, meaning the City's, and obtain the grant.

COUNCILMEMBER KERN wants to make it real clear when we leave here tonight that we will participate in FAA grants; we will be full partners in this airport; we will be the landlord; and we are going to do the best job we can of maintaining the airport for 40 years, if not longer. This is what we are trying to guarantee.

One of the comments that APV made bothered me, because we are not hiring people, we are hiring a company because this is a 40 year process. A lot of us will not be here then. Doing this is a long-term arrangement. Hopefully, whoever gets the contract has some idea of succession planning: who is going to take your place, and who is going to run it from there.

Addressing the noise abatement, he thinks both of them have a noise abatement program in there. How would they each handle a noise complaint?

SCOTT WARDLE, Regional Manager of AAC, stated that he responds to noise on a regular basis. First you have to take down the information in the complaint log, reach out to that person, and 9 times out of 10 we can figure out who it was. We then educate them on what they did wrong. Usually, people that violate the noise only do it once.

COUNCILMEMBER KERN asked if there is a live body that they can get hold of during business hours or after hours.

MR. WARDLE stated that we have noise hotlines and e-mail. If you e-mail about noise at AAC, you get a response.

MR. DRISCOLL stated that it is similar for APV. The key issue is that you respond to the complaint as quickly as possible, investigate the complaint and get back to that person who filed the complaint. There is a monitoring system that we developed to monitor tail numbers. If you create a flight plan, we know that your aircraft is landing here, and that is up and operating in Ontario. If the tail number is observed, we will know who it was and will contact that person. If we cannot get that out of the FAA because they do not think it is a busy enough airport, then we will do the same thing: written, e-mail, and we will have a website that they can go to file their complaint and give us as much detail as possible. We will respond.

COUNCILMEMBER KERN does not think the flight school was the problem. The problem was the operator of the flight school was the operator of the airport. There was nobody else to report to, so the idea of having a flight school there in the future may be something to look at for the educational component. At least there should be somebody that they have to report to. That is something that can be worked out 5-10 years from now, once we see how that operation is working. They are going to have to come back to everybody else and talk about that.

Regarding oil recycling, you have all of those safety things in place. He asked each company to elaborate on marketing the airport to prospective renters.

MR. WARDLE stated that the good news is that there is pent up demand. We are aware of it, and there is a lot people that we have talked to that cannot wait until something is put there at the airport. You are going to have an initial rush of people. In terms of marketing the airport, there are lots of ways to do it. We think that this airport will not have any difficulty. There is a terrible shortage. Small airplanes are getting pushed off of the neighboring airports here. We do not see any challenge in filling up the airport. Through direct mail or e-mail, the word is going to get out.

ROBERT CLIFFORD, one of the principals of APV, is primarily in charge of the development and marketing of the airports. We do a complete survey of every single airport in San Diego County that would be considered a competitive airport for this, so I can understand the rates, charges, availability, vacancy factor, etc. I will primarily look at what airplanes are outside on tie downs. They are your first choice to go into hangars. We advertise. Pacific Flyer is one of the basic places we advertise. We also advertise and promote Oceanside as a tourist destination because that brings more people down here. We attend all of the AOPA Expos and NBAA Expos. We promote the airport, our hangars, our rental, etc.

COUNCILMEMBER KERN is still undecided. The only thing that he really did not like about the APV original proposal was a net lease. He likes that they actually put a gross lease in because with a gross number, the rest of the money we do not have to deal with and we do not have to go back and audit books to find out how you guys arrived at the net. Probably, his direction to staff is that we do gross leases and not net. That way, the money comes in, and you take it right off the top and give that to the City and they deal with the rest of that. I am still withholding my judgment until I hear from my colleagues.

Responding to Councilmember Kern's question about the 25-year pro forma and the run out, **CITY MANAGER WEISS** stated that that information was provided to the Council as well as the Transportation Commission on April 2. If you do not have it, he will make it available to you.

COUNCILMEMBER SANCHEZ stated that both companies had the opportunity to hear about what our issues have been historically. One of the important parties is not here, and that is the Prince of Peace Abbey, which was actually here before the airport.

The big disconnect that we had was that once a plane is up, the City had no jurisdiction, and it was totally FAA. We would have people calling, videotaping and audio taping noise and hovering less than 100 feet, etc. We were not successful in getting any response from the FAA other than what our response would be here, and that is some kind of a procedure that would affect the lease. I want to hear what would be the procedure and how would you work with someone who sends a complaint in? What are the time commitments in terms of following through on a complaint?

JACK DRISCOLL stated that most of the noise complaints tend to come from non-based aircraft. They tend to be itinerants who come in, gas up, take off and fail to follow the protocol; that is a big issue in terms of pilot education. The pilots can help, as well as airport management. The most important thing is to get a response to the complaintant as soon as possible. Typically, if aircraft is hovering, they can make an identification. If somebody is running rampant down the freeway, and it is a news helicopter or something. You can usually identify these. The itinerants you cannot identify.

At all of the airports we have managed our policy has been to immediately respond to the person that we have received your complaint and we are going to investigate it. Typically we call them, and if we cannot, we send an e-mail. We will ask if there is additional detail; we will investigate and try to identify the pilot and the aircraft, and then deal directly with that person. Typically the FAA is not going to get into individual complaints. They will deal with flight path issues and major dilemmas, but they are not going to find themselves discussing individual complaints. The burden really is on airport management. We would create a noise website so that you could file your complaint. We would respond to it, and we would have 24-hour service, or at least for the hours that the airport is open so that we could get back to them. Depending on the protocols that the City wants, we would identify each of the complaints to the City, maintain a log, and a resolution to those. The education process is critical.

COUNCILMEMBER SANCHEZ asked how you get compliance for a flight pattern. That has been the real problem here. Where it is very close to the hill and when there is a flyover, either taking off or landing, for whatever reason, they get within 100 feet or even 50 feet, how do you get people to go the flight pattern, which is the river.

MR. DRISCOLL, APV, stated that they had that problem at Van Nuys, which is bordered by 5 different Council districts. We instituted a fine program, which we only utilized where someone consistently violated the rules, and we knew that it was that person who was violating the rules. We eventually did ban a jet aircraft and pilot from coming in to Van Nuys and went to court on that issue. That was so extreme, but the behavior of the pilot was extreme. You can create fines.

The best thing to do is work really hard. You have to take this airport seriously, and we would take it seriously. You have to manage it seriously, and you have to relate to the community in a very serious manner. You just do not blow off community complaints; that is inappropriate and wrong.

We would manage ourselves to a point where if we found that it was still occurring, what other kinds of things do we put in place to ensure that it does not occur? Typically it is an irregular basis, and those are sometimes a little hard to grab, but we will make every effort to do that and enforce it as best as we possibly can.

COUNCILMEMBER SANCHEZ wanted to know if a plane flies within the 100 feet, you do not take that to the FAA or is this something that you handle via management?

MR. DRISCOLL, APV, stated that typically we would handle it. If it became a persistent problem, then we would engage the FAA, the City Attorney and others to figure out how you are going to stop this from happening. It is very typical that you will

get a number of different people doing that. The persistent violator is the one that you want to stop from doing it. You want to snag everybody from doing it, but it is pretty hard on one odd event; the person says I did not realize it and it is the first time I came in here. I am not diminishing or forgiving the behavior, but I just want to make sure that you understand that it is a responsibility of ours; we would manage it well; and sometimes it is difficult to catch the culprits.

COUNCILMEMBER SANCHEZ stated that we actually had video/audio tapes, and it was the same person.

MR. DRISCOLL responded that if we have that kind of information, you can deal with it in a much more aggressive fashion.

MR. WARDLE, AAC, stated that there is no substitute for a live person. An example was on Mother's Day when his phone rang about helicopter noise, and we solved the problem. We called the operator and told them that it's Mother's Day, and they stood down for the rest of the day. That is just one example, but the key is that you have a live person that is reachable. I give out my cell phone number. If a guy is within 100 feet of a home, I probably would call the FAA to investigate.

COUNCILMEMBER SANCHEZ stated that was her biggest concern because, over the years, that has been symbolic of the complaints received – that is coming within 100 feet and hovering, having the same plane doing it over and over again, getting calls in and nothing happening, and the frustration of that. Whether the house was there before or after the airport, it is the same issue.

Looking at both of these, I think that when the RFPs went out there were restrictions that have not been able to be met. I think if the requirements were strictly adhered to, neither one of you two actually met them. One of them was no financial responsibility by the City, something like a 25- or 30-year lease, getting the money back. Both of you are basically saying over the life of the lease and no interest. One is 50-70 years and the other one is 40-50 years, and that is a long time to get money back to the City.

Of these two, I was most impressed by the one that the staff has recommended, and that is APV. That is because of the level of commitment in terms of the investment, and what the City would be getting in terms of looking at this for the best interest of the City. She is not happy about the length of time. She understands that if you have that kind of investment, it is probably necessary to have that length of a lease (at 50 years plus 2 10 years = 70 years); AAC would be a total of 50 years (40 years plus 2 five years). Staff has recommended it. Staff has worked a lot longer on this, and she did not get involved in the negotiations. She intends to support in every way possible the settlement agreement with Citizens for a Better Oceanside (CBO) and the need for an Environmental Impact Report, which is required by the State. She knows that both companies are committed to doing that. There are other things that are within the settlement that are not spelled out here, but you are both going to be doing that.

She **moved** approval for APV [and authorize staff to negotiate the terms and conditions of an agreement with Airport Property Ventures for the development, design, construction and operation of facilities at Oceanside Municipal Airport]. The motion by the Transportation Commission was 3-3, so I am not really sure that they have to hear it before we do. I think that we can go ahead and do that. There was a disagreement with the Transportation Commission.

MAYOR WOOD seconded the motion.

COUNCILMEMBER FELLER asked if $480,000 is all that our debt is.

MR. GURLEY confirmed that it is the total that the General Fund has contributed in either operating overruns or loans to the airport.

COUNCILMEMBER FELLER stated that everything else is tied up in FAA grants.

MR. GURLEY responded yes and explained that we have the pay off for the state loan that we used to build the hangars; there are FAA commitments from money we took to purchase property; and there are some improvement grants also.

COUNCILMEMBER FELLER stated that on the 2nd and 3rd page they both say the City would be required to fund the replacement costs of the airside assists.

MR. GURLEY clarified that the maintaining, the upkeep and replacement of the airside operations was not a part of the RFP. The City has that responsibility and has to upkeep them. That would be a City decision, whether you chose to take grants from the FAA, for example, to replace the runway or not. Neither proposal has proposed to do that or fund that, nor was it a requirement of the RFP that they do that. That is our responsibility.

COUNCILMEMBER FELLER stated that being our responsibility, we are probably going to be, almost assuredly, accepting grants.

MR. GURLEY stated that would be an option.

COUNCILMEMBER FELLER stated that otherwise it would come out of the general fund, and it defeats the purpose. Councilmember Sanchez was talking about the pilots that are transient. He heard one of the presenters say that the transient pilots are the ones that are doing the most damage out there. He asked if we have a sign up at the airport that says follow the departure pattern.

MR. GURLEY responded yes, we have numerous signs up there.

COUNCILMEMBER FELLER stated that the City is going to be participating because a lot of citizens are going to be down there no matter what and no matter who is there. The Young Eagles are going to be there, and the people that are interested in inspiring young people to fly will be there. In 20 or 30 years, he would think that we are maybe going to be flying completely differently. He thinks the airport is going to go through a lot of changes. He asked if we have any kind of clause in this contract that says, should there be substantial changes in flying, that something different could happen here.

MR. GURLEY stated that we can negotiate about anything you want to do. If he is talking about an out clause, we would negotiate some mutual out clause that would benefit either us or them depending on the situation as it developed. If we can get some clarification on that, we would be happy to sit down and negotiate that also.

COUNCILMEMBER FELLER heard a person from AAC say that a full-time employee is important, and I think that is what it says in both of these contracts - that there will be a full-time person. That person can probably answer the telephone when somebody calls in. He asked if that is a possibility.

MR. GURLEY stated that both proposals include having at least the full-time operator and a part-time position. Whether that is under the full-time person or 2 part-time people, we have not reached that point.

COUNCILMEMBER FELLER asked each presenter for their total number of hangars and tie downs are on the south side, and what they see as a total number of hangars and tie downs on the north side.

MR. SAUSE stated that AAC is refurbishing 45,000 square feet of old hangars on the south side plus 20,500 square feet of new hangars on the south side. On the north side our build out is a little bit in excess of 210,000 square feet.

COUNCILMEMBER FELLER asked what that equates to.

MR. SAUSE stated that total tie downs would be 55.

JERRY LEAMING, Chief Financial Officer of AAC, stated that would equate to

50 hangars on the south side and 125 on the north side. He confirmed there would be 55 tie downs in total.

ROBERT CLIFFORD, APV, stated that for new development on the south side, we have 82,500 square feet of hangars, a terminal building, and retail and office space. On the north side we have set aside 174,240 square feet of hangars. You cannot break that down into a certain amount of hangars because we do a complete survey of what type of planes are out there and what is needed. Some of them could be T-hangars, some of them could be medium-sized box hangars, and some of them could be larger box hangars.

If the market says that the preponderance of needs is T-hangars, there will be a higher count. If they say that the preponderance of needs are 3,000 foot hangars, because 2 guys want to be in a hangar together, that is a different count of hangars, so we would have to explain it by square feet now. When we do the full survey of what type of airplanes would come to this and what is the biggest demand, then we could give you a better count. The same thing with the tie-downs; our count on the tie downs is about 50-60 tie downs right now because that is the cheapest way to house an airplane. However, if there is not a need for that, we would build more hangar space. If there is a need for more tie down space, then we would leave out some hangar space.

COUNCILMEMBER FELLER heard both of you say that there is a great need out there for these smaller planes to have a place to park. Do your best to give me a number.

MR. CLIFFORD stated 150-200 new hangars. That is the average size of about 1,500 square feet per hangar, and we have 256,000 square feet total.

COUNCILMEMBER FELLER stated there was a question about the EIR and whether a full EIR has to happen.

MR. GURLEY stated that the settlement agreement with the Citizens for a Better Oceanside (CBO) requires us to do a full California Environmental Quality Act (CEQA) on it. Right now he does not have the answer whether or not that is a full EIR.

DEPUTY MAYOR CHAVEZ stated that both companies are great. The major issue is the investment in the whole airport. One is doing more than the other, and the other one has to do with the actual layout of the north side of the airport. This has been a contentious issue and now we are finally here; it is extremely important that we have a unanimous vote on which direction we go. Since Councilmember Sanchez has made the motion for APV and it has been seconded by the Mayor, I will be supporting APV also and ask that we move forward with this.

Motion was approved 4-1, with Councilmember Kern voting no.

[Recess taken held from 7:21 to 7:35. Mayor Wood was absent due a meeting in San Diego. Deputy Mayor Chavez chaired the remainder of the meeting.]

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.

11. **City 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 item is continued to May 21, 2008 at 6:00 p.m.

Deputy Mayor Chavez determined to hear Item 15 next [Items 12-14 were trailed].

15. **CDC: Consideration of resolutions (a) certifying a final Environmental Impact Report (EIR) and (b) approving Tentative (T-203-06), Development Plan (D-210-06), Conditional Use Permit (C-206-06) and Regular Coastal Permit (RC-212-06) for a mixed-use development consisting of 231 residential condominium units, 124-unit hotel and 48,000 square feet of visitor-serving commercial uses located on five City blocks bounded by Civic Center Drive, Seagaze Drive, and Myers and Cleveland Streets - CityMark - Applicant: CityMark Oceanside, LLC**

A) Vice Chair opens public hearing – Deputy Mayor Chavez opened the public hearing.

B) Vice Chair requests disclosure of Commissioner and constituent contacts and correspondence – Disclosures were made.

C) Secretary presents correspondence and/or petitions – copies of E-mails and correspondence that were received by Council.

D) Testimony, beginning with

KATHY BAKER, Redevelopment Manager, introduced the item and reviewed that information was gathered from the public through community workshops. Out of that they created a top 10 wish list, including high quality commercial, a walkable community, strong architectural articulation, economic viability, parking, etc. [using computer graphics for the staff report]. CityMark owns 5 contiguous blocks totaling 5.35 acres: 3 blocks west of the railroad tracks, with the northern and southern blocks consisting of a surface parking lot, and 2 blocks east of the tracks, which are surface parking lots. The project is located in the Redevelopment Project Area, the Nine Block Master Plan and the coastal zone. The City has worked with CityMark for a number of years now. She noted that if blocks 20-21 go forward, it could have temporary parking impacts, which will be addressed later.

She then reviewed the project benefits: enhanced redevelopment opportunities, increased visitor accommodations, increased visitor-serving commercial space, increase of residents living downtown, creation of full-time and secondary jobs, short-term construction jobs, and increased spending from visitors and residents. The architecture was reviewed at great lengths.

She then reviewed the different blocks, beginning with Block 5, bounded by Civic Center Drive to the north, Pier View Way to the south, North Myers Street to the west, and the railroad tracks to the east. Block 5 has 36 residential units; 1,576 square feet of commercial and a total of 65 parking spaces. The proposed design is a beach cottage style.

Block 18 is bounded by Pier View Way on the north, Mission Avenue on the south, North Myers Street to the west, and the railroad tracks to the east. There is commercial at Mission and Cleveland. It has 40 residential units, 10,447 square feet of commercial and a total of 132 parking spaces. The proposed design is a Spanish Mediterranean style.

Block 20 is where the developer chose to put much of the open space to create a really active public plaza. The commercial lines the area of the plaza, and they created a pedestrian access way for people to cut through from Mission Avenue straight into the plaza. It is a very creative way of designing this first floor. This lot is approximately 18,000 square feet of commercial, 32 residential units, and a total of 130 parking spaces. A conceptual site plan depicting how this plaza area might function was shown. It shows how they tried to tie in the same feel on Block 5. It really feels like a seamless transition from the pier to the south and to the north. An elevation shows how this would look with outdoor eating, retail kiosks, art shows and live entertainment. The other benefit of this location is that on the Thursday night Evening Market, this will be a nice tie-in to go under the underpass to the Evening Market. There will be a nice synergy between those two. The upper floors form an L-shaped building. The architecture is being called traditional American hybrids. It really works for this building.

Block 21 is the block between Mission Avenue and Seagaze Street, west of Myers Street. This block is directly behind the southerly hotel beach resort project. Commercial primarily fronts on Mission Avenue and some on Myers. There is some at grade parking, a drop-off for the hotel, and 3 levels of subterranean parking. This

particular block has 39 residential units, 124 hotel units, approximately 9,000 square feet of commercial, and a total of 278 parking spaces. CityMark would need to build this block first if the hotel beach resort did not go first. We have a condition on the CityMark project that the Oceanside Beach Resort has to show significant progress, which we define as removing at least 70,000 cubic yards of dirt from the beach resort, because we figure if they are going to move that much dirt, then they are committed. Then we can allow for CityMark to go forward because that is significant progress.

If the hotel does go forward, then CityMark can either keep the hotel or they can switch it to office. The way the project is currently parked, it is parked at the highest net parking demand, which is for office. They have the option of doing either. If the beach resort project does go first, CityMark can go forward with any 5 of the blocks at any time.

The 2nd through the 4th floors would be the hotel, and the 5th through the 7th floors would be the condominiums. This architecture has gone through some different iterations going back to 2006. We had them do some more roof articulation to try to get some volume so it did not feel quite so much like a box. So they finally prepared the elevations in 3D, and it helps everyone to really see the 3 different levels. You can see how there is some movement in the building; part is recessed 20-30 feet; there are balconies added; and there are different roof elements. It shows activity at the street level on Mission and Myers, with awnings and different pop outs and roof treatments. So it really breaks up the building with some areas that are recessed back to prevent a wall effect on Mission.

Block 19 is located between Seagaze and Mission Avenue, just west of Cleveland Street. The access is off Seagaze. There is plenty of parking at the street grade, and there is subterranean parking underneath. This block has 84 residential units, approximately 14,000 square feet of commercial, and has 250 parking spaces being provided at the first floor and 3 levels below. This block has also gone through a lot of transition in the architecture. It again goes back to August of 2006. This was presented at one of the City public workshops, and the community still was not thrilled with the architecture. So they came back and did a fairly significant redesign of the architecture. She showed a slide depicting a 3-D rendering of the street level, the activity along Mission Avenue, etc. It was a significant improvement from what we started with. The street level is the most important thing - what are the pedestrians going to experience at the street level. There are outdoor eateries, and the balconies help to soften up the building so that it does not feel quite so much like a large box.

Parking has been an ongoing topic of many discussions. There is a lot of confusion and uncertainty about parking and what is going to happen in the downtown. Reviewing some history, Ms. Baker stated that in 1949, the City entered into an agreement with the railroad company to allow the City to park in dirt lots on the west side of the tracks. Some of these dirt lots were paved in 1989 and 1991 through the redevelopment set-aside funding to construct 9 parking lots within the downtown. For the most part, they are lots 21, 24, 25 and 26, all of which are on the west side of the tracks. Eventually lots 23, 32 and 33 were on the east side of the tracks. In 1999 the City entered into a lease agreement with Catellus, who is really the railroad company, to lease 2 of the lots east of the tracks for a period of 5 years or until the parking structure at Seagaze Drive and Cleveland Street was completed. Subsequent to that, CityMark purchased those lots from Catellus in 2004, and both of the leases on the east side of the tracks and the west side were transferred over to CityMark. The 450-space parking structure was completed in 2006. Once the parking structure became occupied, technically the leases could have expired east of the tracks. However, CityMark has continued to allow the City to pay them lease payments and utilize those for public parking.

A parking analysis was done in 2002 to inventory the existing parking and to evaluate the future parking. A slide was shown of all of the parking lots in the downtown, with the CityMark lots highlighted. Lots 24 and 25 are the existing parking on the west side of the tracks. Once we built the parking structure on Seagaze Drive, it satisfied this parking requirement. However, the parking on the west of the tracks, the 161, we still need to deal with. At that time it was determined it was a total of 2,178 off-street parking spaces, an additional 4,960 on-street parking spaces, for a total of

7,138. Four of the 5 blocks have parking on them, but not all of the blocks. Per the Local Coastal Program (LCP), we do need to replace those. The CityMark project, by block, is providing a total of 856 spaces within the project, within a parking structure or at grade. The existing on-street parking is 22, and they are providing 47. Because of changes in curb cuts and different things, they are actually adding to the on-street parking. If you look at the overall net, we actually have 856 spaces being replaced through the project; we have an additional 25 on-street parking; and we are requiring 148 spaces to be replaced at the lot between Tyson and Wisconsin. After the project technically is completed, between the project and the new parking structure, we will have a net new of 1,029 spaces.

The off-site parking lot is between Tyson Street and Wisconsin Street. The draft plan as we have it currently designed can accommodate 229 regular parking spaces and an additional 5 handicapped spaces. CityMark is only responsible for 148 spaces, and the beach resort for 40. That means there is a balance of 46 available to the public. In addition, we have actually contemplated providing some compact spaces because now with the gas crisis, we are thinking that maybe we can go back to providing some compact spaces. If we can put more compact in these areas, we might be able to pick up some more spaces. In the beach resort project, he was not allowed to have compact spaces because that currently is not allowed in our ordinance. If we did, he could have picked up maybe 30 or more parking spaces. It is something that we may want to consider in the future.

She emphasized that the City does not own any of these parcels, and the City will not be subsidizing any portion of this project. Any improvements that we do that benefits the project, or is a requirement of the project, CityMark will be required to fully reimburse the City for those expenses. Also, there was a question about affordable housing that was raised during some of the workshops. She did want to point out that the Redevelopment Agency receives money called tax increment, which is the incremental difference between the value of the land when the agency was created and when the land is reappraised after development. The County sends us tax increment checks, and right off of the top we take 20% of that money and give it directly to the Housing Department to use for the production of affordable housing units or programs. For example, in Fiscal Year 2006-07, $1,800,000 was given to the Housing Department. Each year, as our tax increment goes up, that dollar amount goes up.

The Redevelopment Project Area is a very small area - only 375 acres. The properties just a little further easterly from here, which are far more economically viable for affordable housing, can produce a much larger number of units than the more expensive properties closer to the coast and the beach. For example, lLast year the Housing Department was able to use $7,900,000 of redevelopment funds to acquire a 14-acre piece of property off Mission Avenue to construct approximately 200 low- and very low-income rental units. We feel like our money is far better used a little further outside of the redevelopment area. Additionally, CityMark properties do not have any housing on them today so there are no units being torn down and no low income people are being displaced. Therefore, the topic of affordable housing is not topical for this project.

She addressed the references of the wall effect being created on Seagaze. During the initial workshops there was a lot of discussion about keeping the height to the south, away from the residential units to the north. Therefore, from a planning and land use perspective, it made a lot more sense keeping the height to the south of the project, and the developer was committed to keeping the height down. He had heard loud and clear from a lot of different people that they did not want the buildings to go taller than the beach resort. In the beginning he made that commitment that he would stay, even though he could go much higher, between the height of Oceanside Terraces and the beach resort. Those are commitments that he made early on, which really drove a lot of the design of the project.

In addition, immediately south of their project is an existing parking structure, and on the west side of the tracks is a parking lot. So it made a lot more sense to keep the height on the southerly part of the project, because there are no residential people that they are going to dramatically affect on that end of the project. In addition, North County Transit is looking at doing a major redevelopment project on their site with

mixed-use, residential, and going higher, so it all makes more sense to be down in that general area.

In reviewing slides, there was a wall effect and some discussion that the skyline would be disrupted with this project. We heard that and tried to respond to that. The developer did go through and took photographs looking down from Civic Center and Horne Street, and they identified where those buildings would be located. From Horne Street looking down, you really cannot see the impacts of this project on the skyline.

In summary, we are very excited about this project. The item before you is approximately 49,000 square feet of commercial retail, 231 residential units, 124 hotel rooms, 856 off-site parking, 47 on-street parking, 148-space new parking lot for their fair share of it, and 30% open space. The project meets all of the requirements of all of the identified documents. Staff recommend that the CDC adopt a resolution certifying the Final EIR, adopt environmental findings and issue a statement of overriding considerations and mitigations monitoring report program, and adopt a resolution approving the tentative map, development plan, conditional use permit, and regular coastal permit.

Applicant Input

RICH GUSTAFSON, President of CityMark Development, stated our involvement in this project started in 2001. Although we did not acquire the property until 2004, we have been involved in the planning and thought process for quite some time. We are very excited about the project.

For background, we formed CityMark in the year 2000, with the sole purpose of doing urban in-fill development. In the last 8½ years we have developed close to $500,000,000 in urban redevelopment areas, primarily in San Diego. We also have a large project in Las Vegas. Part of our guiding principles are buildings with high architectural integrity; things that will span the test of time and will look good in 40-50 years. We put a lot of heart and soul into what those buildings look like. Of the 5 buildings we have built and completed in downtown San Diego, 3 have won, on different years, best attached project in San Diego County, and a separate one was awarded an orchid award by the American Institute of Architects. We are proud, and we think that is validation of our efforts and the dedication that we put into our projects.

Regarding the project before us, this property is within the Nine Block Master Plan; we are 5 of those blocks. The overlays on this property are extensive. There is a lot of things that are required to go into it. If people owned individual blocks, it would be very difficult to do a master plan. That ownership of the 5 blocks allows us to work within those principles and the overlay zonings and to do things in a logical pattern that will ensure the success and the viability of downtown. This is a unique opportunity that does not occur very often.

Over the past few years, we have gone through 5 public workshops, and we have taken a lot of feedback. We also get a lot of feedback outside of the workshops via e-mails, letters and phone calls. We have taken all of those to heart. We intended and purposely met with the community before we put pen to paper on the architecture to find out what their goals were so we can do it right and do it once. Our goal is to get it right and have the community support.

A lot of the architecture was very well received early on, but it has evolved since then. We have received a lot of great comments, both from City staff and their outside architectural consultant, as well as community feedback. We have made changes to every block based on those plans. Most notably, Block 19 was probably the most drastic makeover, and that is solely based on community feedback on that property. Several of the main themes that came out of those workshops was that people wanted quality retail, quality restaurants, a walkable community, meaningful open space - where we have combined some open space and made it a larger plaza rather than put smaller plazas on all of the blocks - and high quality architecture. We believe we have

answered all of those. We are hoping to bring high quality retail and restaurants to downtown and really create a vibrant city.

Although we have 5 blocks, this property does not exist in a vacuum. We have Oceanside Terraces, Oceanside Beach Resort, the Wyndham and there is a lot of fabric in downtown. We want to be part of that synergy. We are not all of it; we are not the lead of it; we are a big part of it and a key part of it; but it is the collective good that brings that vitality and synergy.

ERIC ZUZIAK is a principal of the architecture and planning firm of JZMK Partners located in Irvine. Three years ago CityMark selected JZMK to plan and design this vital and important piece of Oceanside's urban core. We are very excited to be selected as the architect through quite an extensive process of interviewing a lot of very high profile architects.

No development can be successful as an isolated event, but rather as part of a broader community fabric. It requires community involvement throughout the planning and design process. All along it has been our goal to collect the community's input, process it and carefully shape it into a dynamic and aesthetically pleasing plan that current and future Oceanside residents will enjoy for generations. Creating great urban spaces requires a high degree of synergy to accomplish. We have been through an extensive 5 public workshop process. It requires a synergy of thoughtful design. Timeless is what we have strived for; every building to be different and reflecting the eclectic nature of Oceanside. What happens at street level, the quality of materials, the quality of the architecture, the quality of the textures, and the experience of the pedestrian is very important. It requires quality materials that are well executed down at street level and on the buildings above. We have a great location. There is a big synergy with the location; what is happening in downtown;, this urban revitalization.

We have studied access. There really needs to be an ease of access. There are 5 city blocks that link The Strand and the downtown. It is a great opportunity for revitalization. Pedestrian, vehicular, and mass transit access have all been taken heavily into consideration. It has to be marketable to be successful and have people want to gather in public places. A successful urban design solution creates places that bring people together for the sheer enjoyment of being in a place time and time again. Gathering points encourage socialization; this includes pulling buildings back along the corners and allowing outdoor spaces for gathering. Connections link to the greater downtown pattern. We have studied all of the vehicular and pedestrian corridors, how we would link and where access points would come in, and have taken a lot of public comments and integrated those into a lot of these designs. He continued the computer graphics showing public spaces that have human scale uses to reinforce a sense of comfort, an image of the plaza with the retail kiosk, and a lot of sunlight access to that courtyard. A great range of options of experiences, i.e., retail, restaurant, residential, hotel, etc. is what we are planning in this community, in this downtown zone; it is not a separate project. It is highly integrated. Walkability and the interest at the street level with a lot of store fronts that are exciting to look at, with color and texture, buildings articulate well above that line of the store fronts, and a focus on landscape, street furniture, awnings, color, texture and interest at that street level, etc. The main plaza plan is highly integrated with a lot of great concepts of outdoor dining and kiosks. It is going to be a very exciting place.

To reinforce existing urban patterns, the contexturalism, being respectful to what makes Oceanside a special place, we spent a long time learning that and what the public really wanted to see in their downtown. All of these facets bring a sense of community to the urban forum, thus creating places that have soul, and that is what we are really striving for. It is about the quality of the public realm - a linked series of places that are welcoming, exciting, diverse, eclectic and stimulating to both residents and visitors alike. This is our vision for downtown Oceanside. It is a vision that has been shaped by thoughtful design; design that has been guided by collaboration with the community, the Redevelopment Agency, and with the developer CityMark that has the ability to deliver this vision to fruition.

MR. GUSTAFSON thanked Council for their time and asked that Council vote in favor of the project.

Public Input

MIKE BULLOCK, 1800 Bayberry Drive, supports this project. It is the type of mixed use close to transit development that our downtown needs. It could be transit-oriented development and smart growth, if appropriate conditions of use are applied. However, the final EIR does not consider the significant mitigation measure of unbundling the cost of parking from other costs of doing business downtown. One who reads the EIR could only guess at how parking might be handled. It could be true that parking costs will be hidden and enforced on all of those that rent a hotel room, buy a meal, rent an apartment, own a condominium, or receive a wage in downtown Oceanside. This approach would contradict the free market principle that consumers should pay for what they use and not pay for what they do not use. Ignoring the option of unbundling violates the law as established in the California Environmental Quality Act (CEQA) because unbundling parking is known to significantly reduce driving 20-25% and thus, is a significant environmental degradation mitigation measure, one that has not been shown to be unfeasible. This is in direct contradiction to what the Redevelopment Director said. The final EIR does not even estimate the cost of providing parking. This is an unacceptable oversight because any city that wants to apply free market principles to parking policy will need to know how much parking costs. In addition, the conditional use permit is deficient because it says nothing about how the parking is to be operated. Forcing all of those that use downtown to contribute money to support the illusion that parking is cheap is wrong. It is bad for business in downtown Oceanside; and it is probably going to result in a necessity to build a 172-capacity parking lot somewhere between Tyson Street and Wisconsin Avenue. If it is a surface lot, that would require 1½ very prime acres and would be very expensive. Twenty-five percent of the parking that is being provided is 904 parking spaces according to the draft EIR that he looked at. One-fourth of that would be 226 spaces. That is the kind of savings that you could have. You could save that money. Parking is really a dead space for pedestrians in downtown, and it is an economic drag on a community.

He has written a parking plan for Oceanside. It needs to be adopted and implemented as soon as possible. Please lend your support to intelligent parking. It was an attachment to the e-mail that he sent to Council today.

DICK BARTLETT, 417 North Cleveland Street, supports the project and asks that Council adopt the resolution. He attended all of the workshops that CityMark had, and he saw the 5-block project go from a bunch of ideas to concrete ideas that were voted on by the citizens. This is in my backyard. In fact, when it came to the Redevelopment Advisory Committee (RAC) hearing this item, I [as a RAC member] did not participate in the discussion nor did I vote because I live within 300 feet of this project. This project will affect every day of my life. I am out and about in the downtown area on a regular basis. I pay attention to the items that are in the EIR - the air quality, noise, traffic and parking. All of those are identified as items that we need to pay attention to. I am fully supportive of the project. The biggest question that I have is who is the master planner going to be for this project, as well as the hotel and City lot 23? We are going to be building a structure on City lot 23, which is going to have parking, and we are not sure what else. Let's pay attention to that. We cannot start everything at one time. My desire would be to start a parking garage first. However, dealing with this project alone, it is really a good project. He hopes Council will adopt the resolution.

KAY PARKER, 4377 Albatross Way, speaking as an individual, complimented the developer/applicant; he has worked diligently to listen to the community. He could have gone above 7 stories, and he did not. What we have here is something that is going to be economically viable, and that is certainly in the City's best interest to have an economic success down there. We have a balance of activities, business, recreation, and tourism. The applicant has paid close attention to leaving open corridors for us. I think it is a beautiful, quality project and will take us into the future and the successes we are all hoping for in this area.

DAVID NYDEGGER, 928 North Coast Highway, President and CEO of the Oceanside Chamber of Commerce, stated that the Chamber of Commerce has been looking at this project since the beginning and has attended a lot of the workshops. He finds it refreshing that all of the comments that the citizens had and changes that we

asked of the developer, they listened, responded and came back with something better every single time. This project was initially started in 1977 when they started the Redevelopment Area downtown. We have been 30+ years in the asking for this project, and we are getting very close to the finish line. This is something that this City definitely needs, and he enjoyed the slides that show all of the jobs that are coming to downtown and to our community.

KIM HEIM, Director of MainStreet Oceanside, supports the project. The organization has followed this very closely over the last 4-5 years that CityMark has been involved, and it really represents a great compromise and embodies a lot of community comments. We feel that the project will be a tremendous investment in the downtown, a bit of a inconvenience to accommodate during build out, but ultimately we believe it will be a tremendous contribution to downtown and wholeheartedly support CDC's approval.

SCOTT SCHMIDTMAN, 550 Seagaze Drive, wholeheartedly supports this project. This is incredible for downtown Oceanside. My main hometown is Spokane, Washington, and we bought a place in Oceanside as a second home. The reason we chose Oceanside is we see the enormous potential. We have the best beach, the best pier, the best transportation; we are on the precipice right now of the best North County development possible.

He reviewed the transformation of Spokane. What we have now for us in Oceanside is that we do not have to pay for this. We have wonderful developers like CityMark who are going to do it for us and put out something beautiful like this and totally transform the city. This is wonderful; let's not miss this opportunity.

RICHARD SLEVIN, 516 South The Strand, moved with his family from the East Coast last year to be part of the future of Oceanside. He knew about the potential developments in the downtown area, and having visited here he could see the incredible potential. He supports the project, has been to some of the workshops and commends the developer and architect for creating what appears to be a very welcoming addition to the downtown area.

[Councilmember Kern left the dais at 8:29 PM.]

MIMI DeMIRJIAN, board member of the Oceanside Coastal Neighborhood Association (OCNA), stated that OCNA has been involved in the public comment process of this project from the very beginning and attended the first workshops in early 2006. Development of these 5 blocks of prime real estate in our downtown area is a long awaited and crucial component to revitalization of our town, and we wanted to volunteer our knowledge and expertise to ensure the best possible project.

Regretfully, after 2½ years of commenting, our input was not respected, and we were isolated and vilified by City representatives. She wanted to discuss the public process which was rendered ineffective by our City staff and elected representatives.

[Councilmember Kern returned to the meeting at 8:32 PM].

A developer submits preliminary plans to the City for a project. These plans go through a process of review and re-working. A working relationship should begin where both parties, the City and the developer, meet and negotiate changes and improvements. Public input is a vital component. Since there was no one associated with the City qualified to review the design of these 5 buildings, an outside consultant was hired. Much to our surprise, this consultant produced a mere 4½-page document, mainly addressing the elevations and street setbacks. There was no reference to ocean views, layout of buildings, or use of public spaces. It was a cursory, minimal and unacceptable report for a project of this importance. OCNA's Victoria Beach met with CityMark on numerous occasions in early 2006. Who better than a successful architect and professor of architecture at the Harvard School of Design to review the design? If that was not enough, Victoria introduced a world renowned expert in urban planning to the City - Peter Katz. The City asked Mr. Katz to assess the CityMark project, and what he produced was a 1½ hour PowerPoint presentation on how to improve the urban

design, and the study resulted in a far better project. The results of his suggestions were suppression, threats and vilification.

The PowerPoint presentation, although a public document, was intentionally omitted from any public discussion; it should have been the starting place, addressing ways in which to achieve more ocean views, which would bring in more revenue to the City and provide better use of public spaces. However, 1 or 2 small aspects of the PowerPoint presentation would not be approved by the Coastal Commission, so the entire document was devalued by Redevelopment as unacceptable. Not only were our protests unheard, we were then denied further access to public documents. As OCNA's spokesperson, I met with each Councilmember to personally discuss our concerns. I could not get 3 Councilmembers to ask the developer for improvements. We are not just concerned with our interests; we are concerned with what is best for the citizens and success of our downtown area. You are diminishing the value of this land by not addressing the most crucial component: access to ocean views. She is specifically referring to the two 4-story buildings directly behind the 7-story Malkin Beach hotel.

NADINE SCOTT, 550 Hoover Street, went to one of the original CityMark workshops. At the time she had the same problems with it that she has now - the bulk and the depth. She is unhappy with the process how this is done. She is not completely unhappy with the plans, but they could have been a lot better. Our biggest asset is the beach, and we need to demand excellence from our developers who desire to be here. We have to be more forward thinking in our town than we have been in the past. I would encourage you to talk to your Redevelopment staff, encourage them to be more open and transparent with the public, because you can tell from the hearing tonight that some people are very unhappy with the process.

[End of public input]

Applicant Rebuttal

MR. GUSTAFSON stated that in 5 public workshops we heard a lot of variant of opinions from the far left to the far right. We took all of those to heart, and we put them in the context of the planning documents that exist in this City, the guidelines we have to go by. This project is like a Rubik's cube; you try to solve the puzzle, but you move one dial and it changes something on another face. It is a very complicated project to plan and design. We took as much public input as I have every done on a project. You always take public input; it is your city. It is our project and our property, but this is for everybody. We really want this City to be gung-ho about this project. I commend staff, because this is a very difficult project to design, with all of the requirements of the coastal overlay zone and the myriad of layers; there are about 3 layers of entitlement documents that you have to follow. He would respond to specific questions.

DEPUTY MAYOR CHAVEZ closed the public hearing.

In reference to Mr. Bullock's unbundling, **MS. BAKER** stated that he brought this up recently, and I think it is a really unique idea; it has potential. Unfortunately Mr. Bullock did not approach us until a few months ago with this idea. It would be something that we would like to explore, but we do not have any ordinance or mechanism right now to incorporate that or to require projects to unbundle. When he was saying that the use permit does not say how the parking is to be used, we do not require that right now. We do not demand developers to tell us how their parking is going to be managed and operated. However, she likes his ideas and welcomes him to meet with us and our engineering staff to explore some of these ideas, because she thinks they are worth looking into, in particular because we are so close to the transit.

Mr. Bartlett's comments about the master planner, the coordinator, the construction, and the downtown, that is going to be an effort. She can assure you that collectively both our staff, engineering staff, and transportation staff, are all going to be looking at that and how we coordinate that and have minimal impacts to the downtown residents and the merchants. When the Wyndham was under construction and hauling 50 trucks a day with dirt, we got through it. It is a matter of informing the public,

informing the merchants and making sure everyone is well aware of it; and it is well orchestrated.

Addressing Mimi's comments, we did listen to the input that they did convey. She is upset with the comment made that we did not appreciate or respect their comments. In particular, Mr. Katz did do a review; it was not a public document; he did it when he first starting working here. A few of you may have seen his final production of what he envisioned for CityMark. There were a lot of good ideas. Some it involves North County Transit, with property that we do not have control over. Some of it was second floor retail. That is hardly ever successful in any project. It was not just 1 to 2 items; there were several other things, including bridging across Pier View, which Coastal would never approve. If he had been up to date and up to speed with all of the documents and all of the regulations that are imposed on this project, he could have incorporated those into his design. Unfortunately a lot of what he was proposing was in a vacuum, and he did not understand all of the heavy regulations associated with this site. Unfortunately, as great as some of these ideas were, some of them logistically we could not do.

A comment that is very disturbing is that we did not and have never denied access to any of our documents in the City. Anything that is submitted to our department, the minute it is submitted to the City department is fully public accessible. In fact, we have been missing items from the file because we have had so many people from the public reviewing them, and documents went missing; we actually had to contact CityMark to get copies. Those documents have been very readily available to the public.

If anybody were going to complain and be here to complain about it, it would be Oceanside Terraces because they have 2 buildings directly in front of them that, in theory, are blocking their view. We do not assure private views. We do make sure that we have nice view corridors down the public streets, like Mission Avenue, in which we have 16-foot sidewalks and another 17 or 18 feet from the edge of the curb, all the way back to the building. We are talking about over 30 feet from the edge of the curb to the face of these buildings on Mission Avenue. We did that deliberately to open up that public access looking down Mission Avenue.

COUNCILMEMBER FELLER commended staff for doing a great job. This has very difficult to accomplish. This has been a long time in coming. In the first look at this, there was a lot more height in their vision initially. This has been a huge compromise overall for the developer, the neighbors and all of the public that has had input.

We are not suppressing any information out there. He went to several of these workshops. We cannot have any more than 2 Councilmembers at any meetingwe cvannot redirect staff in these meetings. Now is the Council's time to talk. We have had meetings with the developer and the community. This is Council's opportunity to finally talk about this, but he is amazed that there are only 4.

As far as leaving Oceanside to go to nice restaurants in other cities, he tries not to go to anyplace outside the City for any reason. He gets his meals, gas and everything he does in Oceanside. The businesses that are here depend on us to do that. They are waiting for us to do something good for them in this downtown.

Some people said we were not doing things legally. He wants to make sure that this is consistent with the Coastal Act, as well as the Redevelopment Plan, the Local Coastal Program, Nine Block Master Plan, Downtown "D" District ordinance, etc. We are not doing anything illegal here.

MS. BAKER responded no sir.

CITY ATTORNEY MULLEN stated that his office has approved the resolutions as to form. The question before Council tonight is whether you believe substantial evidence supports the findings that we have put forward in those resolutions. That is a discretionary decision for the City Council to make.

COUNCILMEMBER FELLER moved to approve staff's recommendation and adoption of the resolutions. He wants to get this going as soon as possible.

COUNCILMEMBER KERN seconded the motion and stated that this has been a process. Everything has been really open, and we have talked about it and talked about it.

Just because we do not take some suggestions does not mean that we are doing things unethically. We just do not agree on items. This is the way it is because this is the way it turned out. There were constraints. They self-constrained themselves at 85 feet. He feels that 4-stories is too short. They could go to 140 feet and that might have been a good spot to go 140 feet behind the hotel, but aesthetically that would not have worked for the hotel or them. They worked together with the hotel project to make that whole area look better. The idea of coming in and moving that taller building to the south really worked because it actually did take into consideration the neighbors. They listened to the neighborhood there for the idea of moving that tall building to the south and the transit oriented thing.

In response to Mr. Bullock, next week NCTD is going to come out with a disk on their project, and we can talk about unbundling. We have had that conversation before, and it might be something that they will consider as they go down the road. Unbundling is about how you can unbundle the parking from the living space. If you have a 2-bedroom condo, and just 1 person has a car, they just get to buy 1 parking spot separately since they are going to use transit instead of having 2 parking spots. You can sell your parking spots separate from the condominium, so they are unbundled. Obviously, now when they buy their condominium they have 2 parking spots because that is our requirement, but they may not need it. The idea is to start thinking about transit and start thinking more aggressively of how we incorporate transit. That is the place to do it. The NCTD project will probably be more conducive to that than this one. He is not 100% sold on unbundling, but we are talking about it.

In response to Mr. Batlett, we cannot build the parking structure first because if we did, we would have to put 28 hotel rooms in the parking structure. The timing of it is that we have to get this project and the hotel off the ground so we can build a parking structure. To me it makes a lot more sense to build the parking structure, then we have places for people to park during construction. The way it is all written out, we have to have these places built to build a parking structure without hotel rooms in it. Arethe hotel rooms versus office space flexible or is that something you have made a decision on?

MR. GUSTAFSON stated that right now we do not have any flexibility from the standpoint of if we build this project and the hotel does not go forward, we have to build a hotel; that is our plan. If the hotel goes forward, it gives us the flexibility. There may be demand for another complimentary hotel alongside of that, or there could be more office that was needed. Part of that is to see how Oceanside Terraces fairs with their offices. There are things that are yet to be determined with the viability or the ability to go either direction. It is very important that we park for the worst case scenario. It is over-parked if the hotel goes in.

COUNCILMEMBER KERN likes the idea of a hotel, but also likes the idea of office space because transit-oriented development is a density of jobs, not just density of housing. If we can have that flexibility when you get down the road and hopefully Jeremy Cohen's project is under construction.

COUNCILMEMBER SANCHEZ agrees that we only have one opportunity to do this. You are not going to be able to change anything once it is done. I have been looking at this for 52 years – that is how old I am - because I have lived here that long. Over the years I have had a vision of what I would like to see Oceanside be.

Before CityMark bought this property I was pushing for master planning of the downtown so that we could, very plainly and openly, have a dialog with the public and partnering in deciding what our downtown looked like. We talked about the need to have a downtown crowd, with retail, higher-end restaurants and higher-end

entertainment downtown because we do not have it. There is a need to have hotel rooms.

This Council has had a different philosophy than mine. It is perfectly fine to have a difference of opinion. Unfortunately, not having a vision meant that the developer brought this vision to us. She had attended the meetings, and I had been very discouraged that there were not direct conversations, communications, and discussions about meeting these needs of the City. We need a daytime crowd. We need jobs downtown. If we want a Gas Lamp, it means that at street level you have retail, office, restaurants, and entertainment venues in a walkable community. That is not what was presented tonight. Looking at the EIR, 4 of the 5 blocks all have parking at grade. It is not a Gas Lamp idea at all. When you look at the pure numbers, Block 5 has 58,586 square feet of residential, and non-residential is 1,602 square feet. Block 18 is 71,040 square feet of residential, and non-residential is 9,665 square feet. Block 19 is 155,700 square feet of residential and 13,900 of non-residential. Block 20 has 58,350 square feet of residential; this one has the most square feet in non-residential at 15,057 square feet. Block 21 has 77,575 square feet of residential and 9,035 non-residential. She feels like we have lost an opportunity to really have a crowd downtown. How many people would love to have an office space in an urban area? She has lived in urban areas on the east and west coast, and she does not see parking at grade. In downtown San Diego you do not see that, not on 4th Avenue or 5th Avenue. That is with the daytime crowd. She feels that the parking analysis that was done is flawed. We could do a lot better.

Regarding the aesthetics, she still sees a block wall effect. She is amazed that she can go to Vista and see different kinds of buildings going up that have roundness, different columns, etc., and here we are in Oceanside with prime land, and we are doing blockThe idea with the height was to have a better project. It is still the wall effect, and it is still a block. It is not a walkable community. It does not encourage walking because you are going to see a bunch of parking spaces or façades that you are not going to be able to go into. It is not what I would have liked for Oceanside because I would have liked for us to say we want to encourage restaurant row and these higher-end entertainment venues. I do not see that happening in this minimal amount of non-residential space. For me this is not mixed use; when talking about 1,000 out of 58,000, that is not mixed use. This is purely a residential project.

She would like something better for our City; we deserve it. We need economic development to be part of this. We are here to act in the City's best interest. Having waited this long, she really expected the best project possible. She cannot support this. We missed the opportunity.

COUNCILMEMBER KERN stated that Councilmember Sanchez is right; we wait until a project comes to us, and we do not master plan so everything that happens is project-driven. Hopefully we are getting out ahead of this now with the master planning of the north section of town and master planning of the south section. Our last General Plan was done in 1977. Maybe it is time to really sit back, take a look at that and figure out what we are going to do as a vision for the whole City. Otherwise we are going to go back into this loop.

He thinks this is a great project. The square footage numbers are a little deceptive because all of that residential is in the upper floors. It was said that second floor retail does not work. For residential versus commercial, he felt the developer did the study.

MR. GUSTAFSON clarified that on a busy urban street, you do not want residential with someone's front door right there; you want that sense of removal, and that is why the second floor works well for that.

Also, we never stopped talking to anyone. We are open to feedback, and we always have been. We have never turned away a comment. We have to take those comments and put it in a context of this project, but we have not ever shut anybody down from giving us more feedback.

Regarding the parking, part of it is at grade, but you cannot see it. We shielded it and screened it with retail all along all blocks, and that is actually what happens in downtown San Diego. I built many of the projects, and there is parking behind those new buildings; you just cannot see it, which is the premise of a good urban design. There is a lot of projects that do not have parking at all, and they are the old buildings. That is on the Gas Lamp; it is primarily those buildings because they are old; they were built in the 1800s. I want to be clear on that. We can put up a map that shows how the parking is screened, and you cannot see it.

COUNCILMEMBER FELLER stated that this is only 5 blocks of 316 or whatever the acreage is for our Redevelopment Area. There is a lot more to come. There are boarded up buildings up and down Coast Highway that are going to be part of this whole project. He **called for the question**.

DEPUTY MAYOR CHAVEZ seconded the call for the question, which was **approved 4-0**, with Mayor Wood absent.

The **original motion** [to adopt **Resolution No. 08-R0319-3**, ". . . certifying the Final Environmental Impact Report for the CityMark project and adoption of a migration, monitoring and reporting program, findings and statement of overriding consideration (Applicant: CityMark)" and **Resolution No. 08-R0320-3**, ". . . approving a Tentative Map, Development Plan, Conditional Use Permit and Regular Coastal Permit for the construction of a mixed-use development consisting of 231-unit residential condominiums, 124-unit hotel and 48,000 square feet of visitor-serving commercial space bounded by Civic Center Drive, Seagaze Drive, Cleveland and Myers Street – Applicant: CityMark"] **was approved 3-1**, with Councilmember Sanchez voting no and Mayor Wood absent.

Deputy Mayor Chavez determined to hear Item 19 at this time.

GENERAL ITEMS - Continued

19. **Harbor: Introduction of an ordinance authorizing designated lifeguards of the City to exercise the powers of arrest pursuant to Penal Code Section 836.5, and repealing Ordinance 87-42.**

RAY DUNCAN, Harbor and Beaches Manager, requested that Council repeal and replace a 21-year old ordinance, Ordinance No. 87-42. This has old and antiquated names in it. For example, the lifeguard sergeants' names are not in there. We are asking to have those updated so that the lifeguards can again have police powers while patrolling the beach. Some of our repeat offenders know that the lifeguards do not issue citations, and therefore continue to, for example, bring their dogs on the beach and continue to violate the ordinance, not worrying about citations being given to them.

With repealing and updating the ordinance, the lifeguards would be able to again do enforcement for the ordinances on the beach, and especially, the new ordinances such as the no smoking ordinance that we have added within the past year. Tonight the recommendation is that the City Council introduce an ordinance authorizing designated lifeguards of the City to exercise the powers of arrest pursuant to PC 836.5 and repealing Ordinance No. 87-42.

Public Input

DONNA McGINTY, 2405 Mesa Drive, thinks it is a great idea to relieve the Harbor Patrol and police and give them an opportunity to do what they should have been doing all along without so much hassle. Now they can make believers out of the public.

LARRY BARRY, 3973 Brown Street, is in favor of this. Any weapons we can have out there are probably the best thing. During Spring Break, my 15-year-old daughter was sexually attacked at the beach by an individual who the Fire Department and lifeguards know about. The whole process was muddy and murky. The lifeguards could not do anything but take her over to the amphitheatre police substation, and they had to wait for the police to come. The sad fact about this is that the lifeguards could

have cited him for something and taken him off the beach. The guy has been arrested over 32 times. The lifeguards know he is a methamphetamine dealer, and he has been harassing people on the beach. These are the people we do not want on the beach or for tourists to see. If we have some tools to get individuals like this off the beach, it is great to move them on. They would be able to have more access to fine them or push them off before they become a problem and put people's lives in danger.

MR. DUNCAN noted that they are trying to stay ahead of the curve and having enforcement powers would be an aid to that. They are still with limited police powers; they are not full-armed officers; it just gives them the citation authority that they need to perform their job.

Following the reading of the title, **COUNCILMEMBER FELLER moved** to introduce the ordinance, ". . . authorizing designated lifeguards of the City to exercise the powers of arrest pursuant to Penal Code Section 836.5 and repealing Ordinance No. 87-42."

COUNCILMEMBER KERN seconded the motion but noted that people in the towers should really be focused on the water. If they see an infraction, are they going to call one of the Sergeants, Lieutenants or whoever is on duty to come and right that infraction so they can stay focused on the water.

MR. DUNCAN stated that all of the lifeguards should be focused on the water, whether they are in the lifeguard unit patrolling the beach, or whether they are in the towers. If there is an infraction in front of them that they see, we will try to get some compliance with that. We do not want the lifeguards looking behind the towers to see if there is alcohol or smoking. In the summertime when we are busy, the beach security officers do that. However, we want to have the tools, especially in the slower time of the year, when the guards are able to patrol and get compliance. When they do not get compliance, they would then have the authority to issue the citations. Their primary focus is on the water.

When the smoking ordinance came up, it was not designated that the lifeguards would be the primary enforcer of that ordinance, and we have had little trouble with that. We want to make sure we stay ahead of the curve, so that when the lifeguards say there is no smoking on this beach, that the people understand that that would come with a citation if the person were to be defiant and smoke in front of them.

COUNCILMEMBER KERN asked if the seasonal guards are going to be trained.

MR. DUNCAN responded no; they will not have the authority.

COUNCILMEMBER SANCHEZ stated that in the past we have been advised that we do not want lifeguards to have to cite people. In fact, when the smoking ban on the beach came up, that was one very strong position that was stated: we do not want to have lifeguards enforce this law because their duties are to save lives, and this is something that would have to be probably self-policing. This is a completely different policy here. Staff is asking that we include and go beyond the original, which was dogs pooping on public beach, municipal pier, Oceanside beaches, City Park, closing hours, drinking in public, prohibition of glass containers, and special events. Staff is now also asking for citations of dogs on the public beach, smoking prohibited, municipal pier, all sections, Oceanside beach is all sections urinating or defecating in public, encampment on public property, drinking in public, prohibition of glass containers, and special events. It sounds like staff is broadening.

MR. DUNCAN stated that we added the enforcement of the no-smoking ordinance. It was not written in Chapter 19 when it was passed a year ago. They have the full authority over Chapter 19, so we added it in at this time to an existing ordinance as a tool. If we have a complaint that a person is smoking in front of another and they are upset with the fumes, etc., staff wants to be able to handle it without having to call the police down to issue a citation for this person smoking. More than likely, we will not be issuing those citations. The no-smoking, defecating in public, and the enhancement of public safety are the 3 existing items that we are asking to have citation powers for. Of course, this can be modified at Council's direction.

COUNCILMEMBER SANCHEZ stated that this is definitely a change of policy and what staff wanted the lifeguards to do; this is broadening their duties. You guys are going to be really busy. She reiterated that the primary is the beach - people in the water and near the water.

Motion was approved 4-0, with Mayor Wood absent.

The Deputy Mayor determined to hear Item 14 at this time.

PUBLIC HEARING ITEMS - Continued

14. **City Council: Consideration of a resolution supporting Planning Commission Resolution No. 2008-P14 and denying an appeal and approving Administrative Conditional Use Permit (ACUP-4-07) and Administrative Coastal Permit (ACP-2-07) for the construction and operation of a telecommunications facility located at 1227 Vista Way - Cricket Communications - Applicant: Cricket Communications - Appellant: Holly Hargett**

A) Deputy Mayor opens public hearing – Deputy Mayor Chavez opened the public hearing.

B) Deputy Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Disclosures were reported.

C) City Clerk presents correspondence and/or petitions – No correspondence was received.

D) Testimony, beginning with:

SCOTT NIGHTINGALE, Planner II, gave an overview of the staff report. The surrounding land uses for this project include single-family residential to the west and north, I-5 and SR-78 to the east, the Buena Vista lagoon to the far south, and a commercial property otherwise known as the Hunter Steak House. This property is zoned commercial visitor and currently houses Amazon Bikes retail store. The administrative Conditional Use Permit was approved by the City Planner on February 2, 2008 for the construction of 3 telecommunication antennas attached to 3 newly proposed remodeled light poles at a maximum height of 30 feet. During the required 10-day appeal period, the appellant obtained at least 25 signatures from the 100 or so property owners that were notified. On March 10, 2008 it was approved by a 5-2 vote by the Planning Commission to support the City Planner's decision. During the Planning Commission 10-day appeal period, the appellant again submitted an appeal of the Planning Commission's decision, and that is why we are here tonight.

The appellant believes strongly that the Cricket applicant did not submit an accurate radio frequency analysis, which would define areas affected by the facility and the need for the facility. The radio frequency study is not required, but it was submitted to the Planning Department and reviewed for its content. The appellant also believed that the applicant did not exhaust alternative locations and designs that would keep the character of the neighborhood. In response to this, staff worked extensively with the applicant on the design and even worked with the applicant on not placing it on this site. The original proposal was to install a couple of antennas across the street on Vista Way. If they were to go there, it would physically and negatively impact the site, which staff was trying to avoid. He showed computer slides of the existing Crown Castle site, which is in the Planning Department now for a revision to the design and a revision to their Conditional Use Permit.

A depiction was shown of the location of the proposed antennas on the light poles at the front property line and directly behind the Amazon Bikes retail store. There is going to be a no-permitted generator on the site. There will be a temporary generator located in an enclosure behind the building, which will not be plugged in unless there is a power outage. If so, it will be plugged in for no more than 6 hours. The proposed light poles will house a single antenna above the light pole and will mirror the design of these proposed light poles. The existing light poles will be replaced with the new light

fixtures and shall provide an enhancement in design and a new technology that will provide the site with lower illuminations and will meet the light pollution code for the City. The poles will be at least 150 feet from any residential structure and will positively enhance the property. A rendering of what they would look like was shown.

The applicant has contacted the Federal Communications Commission (FCC) for radio emissions emitting from the site and established that minimal emissions shall be released by no more than 3-4 feet from the antennas and that no residential homes or humans shall be harmed by the proposed telecommunication facility.

Staff analyzed sufficient disguise and an upgrade in design, land use compatibility with the commercial development, and a compliance with the height regulations for the CV zone and compliance with the Zoning Ordinance in terms of development standards. Staff has reviewed this project entirely for its compliance with the Oceanside Zoning Ordinance and the upgrade in design. All health and radio frequency regulations are enforced and reviewed by the FCC. Staff recommends that the City Council support staff's decision to deny the appeal and adopt the resolution denying the appeal and affirming the City Planner's and Planning Commission's action to approve the administrative Conditional Use Permit and Coastal Permit.

Appellant Input

HOLLY HARGETT, 1220 Vista Way, showed photos of what we sees from our housing. Across the freeway we have the North Coast United Methodist Church, which also houses cell antennas. We are talking about the proliferation of cell towers intruding into neighborhood residential areas and the proliferation and failure to adequately map facilities. For telecommunications, City planning does not seem to have a general plan. I have yet to have any Planning Department personnel answer exact numbers of existing co-user facilities or the exact numbers of antennas that currently exist throughout Oceanside, so how can the City appropriately determine that any application for a wireless coverage area is needed or is valid? The Planning Department cannot demonstrate a need for Cricket, the applicant. I would like to have Cricket or the Planning Department provide the exact numbers of all sites, with footage and/or miles in between each location of co-locating towers or antennas, as well as to address a 5-mile radius of adjoining cities that would hold wireless or co-locating facilities that host antennas. Since these operate on a network, these reports and analyses should be done for every cell tower application before approving.

A photo depiction of the view from the applicant's proposed site was shown with a red line dictating where the lamp post will be and the 10-foot antenna that will be hosted on top. The applicant does not follow Zoning Ordinance Section 3025: the applicant shall exercise a good faith effort to cooperate with other communication providers. The Planning Department said that this tower was not a good place to go because it is in re-design; however, Crown Castle is going to be keeping that one in commission until the other one is designed Then they will tear this one down after the other one is built and in service. Therefore, she feels that they are not making good effort under City code.

She displayed some cell towers that she had accumulated from some Conditional Use Permits through 2007. She showed a photo depicting a red zone with 3 places they could go. Per City code they are supposed to co-locate either on a facility or on an existing building. They could co-locate at 1939 Moreno Street - Crown Castle, 1501 Kelly Street - North Coast United Methodist Church. She is not sure why they have not submitted any reports in trying to co-locate there, as we just got a new notice for T-Mobile to be going in on that site as well, so they cannot be too full. The applicant submitted a coverage map that demonstrates that 2002 South Coast Highway - Adventure 16 - would be the ideal place to co-locate. The application's placement in this area would be in the City's best interest, to have the applicant actually host the antennas on the City's existing structures to uphold City Code 30.25(a) 1 through 2 and could bring in City revenues.

On the coverage map that they submitted, 19B is where they want to host the antennas, but it would be more feasible to actually put their antennas down in the commercial area on Coast Highway.

Regarding zoning, she asked if commercial fits with Commercial Visitor (CV) on the application. This is not consistent with the visitor commercial zone and adjoining residential areas. The shielded lights will still be an issue for residents directly across the street and to the birds migrating and breeding at Buena Vista Lagoon. My house is directly across the street, and we barely see the tips of the lights they have existing there now. Imagine if they go any higher, plus the light that is going to be illuminating into our living room, bedroom and our dining room. They have a CEQA review, and they have interpreted that to be exempt, but an exemption is inappropriate. The soils test and benzene vapor test should be done and made available for formal public review agencies through a mitigated negative declaration. If there is any possibility of an environmental harm, then an EIR or mitigated negative declaration shall be performed. Also, in light of the fact that this is an old gas station site, an environmental review should be done.

Also, 24/7 hours a day the noise and fumes blow from the electrical box out to close proximities of daily public use, since this is a commercial visitors, with a bike store and a restaurant adjoining the parking; they continuously have people in and out all day long. Studies should be done for the Buena Vista Lagoon birds that migrate and breed there. This design is not consistent with the neighborhood. The lights that they are proposing do not match and are not consistent with our neighborhood.

She is not against cell towers or antennas; however, this site is not compatible due to many alternative locations, coverage on Highway 101 and 100% commercial area, possibly City revenue, not properly zoned, and the appearance of the entire site for the public streetscape, Buena Vista Lagoon and residential neighborhoods.

Applicant Input

FRANKLIN ONOROZCO, with Meridian Telecom on behalf of Cricket Communication, stated his presentation was also presented to the Planning Commission. The computer map displayed shows the coverage need and shows our desire to locate a facility at this location in order to be able to close some of the gaps that we have in coverage for this area. Some areas are not well covered, and others have no coverage at all. By virtue of locating on this particular location, and as evident by other carriers being in the same general area, we are trying to do 2 things with this facility: 1) to cover the area along South Coast and 2) to be able to provide some of the coverage needs that we need along I-5. We could probably move the site over to South Coast Highway, but we would lose the ability to provide the coverage that we need, which is also very important along the intersection of I-5 and SR-78. This is the best location in terms of topography, height, and to be able to provide the coverage that Cricket needs for their network.

We looked at all of the alternative locations. We looked at the Crown Castle site, and we spent quite a bit of time on this project. In fact, we actually began this project in 2005. We pursued a permit and the ability to co-locate with Crown Castle in early 2006, and here we are in 2008 and we still do not have a site that we can implement to provide the coverage that the Cricket subscribers would rely upon. We looked at the Church, and we understand that there are additional carriers that are going to be co-locating on that tower. Because of the limitations, it puts us at a lower altitude in terms of the height of the antenna on that particular tower. We are not able to provide the same level of coverage that we would with this particular site at Amazon Bikes in terms of meeting some of the coverage needs along SR-78 and I-5 as they dip down with topography. We also looked at Hunters Restaurant, which is equivalent in terms of meeting the needs for Cricket, but the Amazon Bikes, because it gives us a better visibility to I-5 and SR-78, is a much better candidate.

In terms of community compatibility, this is a commercial zoned property. It will be developed. The property owner has plans to construct a two-story building. The type of light standards that we are proposing is far beyond what Oceanside has probably seen. We are proposing to have nautical-type light standards in order to house the 3 antennas, 1 in each light standard. The overall diameter of these lights and end poles will be 6 inches. It is very compatible in terms of a commercial lighting structure. It does not detract from the overall existing landscape environment in this area.

We did provide a report in terms of meeting the RF [radio frequency] emissions from this particular project. This is a portion of the report and certification from a qualified engineer that indicates that the project will be in compliance with the FCC standards.

We respectfully request Council's approval of the project and denial of the appeal. We believe that the project meets all of the City codes in terms of design and location.

Public Input

JARED KEATING, 1220 Vista Way, husband of Holly Hargett, stated that there are some set backs; they say that the closest cell tower to the lagoon is going to be 100 feet from the lagoon. However, the surveyor did not go to the edge of the lagoon to verify that they are outside that 100-foot buffer zone. He would like that addressed to make sure that is still in compliance.

Also, the lamp post seems awfully tall, and looks like just a cell tower pole with a light on it. In Carlsbad they have several of those, and they are not particularly attractive. He is concerned with the light being so tall because we will get a considerable amount of light into our house from that, and it will detract from the overall view from our front yard. They are not conforming to the setback of 10 feet from their property line. They are replacing existing lights, but they still have to follow City Code on that. It does not match the existing lighting in the area, and we already have too many cell towers. Just recently, the one at Crown Castle was upgraded without letting the City know about it, and there appears to be some additional space that they could co-locate on the existing pole.

SHARON NEWBERRY, 1212 Vista Way, addressed concerns of the language in the letters sent out to the residents that this project would impact, regarding their rights to appeal, etc. With having the first ugly tower that we have had to stare at for so long now, and then having another letter sent out to us that towers were going to be going in directly across the street and that we do not have any rights to say anything is not right. The residents in this area were hospitable enough to give, without any complaint, the ability for Amazon to operate their business. We have towers in the area; they can be used.

One night she saw sparks flying off the top of this tower after 1:00 AM. It turns out there were people up there putting up even larger units on top of this tower. Now you are saying that this is going to be changed; they are going to change the design. We do not want to be a dumping ground for cell towers because we are in a high elevated area. That is not right.

DENNIS HUCKABY, 2319 California Street, is president of the Buena Vista Audubon Society and sent Council and the City Clerk an e-mail this afternoon expressing our concern with thise permit. The LCP and other Oceanside ordinances require that all development proposals on the border of the lagoon be specifically evaluated for their potential impact on the health of the lagoon and its wildlife. The proliferation of cell phone towers in recent years has resulted in significant bird mortalities at specific sites where tower structures, safety lighting and supporting guide wires are located adjacent to wetlands or migration corridors. Buena Vista Lagoon is a significant coastal wetland, which attracts close to 200 species of wintering birds and is visited by thousands of birds during the annual spring and fall migrations. All of these birds would be vulnerable to collision with the cell tower structure located right at the edge of the northern bluff of the lagoon. The threat of collision and bird mortality is exacerbated by the disorientation caused by artificial lighting on the cell tower structure and the regular incidence of dense coastal fog at this site. In February of 2008, a panel of federal judges ruled that national environmental laws require the FCC to more carefully consider potential adverse effects of communication towers on migratory bird populations in its tower permitting process.

In addition, this proposal tonight calls for a construction project that would involve grading, affect storm runoff intensity and flow, generate noise, and possibly cause the release of benzene gas. These are potentially serious environmental impacts

adjacent to the ecological reserve and should be properly studied prior to the consideration of this project.

Planning Department staff said this evening that these cell phone towers would positively enhance the property. It is hard for him to imagine that. There are alternative available sites for the cell phone facility, such as the Methodist church. He urged Council consideration of alternatives to this potentially harmful site.

MICHELLE NEMETH, 1303 Park Hill Lane, Escondido, is in opposition to the cell phone tower in support of the residents in this area. She addressed the existing towers within 40 feet and another one within 465 feet of this site. It does not make sense to build another tower when they can co-locate on the existing towers that are already there. It is probably a financial burden for Cricket to co-locate, but that should not be these residents' problem. She understands that the Crown Castle tower is under process to be redesigned to be more aesthetically pleasing to the neighbors, and that Cricket does not want to wait for that redesign to take place. She asked that Cricket be part of that redesign and not build another tower 40 feet away from the existing tower. This does seem to be a dumping ground for cell phone towers, and it is a shame for these residents. She asked that Council consider what Holly [appellant] and the other people have shared with you today regarding the environmental issues, the birds, lagoon, etc.

STEVE HERRMANN, 1919 Moreno Street, is a resident across the street from Amazon bikes and was noticing on the slide the areas that they list as having no coverage. Holly was talking about alternative site locations which were on Adventure 16 on Coast Highway, and that non-coverage section is Adventure 16. As a wireless communications company, if you are looking at the SR-78 and I-5, it shows they have fairly good coverage; and I would think that they would be more interested in locating a cell tower where they have no coverage at all.

The cell tower at Crown Castle is an eyesore, and he does not want to disclose in selling his house that another 3 cell towers are coming in right across the street. With the real estate market where it is, it is hard enough to sell his house without lowering the property value even more.

[Public input concluded]

Appellant Rebuttal

MS. HARGETT believes that Verizon has signed deals with Cricket; that they are able to pick up their calls if they have a gap in coverage in that particular area so this map may not substantiate their true coverage.

Under Section 30.25 (b)(4), it says a stand-alone communication facility is a facility that is not a co-user facility, which they want to put in. A typical facility type consists of a tower and a pole-like structure. An approved or permitted stand-alone facility may become a co-user facility through a land use approval process. Se would like to have a condition that if this gets approved, this is not going to happen.

Cricket brought up the issue that they do not have sufficient coverage on I-5 and SR-78, but Cricket has a communication tower that is 78 feet tall. She further showed other areas as off Oceanside Boulevard with 3 other places that they have placed their antennas on. She is not sure what other ones have come through since 2007.

The Coastal Plan is not consistent with a building out on a concrete pad to host the proper equipment that they need, as well as a 100 amp. It is being built on or near a bluff, which violates the LCP. This is a huge safety hazard due to the close proximity to the public that are there on a daily basis, as well as the Buena Vista Lagoon birds that migrate and breed there.

She would like Planning to answer the height on the North Coast United Methodist Church in regards to the applicant's problem with height in that area. She would also like them to submit any proof of analysis of why they cannot co-locate in the 3 general areas that we have brought up. She believes that there are RF emissions that

they have submitted. It is noted in there that it is over the 5% that the FCC actually allows so she would like them to answer questions on that as well.

With no one else wishing to speak, Deputy Mayor Chavez closed the public hearing.

COUNCILMEMBER SANCHEZ does not understand why this is such a prime area for another cell tower. Looking at the map, half of it is over a lagoon. She believes it does violate our Local Coastal Plan and cannot see why it cannot be with another cell tower. There is already precedence set by the phone company. If you switch from Cox to Pacific Bell, they do not build another; they go in and they switch it. She understands that we do not have a lot of discretion, but it does not make sense. If you are looking for good will with us, why you would not be able to work with our community to piggy back and work with an existing site that is already looking like a cell tower. The lights are not consistent with the community.

There was a request by the appellant for a coverage map to be completely honest about the coverage, and you did not do it because you do not have to, even though it is something you do with the FCC. The provided coverage map for telecommunication facilities is inadequate, and it does not provide enough information for the need of coverage. She asked why Cricket did not provide it.

JIMMY GOMEZ, RF Engineer for Cricket, stated that the map was provided and is what we provide to the FCC. We provide exactly what we are trying to cover. We are trying to cover I-5, SR-78 and we are trying to cover west where the site is located.

COUNCILMEMBER SANCHEZ asked why they could not work with existing cell towers.

MR. GOMEZ responded that initially we were planning to go on the Crown Castle tower;, unfortunately it went through redesign, and we needed a site as soon as possible. We did not know how much time the Crown Castle would take, so we had to come up with a second plan in order to go ahead and get the coverage needs. We are trying to cover as much as possible with the least amount of sites. We have half the amount of sites that Verizon has, and we are trying to cover the least amount.

COUNCILMEMBER SANCHEZ said that you just admitted that you could piggy back on one other: the Crown Castle. She asked if there is anything about the Federal law that says that we have to do these immediately. Is there a time restraint that says another tower that is coming and they are able to take advantage of that, and we cannot ask them to do that because their need is immediate.

CITY ATTORNEY MULLEN responded that under the 1996 Telecommunications Act, it imposes several requirements, i.e., if you deny, it has to be in writing and supported by substantial evidence. The denial cannot have the effect of depriving them of coverage as opposed to capacity, in which many of these cases it is a capacity issue, not a coverage issue; and you cannot unreasonably discriminate against functionally equivalent providers. Those are the 3 major requirements.

He is not aware of any case law that specifically says you cannot deny and ask them to co-locate on another facility if it would cause some temporary delay. I do not know how long the delay would be here. Under 30.25, if the other party that has the conditional use permit opposes the co-location, they have to submit a technical study to demonstrate how it would be infeasible for them or impractical for them to co-locate on the other facility.

COUNCILMEMBER SANCHEZ believes that it would be reasonable for Cricket to work with us. She **moved** to grant the appeal and deny the application at this time since Cricket does have adequate alternatives. I believe there is a reasonable alternative.

DEPUTY MAYOR CHAVEZ seconded the motion for purposes of discussion.

COUNCILMEMBER KERN noticed in the Planning Commission's resolution that they did have a benzene vapor risk assessment report on this property. Referencing the existing lights, he asked how tall they are.

MR. NIGHTINGALE stated the lights are the actual old gas station lights and are L-shaped.

Looking at those lights and looking at the design of the new lights, **COUNCILMEMBER KERN** thinks that the new lights are a superior design. The new ones are directed straight down. It looks like they are bell-shaped, so you will not get the light pollution from the new lights that you have from the existing lights.

JERRY HITTLEMAN, Acting City Planner, stated that is correct; they do meet the City's light pollution control ordinance. He is not sure if the existing lights do or not.

COUNCILMEMBER KERN does not have a problem with the lights or the towers. He is curious about co-locating with the Methodist church tower across the freeway.

MR. HITTLEMAN explained that it is an older facility. It was approved with the Methodist Church, and there is limited space inside of that tower. They would have to extend the tower down or redesign it in some way. We are working with them on that, but we have not seen a good design as of yet. It is a very tough one to work with, and it is very visible.

Regarding the Crown Castle one, **COUNCILMEMBER KERN** asked where we are in the process of redesign of that.

MR. HITTLEMAN stated that staff is working with them on the redesign. The existing antenna is one of the first ones we ever permitted there, and we did not do a very good job. That was in the mid-1990s. In order for this user to co-locate on that immediately, they would have to go down below the existing antennas; they would not get the coverage that they need. If they do redesign, there is no guarantee when they would do that, or when they would build it. We looked at various designs and various widgets, and we are actually working with the Arts Commission. The one design that was acceptable did not work from an engineering standpoint, so it is kind of frustrating and difficult to come up with an acceptable design on that site. It will take maybe another year or two.

COUNCILMEMBER KERN stated the wait is probably a bit too long and does affect coverage according to the maps. The City Attorney mentioned coverage versus capacity.

CITY ATTORNEY MULLEN stressed that he is not commenting on the facts of this case, because he cannot comment on whether this is a coverage or capacity issues. However, under the Telecommunications Act your denial cannot have the effect of denying coverage in general, as opposed to denying capacity. Coverage and capacity are 2 different things.

COUNCILMEMBER KERN said this goes back to the maps that Councilmember Sanchez was talking about. The reason they are putting it there is because they do not have coverage. Seeing the light standards and seeing the lights of the towers, I do not see a problem with them. I do not know about the Local Coastal Plan consistency; tonight is the first time he has heard of that regarding the lights and questioned if the light stand, other than that the one closest to the lagoon, could be in conflict with the Local Coastal Plan.

MR. HITTLEMAN stated that our Local Coastal Plan talks about a 100-foot buffer. This is way beyond a 100-foot buffer from the lagoon. It is in an existing developed area. The parking lot goes way beyond that.

COUNCILMEMBER FELLER stated that there were a lot of suggestions and questions. He asked staff to answer some of the questions.

In regards to the lights being consistent with the neighborhood, **MR. NIGHTINGALE** stated that this is a commercial property, and it is consistent with the zoning and the commercial parking regulations for lights. It is consistent with the designation for the site.

Regarding the setback, light poles do not have to meet the setback requirement, so it is okay. Regarding the one concern about the replacement without permits, in discussions with Building Inspector Steve Jones, they do not have to obtain any building permits for any replacements of any cell antennas. Regarding the hours of operation, he would have to look into that a little bit more.

Regarding co-users on one site, **MR. HITTLEMAN** stated that our ordinance says that they have to make a good faith effort. We think they did with Crown Castle. Obviously that is not going to happen very quickly, so they looked at other alternatives. Cricket is a new company, and they want to get out there with their coverage. That seems to be what they are doing, so we are trying to accommodate them. Under the Permit Streamlining Act, when they submit a permit, we are obligated to get it up to an approval within at least a year with a good faith effort by the Planning Division.

Regarding the 10-day appeal period, this was an administrative permit originally, so we sent out a notice to everybody within 1,500 feet. They are told that they can appeal within 10 days; they do not have to wait 10 days. It obviously was appealed to the Planning Commission first. That decision again had a 10-day appeal period, and it was appealed to the City Council. In regard to that, the system did work because we are here tonight.

In terms of the birds hitting the antennas, they are going to take out the old light standards. We are seeing a 1-to-1 replacement of light standards. I do not think we will see any significant impacts from that. We already talked about that 100-foot buffer, which they are meeting.

Regarding the old gas station on site, Amazon Bikes was approved on this site originally. They had to get a Coastal Permit. We looked at that issue to make sure there was a closure plan on those tanks; there was, and they are working to address that issue in accordance with the County Health Department regulations. We are confident that that one is okay. There are other sites out there, and we have a lot of companies vying for coverage in this area. It is a very tough market out there. We are trying to balance the needs of all of these different users. We will try to stay on top of the coverage issue for each company, but we are looking at, at least 10 companies in Oceanside right now. Each city is struggling with this issue right now.

COUNCILMEMBER FELLER asked if once they are here, will other people want to co-locate there or can they co-locate there?

MR. HITTLEMAN responded that staff would encourage it, but they actually could not, given the design of the poles. It would be difficult because they are very slender. Any co-user would substantially add to any visual impacts from this particular site. I think this would be the only user on there.

Referencing a computer slide of a pole, **COUNCILMEMBER FELLER** stated it looks like a telephone or power pole, which is probably 8-10 inches thick and probably close to a 30-foot pole. So on this property, they are putting a smaller, shorter pole, correct?

MR. HITTLEMAN stated that is correct, and the applicant is verifying that.

COUNCILMEMBER FELLER asked if the electric box is hooked into a regular system in case of a power failure.

MR. HITTLEMAN stated that is correct. They only run it once in a while; it is an emergency generator.

COUNCILMEMBER FELLER is disappointed that staff showed a picture of a

building as part of the presentation, when there is no building. He is not aware of any plans for a building; that is to be determined later. What we are talking about here tonight is 3 poles with the drop lighting. It did not look in the pictures like the lights were at the top of the pole. At what height is that light?

MR. NIGHTINGALE stated that the lights are at 22.9 feet.

DEPUTY MAYOR CHAVEZ stated his concerns were the same as Councilmember Sanchez had as far as the co-location issue. However, listening to the discussion, the 100-foot buffer zone is not a factor; the 10-foot setback is not a factor; and the co-location is working with competitors. He understands the coverage issues as far as what we are obligated to do, and the light standards would be an improvement over the current site.

For all of those reasons, he is **withdrawing** his **second**.

The original motion died for lack of a second.

COUNCILMEMBER KERN moved approval of staff's recommendation and adoption of **Resolution No. 08-R0318-1** "...supporting Planning Commission Resolution No. 2008-P14 and denying an appeal and approving an administrative Conditional Use Permit (ACUP-4-07) and Administrative Coastal Permit (ACUP-2-07) for the construction and operation of a telecommunications facility located at 1227 Vista Way"].

COUNCILMEMBER FELLER seconded the motion, stating he would approve this since it would be an improvement.

Motion was approved 3-1, with Councilmember Sanchez voting no and Mayor Wood absent.

In light of the time and Council Policy No. 100-38, **COUNCILMEMBER KERN moved** to continue forward with the remainder of the agenda.

COUNCILMEMBER FELLER seconded the motion.

Motion was approved 4-0, with Mayor Wood absent.

12. **City Council: Adoption of resolutions confirming the diagrams and assessments for FY 2008-09 for ten of the City's Landscape Maintenance Districts: Del Oro Hills, Assessment District No. 1-1987; Guajome Ridge, Assessment District No. 1-1989; Mar Lado Highlands, Assessment District No. 1-1988; Mission Meadows, Assessment District No. 2-1979; Peacock Hills, Assessment District No. 1-1977; Rancho Hermosa, Assessment District No. 3-1982; Santa Fe Mesa, Assessment District No. 2-1987; Sunburst Homes, Assessment District No. 1-1980; Sunset Hills, Assessment District No. 2-1982; Vista Del Rio, Assessment District No. 1-2001**

A) Deputy Mayor opens public hearing – Deputy Mayor Chavez opened the public hearing.
B) Deputy Mayor requests disclosure of Councilmember and constituent contacts and correspondence - Disclosures were reported.
C) Assistant City Clerk presents correspondence and/or petitions - No correspondence was received.
D) Testimony, beginning with:

DOUG EDDOW, Real Property Manager, stated that staff is recommending approval to confirm the assessments and levy them for the fiscal year 2008-09 for the so-named district.

With no one wishing to speak, Deputy Mayor Chavez closed the public hearing.

COUNCILMEMBER FELLER moved approval of staff's recommendation [for adoption of the following resolutions confirming the diagrams and assessments for each of the following Landscape Maintenance Districts for FY 2008-09:

- **Resolution No. 08-R0307-1**, "...confirming the Fiscal Year 2008-2009 diagram and assessment for the Del Oro Hills Landscape Maintenance District, Assessment District No. 1-1987"
- **Resolution No. 08-R0308-1**, "...confirming the Fiscal Year 2008-2009 diagram and assessment for the Guajome Ridge Landscape Maintenance District, Assessment District No. 1-1989"
- **Resolution No. 08-R0309-1**, "...confirming the Fiscal Year 2008-2009 diagram and assessment for the Mar Lado Highlands Landscape Maintenance District, Assessment District No. 1-1988"
- **Resolution No. 08-R0310-1**, "...confirming the Fiscal Year 2008-2009 diagram and assessment for the Mission Meadows Landscape Maintenance District, Assessment District No. 2-1979"
- **Resolution No. 08-R0311-1**, "...confirming the Fiscal Year 2008-2009 diagram and assessment for the Peacock Hills Landscape Maintenance District, Assessment District No. 2-1977"
- **Resolution No. 08-R0312-1**, "...confirming the Fiscal Year 2008-2009 diagram and assessment for the Rancho Hermosa Landscape Maintenance District, Assessment District No. 3-1982"
- **Resolution No. 08-R0313-1**, "...confirming the Fiscal Year 2008-2009 diagram and assessment for the Santa Fe Mesa Landscape Maintenance District, Assessment District No. 2-1987"
- **Resolution No. 08-R0314-1**, "...confirming the Fiscal Year 2008-2009 diagram and assessment for the Sunburst Homes Landscape Maintenance District, Assessment District No. 1-1980"
- **Resolution No. 08-R0315-1**, "...confirming the Fiscal Year 2008-2009 diagram and assessment for the Sunset Hills Landscape Maintenance District, Assessment District No. 2-1982"
- **Resolution No. 08-R0316-1**, "...confirming the Fiscal Year 2008-2009 diagram and assessment for the Vista Del Rio Landscape Maintenance District, Assessment District No. 1-2001"]

COUNCILMEMBER KERN seconded the motion, which was **approved 4-0**, Mayor Wood was absent.

13. **City Council: Adoption of a resolution confirming the diagram and assessments for FY 2008-09, and ordering the assessments to be levied for FY 2008-09 for the Oceanside Lighting District, Assessment District No. 2-1991; and approval of the transfer of $390,000 in Gas Tax Funds, $15,000 in Energy Fees, and $16,484 from the Oceanside Lighting District Fund Balance to support the District; and direction to staff to pursue the formation of an overlay lighting district for FY 2009-10**

A) Deputy Mayor opens public hearing – Deputy Mayor Chavez opened the public hearing.

B) Deputy Mayor requests disclosure of Councilmember and constituent contacts and correspondence - Disclosures were reported.

C) Assistant City Clerk presents correspondence and/or petitions - No correspondence was received.

D) Testimony, beginning with:

DOUG EDDOW, Real Property Manager, stated that staff recommends confirming the assessments and levying them for Fiscal Year 2008-09 and the transfer of the so-mentioned funds and also to pursue the formation of an overlay district to be presented for the 2009-10 budget year.

COUNCILMEMBER FELLER moved approval of staff's recommendation [and adoption of **Resolution No. 08-R0317-1**, "...confirming the 2008-2009 Fiscal Year diagram and assessment for the Oceanside Lighting District, Assessment District No. 2-1991].

COUNCILMEMBER SANCHEZ seconded the motion.

For clarification, **DEPUTY MAYOR CHAVEZ** stated that this is not increasing taxes; they are just looking at doing an assessment district and will come back to the Council.

MR. EDDOW stated that is correct.

Motion was approved 4-0, with Mayor Wood absent.

GENERAL ITEMS – continued

18. **Council: Introduction of an ordinance amending Section 20.40 of the Oceanside City Code to prohibit consumption of alcohol in specified areas including, but not limited to, public roadways, public parking lots, the Pier, beaches, The Strand, Pier Plaza area, and public parks**

CITY ATTORNEY MULLEN stated this is a housekeeping matter related to Section 20.40 of the Oceanside City Code. There is some relationship between this item and the other 2 items heard tonight about the beach lifeguard citation authority and the establishment of the safety zone. We comprehensively looked at all of our various ordinances to make sure they are airtight in anticipation of the 4th of July and to make sure that we have enforceable ordinances for future civil nuisance abatement cases. The section at issue generally prohibits the consumption and/or possession of alcoholic beverages in designated public places, including parks, beaches, parking lots, and other public places identified in Section 20.40. Under the State Constitution, local governments are allowed to prohibit the consumption of alcoholic beverages in public. Questions have arisen based upon several court cases as to whether or not the City could regulate simple possession of an alcoholic beverage in public. Possession is already prohibited by the State Business and Professions Code in areas where there is a consumption ban by local ordinance. Therefore, the effort here is simply a clean-up item to make sure that we have a fully enforceable ban on consumption of alcohol in public.

COUNCILMEMBER FELLER asked if the parks not named here are already included.

CITY ATTORNEY MULLEN stated they did not change any parks in this ordinance; we took exactly the same parks in Section 20.40 as it exists now and carried them over into the amendment to the ordinance, although we did change an address that was incorrect. A revised copy of the ordinance was distributed to Council.

COUNCILMEMBER FELLER believed that there were a couple of parks that were not included: Capistrano Park and North River Road Park.

CITY MANAGER WEISS noted that Mance Buchanon Park, Luiseno Park, Rancho Del Oro Park, Alamosa Park and Lake Park at this point are not included.

COUNCILMEMBER FELLER stated that every park should be treated the same.

CITY ATTORNEY MULLEN clarified that their effort was not to expand the scope of the ban, but simply to carry over the same parks and deal with the possession versus the consumption issue in this amendment. If it were Council's direction to expand this to additional parks, we could bring forward in the future an amendment to the ordinance. However, that was not the intent of this item.

COUNCILMEMBER SANCHEZ questioned the definition of an alcoholic beverage as ½ of 1%. She asked if that was traditionally how an alcoholic beverage was described since Nyquill is probably 2%.

CITY ATTORNEY MULLEN believed that was how it is defined under the existing code. Again, we were not trying to change the definition. We were simply dealing with the possession versus consumption issue. We are very careful with the citations and prosecuting these as misdemeanors.

COUNCILMEMBER SANCHEZ had asked people that if there are other parks that are problems, to bring it to our attention. Since that has not happened, this list is the neighborhood parks where people have said alcohol is a problem. She **moved** approval [to **introduce the ordinance**, ". . . amending Section 20.40 of the Oceanside City Code to prohibit consumption of alcohol in specified areas"].

COUNCILMEMBER KERN seconded the motion. He then asked if Rotary Park was still in existence.

CITY MANAGER WEISS responded that technically it is. However, after Council's action this evening, it won't be in a short while.

Following the titling of the ordinance, **motion was approved 4-0**, with Mayor Wood absent.

MAYOR AND/OR COUNCILMEMBER ITEMS - None

CITY COUNCIL REPORTS

20. **Mayor Jim Wood** - Absent

21. **Deputy Mayor Rocky Chavez** – No report due to the time.

22. **Councilmember Jack Feller – COUNCILMEMBER FELLER** announced that the Veteran's Administration Clinic has chosen to locate in Oceanside, in the Ocean Ranch area. This is outstanding for the City and a great benefit to the veterans of Oceanside. The Jaycees are doing a great job raising funds for the fireworks.

23. **Councilmember Jerome Kern – COUNCILMEMBER KERN** had attended career day.

24. **Councilmember Esther Sanchez – COUNCILMEMBER SANCHEZ** announced that the Prince of Peace Abbey invited the community to attend a mass of Thanksgiving on the occasion of their 50th anniversary of their foundation in California, May 24.

INTRODUCTION AND ADOPTION OF ORDINANCES - None

ADJOURNMENT

DEPUTY MAYOR CHAVEZ adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 10:35 PM, May 14, 2008. [The next regular meeting is at 4:00 PM on Wednesday, May 21, 2008.]

ACCEPTED BY COUNCIL/HDB/CDC:

_____
Barbara Riegel Wayne
City Clerk, City of Oceanside

NOT OFFICIAL
UNTIL APPROVED AT SUBSEQUENT
MEETING BY CITY COUNCIL

California

CITY OF OCEANSIDE

JOINT MINUTES OF THE:

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

OCTOBER 1, 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, October 1, 2008 by Mayor Wood.

4:00 PM - ROLL CALL

Present were Mayor Wood, Deputy Mayor Chavez and Councilmembers Sanchez and Kern. Councilmember Feller arrived at 4:01 PM. Also present were City Clerk Wayne, 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 agendized item to be heard in closed session: Item 2A. [Items 1 and 2B were not heard].

Closed Session and recess were held from 4:01 to 5:00 PM.

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))

Tingzon et al. v. City, Superior Court Case No. GIN044820-1

Discussed; there was no reportable action.

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

Significant exposure to litigation pursuant to Subdivision (b) of Section 54956.9: One case]

No closed session was held.

5:00 P.M. – ROLL CALL:

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

INVOCATION – by Pastor Carl Souza

PLEDGE OF ALLEGIANCE– by Soccer Club team members

PROCLAMATIONS AND PRESENTATIONS

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

Presentation by Oceanside Firefighter Association of checks to Surf Rider Foundation/San Diego Chapter, Walk Against Breast Cancer, and North County Retired Military Association

Presentation – Mayor's Youth Sports Recognition and Appreciation Award

Presentations were made.

3. **CLOSED SESSION REPORT BY CITY ATTORNEY**

A) **CITY ATTORNEY MULLEN** reported out on the item previously heard in closed session. See the above report.

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**

MIKE BURNER, on the Board of Directors of the California Surf Museum, gave a

progress report on 312 Pier View Way and thanked Council for the funding and support to help the Museum grow and expand. He displayed computer photos of the progress of the rehabilitation of the structure. They hope to open in the spring of 2009.

THOMAS J. DEMPSEY, 3641 Esplanade Street, reviewed a newspaper article and gave his political opinion for the upcoming election.

KAY PARKER, 4377 Albatross Way, announced KOCT's annual fundraiser on November 8 at the Outback Steakhouse.

CONSENT CALENDAR ITEMS [Items 5-11]

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: Acceptance of Joint Minutes of the Small Craft Harbor District Board of Directors, Community Development Commission and City Council of the July 16, 2008, 4:00 p.m. Regular Meeting, and August 13, 2008, 4:00 p.m. Regular Meeting

6. 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. Council: Approval of a purchase order in the amount of $90,000 to Waxie Sanitary Supply of San Diego for janitorial supplies for FY 2008-09, and authorization for the Financial Services Director, or designee, to execute the purchase order

8. Council: Approval of a Memorandum of Understanding 1) with Oceanside Unified School District for the granting of an easement across a portion of the Louise Foussat Elementary School site for the City's land outfall line, and authorization for the Mayor to execute the document and the City Clerk to accept and file the easement deed 2) with the County Recorder
   1) **Document No. 08-D0580-1**
   2) **Document No. 08-D0581-1**

9. Council: Approval of a professional services agreement 1) with York International Corporation, a Johnson Controls Company, of San Diego in the amount of $108,672 for the replacement of hot water pipes for the Oceanside Civic Center heating, ventilating and air conditioning system underground hot water distribution system; approval of a professional services agreement 2) with Doherty Concrete of Oceanside in the amount of $37,994 for trenching and concrete work associated with the pipe replacement; approval of a budget appropriation in the amount of $27,000 from the unallocated balance in the General Fund to the Public Works Building Craft account to complete the funding for the project; and authorization for the City Manager to execute the agreements
   1) **Document No. 08-D0582-1**
   2) **Document No. 08-D0583-1**

10. Council: Acceptance of the improvements constructed by HMS Construction of San Marcos for the installation of traffic signals at five intersections and modifications to existing traffic signals at a sixth intersection, and authorization for the City Clerk to file a Notice of Completion with the San Diego County Recorder
    Document No. 08-D0584-1

11. Council: Adoption of **Resolution No. 08-R0585-1**, "... approving the Final Map for Loma Alta Village," a 36-unit office condominium project located on 2.02 acres at 605 Crouch Street, and authorization for the City Clerk to record the Final Map with the San Diego County Recorder

COUNCILMEMBER KERN moved approval of the Consent Calendar as submitted, and **COUNCILMEMBER SANCHEZ seconded** the motion.

Motion was approved 5-0.

6:00 P.M. – PUBLIC HEARING ITEMS -- None

MAYOR WOOD determined to hear Item 13 next.

MAYOR AND/OR COUNCILMEMBER ITEMS

13. **Request by Mayor Wood for a presentation by Ester Rilea regarding a "Pay As You Throw" pilot program, with possible direction to staff**

ESTER RILEA, 1452 Darwin Drive, presented "Pay as you throw" as part of the City's progressive solid waste management and recycling program, which also addresses rate payer equity. She worked for the City of Oceanside for 26 years. Prior to retiring over a year ago, she worked as a Senior Management Analyst in Public Works and was responsible for the solid waste contract. She has been involved in the planning and implementation of every solid waste and recycling program provided by our City contract. When she retired, the City was at a 58% diversion from the landfill disposal of solid waste.

She provided a copy of an article in the August 24, 2008 issue of *Parade* magazine. Approximately 17-25% of all Americans currently pay for the trash collection on the basis of how much service they use/receive. In 1989 California passed AB 939 mandating solid waste recycling diversion and other solid waste related programs. San Diego County has a solid waste program and plan. The City of Oceanside has an Integrated Waste Commission, and as part of their goals and objectives they have identified "pay as you throw" as a potential future program.

The City is entering into the final couple of years of their solid waste contract with their waste hauler, and this is the time to consider such a program. Oceanside currently rewards their water customers with a tier system — the less you use, the lower your rates. Oceanside already provides variable solid waste and green waste container sizes for their customers. Proper long-term planning, identification of target neighborhoods, and setting up pilot programs can establish another progressive program here. She suggests that the City Council consider directing City staff, the waste hauler and the Integrated Waste Commission to look at this program as a future tool to assist our community to meet State mandates in solid waste diversion and the requirements that were established by State and City codes.

MAYOR WOOD stated his main concern upfront was whether there would be an extra cost to any customers.

MS. RILEA stated there shouldn't be any extra cost; it would be a long-term planning process. The City would work with the rate hauler and the Integrated Waste Commission. The only additional cost would be the additional containers needed by the users. For example, one person has 5-6 cans of trash, and he is paying the same thing as the person putting out one container and not recycling.

MAYOR WOOD stated one reason he talked to her in the past was we were trying to get rates for seniors that put out a small bag for the week and were paying the same rate as those with 5 containers. Do you foresee this to impact any illegal dumping?

MS. RILEA responded that people already have their set amount. If you are using 3-4 containers, you will end up using 1 to 2 96-gallon containers. Just like green waste, if you use more than one green waste container, you can rent an additional container from Waste Management for whatever the cost is, or a tag. That could be worked out in the operations and planning part. The waste hauler would probably go to more of the automated system. She referenced Vista as having a single can system.

MAYOR WOOD felt this is something that would probably benefit our citizens. He is not saying we are implementing this, but rather direction to staff to look into this. Other cities do it, and it does not appear to be an extra cost. Citizens have questioned why they

pay the same amount for their small amount of trash as those with large amounts, which is common in the senior community.

COUNCILMEMBER FELLER questioned when the waste contract was up and if the contract has an evergreen clause; i.e. was renewable.

KEN RYAN, Waste Management District Manager, stated their current contract runs until 2012 and starting in 2010 it turns into a 2-year rolling evergreen where each party can agree that they want to extend it for an additional year past 2012 for a one-year period.

COUNCILMEMBER FELLER noted this has been discussed for many years, so he knows that "pay as you throw" is out there. There is also the other side where someone does not want any bill so they go to their neighbor's trash can or find the nearest dumpster for illegal dumping. He thinks it is something to be considered. He knows Waste Management does this in some places and questioned if it is something Waste Management will discuss.

MR. RYAN stated there are very good arguments on both sides of this issue. There is a whole range of different types of "pay as you throw" opportunities that are in place across the country. From our perspective, our company would be more than willing to sit down with the Integrated Waste Commission subcommittee and staff to explore, get more information, and try to drill down on what it would mean for Oceanside to consider implementing some type of "pay as you throw" program as we go down the road.

COUNCILMEMBER FELLER recalled that one of the ways is a weight system; sometimes it is a bag system. He questioned Vista's system as mentioned.

MS. RILEA stated Vista has the 96-gallon container. She believes they have trash and then one container for recycles.

COUNCILMEMBER FELLER questioned if they still have multiple trucks going down the road.

MS. RILEA responded yes.

COUNCILMEMBER FELLER can support staff looking into this. We have until 2010 to come up with something that could probably be agreeable. He knows it would cost to convert the trucks, depending on what system was chosen.

COUNCILMEMBER SANCHEZ seconded the motion.

DEPUTY MAYOR CHAVEZ questioned if this had been discussed by the Integrated Waste Commission.

CITY MANAGER WEISS believed that over the years it has been discussed; he does not believe this particular issue has been to the Commission recently.

DEPUTY MAYOR CHAVEZ noted that the material given for this item was an article out of the Parade magazine of August 24 and it says this penalizes those on fixed incomes. He would not be supportive of penalizing seniors on fixed incomes. He is sure this will be worked out through the Commission. According to this article then, 75% of the cities don't use this. He does not know what we are really talking about here since this has not gone through the Commission. He does not see the value of this discussion at this time.

COUNCILMEMBER KERN had logistical questions. His trash expands and contracts, depending on what is happening at his house. How does that figure into this if he has the one 96-gallon container? Say 90% of the time it handles all the trash generated, but on those occasions where they generate a lot of trash, how does that work?

MS. RILEA responded that she went to the City of Coeur d'Alene where they have the same program there, and there is an opportunity for people to buy tags; they were $1 a tag for extra bags. Some people purchase extra tags throughout the year, and if you

have more trash, they attach that tag to the trash bag. In the City of Coeur d'Alene, it was $1 for the bag besides the regular trash.

COUNCILMEMBER KERN questioned what happens if someone forgets to buy a tag and they have their bag out. Do they not pick it up?

MS. RILEA felt it would be worked out in our enforcement or with our hauler; it could be worked out in the process when you set the program up.

COUNCILMEMBER KERN sees a lot of logistical problems, including the illegal dumping. Did Coeur D'Alene have a lot of illegal dumping, or how did that system work?

MS. RILEA stated their system worked well. All the green waste is thrown out on the curb and front loaders pick it up. As far as she knows, there are not that many problems with trash, but she was only there for 2 weeks.

COUNCILMEMBER KERN stated he is coming up with more and more questions, so he concurred to take this back to the Commission and get all these questions addressed. Then maybe a pilot program for a small area can be implemented. This needs to be figured out with Waste Management. He likes the idea that it boosts our recycling because of the program, but he sees the potential of illegal dumping, no tags, etc.

COUNCILMEMBER SANCHEZ is hearing that this is a growing movement within cities as part of a recycling program. She understands the motion to be to direct staff to send it to the Integrated Waste Commission to look at all the scenarios, etc., that would determine whether this is something that we can incorporate to assist us in recycling and, if so, how to make it user friendly, and perhaps with substantial savings; and those that use more pay more for it. She would like to see that. She would not want to penalize anyone on a fixed income. Usually people on fixed incomes do not have a lot of trash, but that is a guess. She would be interested to hear what is out there, what has been done, and what the recommendations would be.

MAYOR WOOD remembers this coming up years ago. In the past he brought up the issue of doing a cheaper rate for seniors on fixed incomes, and we were told that it is not possible. This is a way of trying to approach that and sending it back to staff to get recommendations. This is a potential way to have rate payers that are seniors on fixed incomes to have some assistance. He wants that to be looked at.

CITY MANAGER WEISS stated the Integrated Waste Commission has a subcommittee that is looking at the futures of solid waste, which includes looking at potential transfer stations, material recovery facilities, and other ways of dealing with what will end up being a long-term trash problem. We currently do not participate in the County of San Diego's trash system. Our trash goes out of the County to Orange County. Waste Management uses the pod system, and that, over time, will probably have to change, which will result in looking at how we deal with trash pickup. Using a single stream trash with all the recyclables mixed in with a material recovery facility, etc., are things to look at. The "pay as you throw" program can be looked at with the long-term needs.

Regarding comments about different rates for seniors is if you reduce the rates for any segment of the population then the rates for the other will have to go up. The same would apply here. Right now everyone has unlimited trash pick-up. If you regulate and restrict that so some people pay less, then other people would have to pay more because it would not result in a significant cost reduction to waste management. Right now 3 trucks still have to go through the neighborhood, and that would not change. Fixing the costs is something the Commission and their sub-committee would have to look at, but the bigger issue will be what we are doing with our trash 10 years from now.

MAYOR WOOD wanted this looked at since someone with a small amount of trash is presently paying the same amount of those with large amounts. This may be a way to address helping the seniors.

CITY CLERK WAYNE noted there is no motion on the floor, although there is a second.

COUNCILMEMBER FELLER did not feel a motion was necessary if we have consensus to have staff review this. As the City Manager said, there may need to be consideration of the reduction of the recycling vehicle on the street, or to consider getting a material recovery facility. 20 years ago we could have sited a transfer material recovery facility with a rail connection, but we were shortsighted at the time. So this is a major cost center for us, and a material recovery facility transfer station needs to be talked about for the future to go along with "pay as you throw" or whatever we come up with as solutions. I made no motion.

MAYOR WOOD moved to send this to staff to look into this particular item.

COUNCILMEMBER SANCHEZ seconded the motion.

Motion was approved 3-1, with Deputy Mayor Chavez voting no and Councilmember Feller abstaining.

GENERAL ITEMS

12. **Council: Approval of the Planning Commission's 2008-09 Workplan**

DENNIS MARTINEK, Past Chair, gave a brief report on the past year's work plan (July to July). We considered 75 projects: 29 of the projects or 39% were residential in nature; and 37% were commercial. This is different from the previous year where we had 58% of our projects residential and only 26% commercial. Areas of highest development: South Oceanside was the highest = 22 of the 75 projects; Rancho del Oro had 6 commercial/office projects; Loma Alta accounted for 7 projects. Rancho del Oro is the only area in the City where we have a specific plan, which helped us. Council's decisions to go forward with comprehensive plans in both the Oceanside Boulevard corridor and Coast Highway will help us a lot. Total projects included 29 residential; 28 office/commercial; 7 industrial; 3 churches; and 8 other. The workplan for 2007-08 had 3 key areas: mixed use ordinance; guest parking regulations; and review of our current sign ordinance. We also carried out our Planning Commission community education presentations and learned a lot.

CLAUDIA TROISI, Planning Commission Chair, presented the Planning Commission proposal for the Work plan for 2008-09. Our work programs are expanded in what we work on and learning what we believe to be the best practice on a particular issue. Our workplan this year is comprised of 6 projects and 7 community education programs. This is an ambitious program because we hope to present Council with some results next year that will be very specific in terms of our outcomes. Our work tasks fall into 3 categories: look at the regulated uses section of the Zoning Code, which would include check cashing, massage parlors, liquor store-type businesses to see what criteria is appropriate and if any changes could or should be made; review the mixed use guidelines that come out of the visioning process currently in process to see what application, if any, could be applied elsewhere in Oceanside; the next 2 tasks include bringing Redevelopment and the Planning Commission together for the first time to review how each commission approaches key planning issues and seeing if there are areas where we could combine 2 Zoning Codes for a streamlining benefit to the development community and City staff in reviewing projects. These 2 work programs include: 1) building design guidelines to include items such as building heights, setbacks and densities; and 2) parking. We did review parking last year, but this year we would like to look at compact spaces, tandem spaces, guest parking spaces, and TOD parking criteria.

One of our most exciting tasks is going to be learning the real details about LEAD certification; to look at and understand the costs and operating benefits associated with the implementation of such a program, and then make a recommendation to Council regarding what would be reasonable for future development.

The last task is a housekeeping matter to update the Planning Commission's bylaws to address such issues as ethics training, quorum attendance requirements, and other language corrections. This would be to amend our current rules.

The second part of the work program has to do with community education, which is a fluid program. To start we are offering 7, and then others as needed during the year. These range from a Circulation Element update to recycling requirements to review of the

master planning efforts of staff on Coast Highway and Oceanside Boulevard.

She is proud of the knowledge that her fellow commissioners bring to the Planning Commission. We have experts in architecture, engineering, fire standards and water resources. We make a concerted effort to be more knowledgeable on all the details that face us with every project that is brought before us. However, many resources — water, recycled water, biology, and even money — are going to become more and more restricted and valuable over the next several years. Although the Planning Commission is well versed on most planning issues, we would like to be equally well versed on the management of these resources. To that end she would like to suggest that Council approve one joint workshop between the City Council and the Planning Commission. Besides the direction it would provide the Planning Commission, it would also help contribute to the City's sustainability by maximizing the resources available to use, namely staff and money.

She looks forward to Council's approval of our work plan and to our suggestion for a joint workshop, possibly at the beginning of next year.

MAYOR WOOD is in support of a workshop with a couple other things, not only a workshop early next year, but the parties involved he would leave up to the City Manager. He would like to have other people invited such as other commissions most related to that and other staff.

He would **move approval** of the workplan plus the workshop in the future.

COUNCILMEMBER SANCHEZ seconded the motion.

DEPUTY MAYOR CHAVEZ thinks it is good to get together for the workshop. He noticed in the numbers that we have approved quite a few projects. Do we have any idea how many of them are actually being executed? He had heard it was around 33 or 36 approved and only 2 being worked because of the economy.

JERRY HITTLEMAN, City Planner, stated we do not track that through the Planning Division; however, he believes Economic Development does, and we can provide Council with that information.

DEPUTY MAYOR CHAVEZ stated that in looking at this, residential is the highest element being added, and right now the dominant voice throughout the community is more about jobs and opportunities. He looks forward to the workshop to talk about that. It is also important to start looking at the environment, because we have real issues to deal with as far as land, water, energy and the sustainability issues for future years.

COUNCILMEMBER SANCHEZ knows Caltrans has been talking about the impacts to residents in terms of the widening and the new off/on ramps. She questioned if the Commission could include that in the community education or address it separately; it would be good to know how we are going to incorporate the land uses around this major upgrade. She concurred with the workshop for discussion. This Planning Commission understands the Council's direction and the emphasis on economic development, which is insuring that whatever projects we have, the development pays for itself as much as possible.

COUNCILMEMBER KERN was not clear how many people the Mayor wanted included in this workshop. He is for having the Commission, the Council and some staff related to development included, but not other commissions. His direction to the City Manager is to have a focused meeting with the Planning Commission, City Council and staff to get something done, and he prefers to hold it somewhere other than the Council Chambers to sit around the table together for an exchange of ideas.

COUNCILMEMBER FELLER looks forward to a meeting between the Planning Commission, Council and staff. Regarding the comment on LEADS, there are many builders interested in doing that, but you have to be very careful about increased costs which could kill projects at this time. That is why not all projects approved are proceeding forward.

MR. MARTINEK stated that on the LEADS projects, there is LEADS certification that can be an expensive process, and some of the recommendations are also expensive.

However, with some of what we have heard from LEADS experts, the projects may cost a little more up front, but if it is done properly, it will be worth much more, as will the revenue generated from that project. He referenced what Palomar College is doing. It is an important issue.

Motion was approved 5-0.

14. **Request by Councilmember Sanchez to direct staff to address parking problems in the downtown area, with short-term and long-term solutions; parking uses to be addressed include employees, clientele, and beach users**

COUNCILMEMBER SANCHEZ stated we have had parking challenges since she has been on Council. We have known we would have 5 of the 6 surface lots along Cleveland eliminated when development is proposed, and it has already been permitted. So every project coming forward she has had concerns with because of the parking and whether it would provide enough parking. She wants to make sure that everything that we do and every potential business is able to be successful. Ocean Terraces is a very exciting mixed-use project on the corner of Mission and Cleveland that opened this past year. She had concerns about the parking, and she revisited this issue and talked to David Mickelson who is here tonight. She wants to consider whether we have enough parking in the downtown to support the businesses we would like to have, like David's business.

DAVID MICKELSON, owner of Mickelson Capital Consulting, a financial services company, stated he lives in Oceanside. He was the first one to call and say he wanted an office in this building [Ocean Terraces]. So 3 years later, in May of this year he was the first owner/occupant of that building. He bought on the corner of Seagaze and Cleveland, and we have 2,300 feet. There are only about 5 companies that have bought and moved into that building, so there are quite a few suites available on our floor for offices. He thinks the entire 38 residential units are still unoccupied. We provide 8 high-paying professional level jobs, and the suite came with 2 parking spaces. The developer told us there would only be 2 spaces that come with the suite, but they said we would have 47 dedicated spaces in the structure that is cattycorner by the Transit Center; those did not materialize. In fact there are no spots at all that are dedicated to us. The structure gets full pretty much all the time and is not available for use for either clients or employees very often, which presents a problem because the people I want to attract to our business find it an aggravation to park. While we do have an interim solution with parking a block away, the problem is that only about 1/3 of our floor is occupied, and the rest of the building, including the downstairs retail, the residential, etc., is empty. As things fill out and other buildings go up, it will be an intensely unpleasant experience to try to live and work in Oceanside.

As a business owner, he is disappointed because there are no good alternatives right now. He would encourage the Council to find a way to increase parking dramatically over the next few years as building takes place. When he has gone to the CityMark presentations about how much space they will be putting in, his math does not add up to being adequate to what they have said about the parking (around 900 spaces) with the amount of square footage. He thinks it would be woefully inadequate. In the meantime Councilmember Sanchez suggested I speak with her and the City Manager about getting a waiver of the 4-hour limit on the lot directly across the street from the building, which would be an acceptable interim solution. The City Manager looked into it and said it would take an action of the Council. So he would request that Council consider making that parking lot available to employees in that building or other businesses as well for an all-day parking opportunity. In the long term, it would be good if you would increase the overall parking.

From his point of view as a business owner who invested a tremendous amount of money and effort into moving his business here, he feels a little shortchanged in the overall plan — that there might not be adequate parking to support the kind of businesses and employees he wants to attract in his office.

COUNCILMEMBER SANCHEZ noted that we did meet with the City Manager. What had happened was some of the employees had gotten tickets trying to park in various places. This wasn't the first time she heard this problem. The past year we received emails from Vine to Glass and some other businesses on Coast Highway because

they had used the Star of the Sea parking area, and St. Mary's decided to start charging for parking. When she worked downtown San Diego, she would have to pay $300 a month for parking, so she knows what limited parking can do in creating another whole business. She reviewed correspondence from businesses having parking issues. Businesses would like to have the 2-hour parking limit lifted in the meantime while they wait for a City parking solution.

It is clear we need to do something. With businesses coming to Oceanside, these experiences are not what we want. We do have a parking study that is happening, but that is a long-term solution. What we need is a short-term solution now. She would like to direct staff to come up with a short-term solution. One suggestion is that the time limit be lifted, but she does not know the affect of that. The 47 spaces in the parking structure were to be allotted, correct?

CITY MANAGER WEISS responded that the approval for the project indicated that there would be 47 spots available for use in the Transit Center parking structure.

COUNCILMEMBER SANCHEZ stated they discussed a permitting system such as for businesses at Ocean Terraces because they were specifically allowed up to 47 spaces, but the structure is full. What else can we do and what can staff come up with to find immediate relief for businesses like David's? So her **motion** is to direct staff to come up with a short-term solution while the other study is happening, to give immediate relief to businesses like Mr. Mickelson's.

COUNCILMEMBER KERN seconded the motion to have staff look at this. He does not know how quickly they can come up with something. He is concerned that if we take the lot across the street and turn it into all-day parking, it would not solve the problem and will fill up with transit users also.

MR. MICKELSON was hoping we would get a permit to allow us to park all day, wherein you would not have to change the 4-hour designation generally.

COUNCILMEMBER KERN noted that Lot 23, right across the railroad track, does not seem like it is utilized as much. Is there an issue with Lot 23 and permits?

MR. MICKELSON responded it is less convenient, but it is fine as a stop-gap measure; that is what we do now. We bought permits for employees to park there.

CITY MANAGER WEISS noted we have had 2 public meetings regarding downtown parking already, and we have scheduled the third for Wednesday, November 5, to review the updated parking study that the consultant is doing. He noted that to lift the time restrictions in any lots would have to be done by resolution. Another option is that we do issue the annual parking permits, which are available to all residents; they are allowed to park in any of the lots at no cost. However, currently they are obligated to abide by the time restrictions. So we could say that anyone who purchases the annual parking pass gets to park in the lots as they do now but would not have to abide by a 4-hour restriction. We could bring back the implementing documents if that is what you want to do. We could not do something just for one business; it would need to be something general.

COUNCILMEMBER SANCHEZ would like to know the pros and cons of that. She wants relief for these businesses.

CITY MANAGER WEISS stated that for the annual parking pass, you would run the risk of transit users buying the $100 pass and parking in the lot all day. No matter what we try to do, it will need to be available to the general public. The easiest would be to not regulate the time restriction if someone buys the parking space, which would address Mr. Mickelson's issue.

COUNCILMEMBER SANCHEZ noted it seems unfair that we said 47 spots would be available for the businesses.

CITY MANAGER WEISS has discussed this with Mr. Mickelson. We can look into that and could reserve the 47 spaces, but we would have to make them available to the management company and not necessarily to the individual businesses. They would have

to allocate them as they saw fit. The risk then is they would divide them in some manner that would not necessarily benefit Mr. Mickelson's business.

COUNCILMEMBER KERN noted the only question he has is that there are 38 empty residential units with allocated parking and willl the management company allow the use of those until the units are leased/sold?

MR. MICKELSON stated that we are having a homeowners' meeting for the first time tomorrow morning. From what they have said before, they even get upset if you walk through the residential lobby, so he believes that is off the table; they have a separate entry — so to make the residential parking spaces, they would have to give us card keys to allow access to an area they are trying to keep exclusively to the residents. Temporarily that could work.

Motion was approved 5-0.

[Recess was held from 6:43 – 6:52 pm. Deputy Mayor Chavez returned at 6:53 pm.]

15. **Request by Councilmember Sanchez to discuss reopening of Fire Mountain Park; and direction to staff**

COUNCILMEMBER SANCHEZ stated that in getting to know people in the area, one thing that keeps coming up is people had gotten used to walking, walking dogs, etc., and with the expansion of Eternal Hills, this opportunity was going away. So we started to talk about Fire Mountain Park, which is actually dedicated parkland. It is part of the park master plan. It had been closed for several years. She understood they were meeting with Councilmembers and staff in trying to reopen the park. So she is asking that Council direct staff to reopen Fire Mountain Park. We remember what it used to be. She asked Chuck McDonell to give a presentation.

CHUCK McDONELL, 2613 Fire Mountain Drive, stated it is a dream for him to see if we can get the Fire Mountain Park restored. Many of you have walked the area already. Councilman Chavez has spent a lot of time with us and attended numerous meetings, and he succeeded in getting the item on next year's parks and recreation agenda. What we are concerned about is the ability to get this designated as an actual park because without that, we will have trouble trying to raise funds. We would like the City to back us getting this park so that we can go out and try to do some fundraising because we know this is not a good time to ask for funds of any sort. If Council were to designate this tonight in backing our effort to try to get this park restored, then we can go out and try to get grants and can solicit the community and look for donations. That is really what we are seeking tonight.

He reviewed the history of Skylark Park and where Fire Fountain Park used to be with the water tower in the middle. It is only about 2.2 acres. We sent out 400 surveys at the request of Mr. Chavez to see what the residents felt about the park. Of those, we received about 25%, and 91% were in favor of restoring the park. The majority wanted a community park. He reviewed the demographics with kids who need a park. We know El Corazon is coming, but it is not close, and funding is an issue there. It will be years before that is available. We own this property. We are asking to take this unused property and designate it as a park so we can try on our own to raise some funds and start developing it piece by piece.

COUNCILMEMBER SANCHEZ added that when the shopping center came into Fire Mountain, there were a lot of promises made to the community. One was that there would be money set aside for a recreational activity. That money was actually used to build the YMCA at Rancho del Oro, which is not close. There were promises made to the community. This is a dedicated park, and it was used as a park. The community is asking to partner with the City to get it open, perhaps start off with trails.

Public Input

THOMAS DEMPSEY, 3641 Esplanade Street, questioned opening this park when he has lived in the Lake area since May 1968, and we have no neighborhood park. He

reviewed a news article in North County Times, January 4, 2003, where the City gave to the YMCA $450,000 it had received from the Gatlin Company, the developer of WalMart at Jefferson in lieu of building a sports complex in this area. Other articles were reviewed, and he requested that the north pit area be dedicated to the Lake area as a park, which will also enhance the El Salto Falls area.

MEL VERNON, 1044 North Ivy Street, Escondido, representing San Luis Rey Band of Mission Indians, stated this site is next to Eternal Hills and is pretty much in the same village/view. It is a special place. He shares his support for a park and understands the costs, but maybe things could be opened up in a small way so people can have access.

LENNIE RAE COOKE, 2409 Dunstan Street. is a member of the Friends of Fire Mountain and appreciated the support. She had a chronology starting in February, 2008 attending a Parks & Recreation Commission meeting, etc. We want to keep this ball going. She has experience in funding and construction of parks; she knows there are grants available. The only way those funds are accessed, however, is when there is a commitment on the books from the City to get the official sanction so we have teeth in our grant writing, etc. She asked Council to give them an opportunity to come up with a solution to this.

SHYLO MURRAY, 1735 Laurel Road, encouraged Council to help them with this park. She walks her dog, watches children playing in the streets, and this would be a great place for most residents in the area to go and enjoy.

LAURIE BERGTHOLD, 1853 Fire Mountain Road, member of Friends of Fire Mountain, stated we have been working on this a lot and are excited about the prospect of having a place for our children, our pets and ourselves to go to enjoy the views and recreation.

COUNCILMEMBER SANCHEZ moved to direct staff to reopen Fire Mountain Park. It is dedicated parkland.

MAYOR WOOD seconded the motion.

COUNCILMEMBER KERN stated parks are popular. The last 3 Council meetings we have talked about parks, and part has to do with the election season. Regarding the Water Department, has this land been declared surplus?

CITY MANAGER WEISS does not believe that Council has declared this property surplus.

COUNCILMEMBER KERN felt we were not even to step 1 yet. We have to see what the Water Department's needs assessment is before we proceed with discussion on this land. The problem we have is that our current total water storage volume in the City is 50.5 million gallons of water, which is only 2 days worth of water. If we have a catastrophic event and lose our water supply, that is 2 days of water. Along with that, we will probably have fires and will need water to fight fires. So we may run out of water in such an event if we do not have enough long-term storage. He understands that people want parks but we will have to look at the long-term issues.

The San Diego County Water Authority (SDCWA) recommends a 10-day supply, and we only have 2. Unless there is a dam at Gopher Canyon, which he does not think will happen, the only way we can get close to the water guarantee is to build reservoirs. This is a reservoir site right now, and there may be plans to expand the site. Why should we spend money on a temporary park if this is still in the water master plan and needed for a reservoir; there are deficiencies in storage in Henie Hills, etc. We have no money identified in this capital budget, and that process does not start again until next year. So we may be 2-3 years away from even thinking about doing anything on this site.

Everyone likes and wants parks, but it is Council's duty to protect infrastructure land just as strongly as we protect land for industrial, commercial, etc. Infrastructure land is even more difficult to hold onto and find and depends on location. The reservoir is on this site because it is up high. He supports the idea of a park but not at this location.

Also, we are building El Corazon. The other issue is the priority of parks. As stated, there are no parks in the Lake area. If we had the money to build parks, then perhaps the Lake area is further in line vs. a Fire Mountain park. If there were $500,000 to spend on a park, he would probably spend it on a soccer field or a skate park or expanding the bike paths before spending on this site. He urged Councilmembers to not vote for this. He is concerned about the process and the long-term health of the City. Once we turn this into a recreational use, it will take a vote of the people to be able to change it to anything else.

CITY MANAGER WEISS clarified that Council would only declare property surplus if you want to dispose of it. In this case, that is not the discussion. He did not know if this land was dedicated park land.

COUNCILMEMBER SANCHEZ understands that this property has already been dedicated as parkland and cannot be sold without a vote of the people. The issue is only to reopen it as a park.

COUNCILMEMBER KERN noted this park was closed before the ordinance went into affect. We need this for infrastructure.

LONNIE THIBODEAUX, Water Utilities Director, stated we have done some research on this. Historically, the park was active in the early 1970s, and just prior to the ordinance restricting park use and requiring a vote, it was decommissioned as a park. It happened before the dedication ordinance was in place. The existing site is in use now as a reservoir. The future of the reservoir site would depend on the growth of the community. If the visioning on Oceanside Boulevard and Coast Highway corridor continued and required densification, this is one of the sites that would be considered for building a reservoir. This would service the downtown area. It would supplement the water supply throughout the whole City, because as you add water in this region, it adds additional water supply. This is the same elevation as Henie Hills, but it is in a different quadrant.

COUNCILMEMBER SANCHEZ understands this was dedicated, and we can find that because she heard that from the person who made the motion.

CITY MANAGER WEISS stated that if the direction is to move forward to look at this as being a park, then he would recommend that staff take it back to the Utilities and Parks & Recreation Commissions and put it in line with the other priorities.

MAYOR WOOD understood that this was a park and always would be a park, and that it could not be changed without a vote of the citizens. Now we hear that it was before the ordinance, which changes a lot of things in his mind. This needs to be a park and should have been a park, so staff needs to look at this.

COUNCILMEMBER SANCHEZ stated that no one is saying not to build the second reservoir. Until then, which could be 10-20 years from now, why not use it as a park? There is a need since Eternal Hills is going to be expanding. We need to reopen the park.

CITY ATTORNEY MULLEN stated his office has not reviewed this item and does not know the status of the park, but under City Code Section 2.83 and 2.84, if you did open it as a park and use it for park purposes, then it would require a vote of the people to do some alternative use.

COUNCILMEMBER SANCHEZ reworded her **motion** to direct staff to bring this back with additional information for further discussion to re-open this as a park. That would be getting more information, getting the confirmation of dedication as a park, and go forward from there.

MAYOR WOOD seconded the reworded motion, noting it would go back to staff for clarification on the status of the land for the purpose of making this a park. He would like more clarification from the City Manager and City Attorney.

COUNCILMEMBER KERN cannot support the motion. This is a policy matter; do we take a position that benefits the whole City, even though someone in a neighborhood may not like the decision? Water is going to be the number 1 issue in the next 5-10 years. If nothing happens with the water, then if we have a park we won't be able to water it.

We need water and reservoirs in the City. This is a leadership question of how we are going to bring this City forward in something that benefits everyone. He does not want a park on this site because it is a water utility site that needs to be preserved for that use.

DEPUTY MAYOR CHAVEZ thinks these last 3 agenda items have been ill-advised in being on the agenda because none of them have gone through any process. It is an election issue. He has been working on this for some months. Once you actually have a plan to take forward, an important issue is that you have the funding. For that reason, the last memo received on July 9 stated that staff will include this item as part of the fiscal year 2009-10 CIP list that will be placed on the Parks & Recreation Commission agenda. It could be coordinated with the Utilities Commission if there is validity to it.

The discussion we had a number of times was not an either/or - either a reservoir or a park - but is there a possibility that they could be jointly used? That was the discussion, and he supports that. We can have both uses if done in an appropriate manner. Also in this report it talks about $450,000 - $500,000 to do that, because of water, fencing, grading, issues with ADA concerning holes out there, etc. So there could be a lot of work to make this happen. For those reasons, he will stay where he was — he wants the park there; we also need to protect our water sources; and there needs to be a plan to do that. Today's discussion is more about votes and the election. On the dais we need a long-term vision and how we use resources along with recreation. That discussion needs to be done in a thoughtful manner through a process and not arbitrarily with no thought process. For that reason, he will not support this motion. He does support the park as long as it goes through the process to also maintain the infrastructure for the water, which can be done. It will take money.

COUNCILMEMBER FELLER heard there is a possible need for more reservoir space, correct?

MR. THIBODEAUX responded that if general plan amendments happen that provide greater density in the downtown area and the Oceanside corridor, there will be a need for greater storage in that area, yes. That means another reservoir. There is a stub out for a future reservoir already on that site. We use the site now for some pipes stored there and large diameter pipes stored down the hill. They also use it as a canine practice for police on occasion.

COUNCILMEMBER FELLER stated going back to 1988/89 when the Cole Company wanted to build a hotel/office off Jefferson/78, Fire Mountain residents fought vehemently against putting that in there. With the development came a 25-acre park on the west end of the project that Fire Mountain denied. Thus, we only got $450,000 from Gatlin for the WalMart project, and it was used. So that denied Fire Mountain of a park. We need to figure out how to do both as the Deputy Mayor said. It is coming in the CIP plan for next year. It would be easy if the environmentalists would say we could fence the tower, etc., but it is not that simple. The process needs to be adhered to and we need to look at this from all aspects, i.e. utilities, parks, etc. He thinks the park will happen but not right now; and we have no extra money for that now.

COUNCILMEMBER SANCHEZ stated the residents want to partner with the City, and they would start writing for grants. We can start off with just trails through the area that would be safe and would not cost a lot of money. We are not talking about a lot of grass or using water; we are talking a walking use. Active things happened there before and could happen someday, but right now there is an immediate need for walking in a safe place. This would be direction to staff and would be through a procedure. There is no immediate need at this point for a water reservoir so why not go forward? There should be some equities, i.e. this community got $450,000 set aside, not Rancho del Oro. This money went to that project. They are just asking for a place to be able to use andto walk to.

MAYOR WOOD feels there is enough land there to put another tower and a park. That is what he wants to return to the staff to look at. He is not voting on it to be a park; he is voting to send this back to staff and look further into it. Staff will return with information he does not have and find out more about what we can and cannot do.

Motion failed 2-3, with Deputy Mayor Chavez and Councilmembers Feller and Kern

voting no.

CITY COUNCIL REPORTS

16. **Mayor Jim Wood** – noted the Jones Road water line break that happened the other day. Crews worked all night and all day, and he thanked staff for all their efforts.

At the last SANDAG meeting last Friday, he is happy to announce that they voted to support the senior mini grant for 3 years regarding senior transportation mini grants for transportation vouchers, etc.

[Councilmember Sanchez left the dais at 7:40 pm]

Also, the Senior Center is in need of volunteer drivers for the 'Seniors on the Go' program. The American League of Bicyclists have awarded the City a bronze award due to the efforts made by the City as a bicycle friendly community. He attended the NAACP Gentlemen's Gourmet event as highlighted. He announced the Brother Benno's Annual Fashion Show on October 4. There are other activities also happening.

17. **Deputy Mayor Rocky Chavez --** advised Council about the North County Transit District (NCTD). Their budget has come down, and they are looking at some tough times ahead; [as the Council liaison] we will be hearing about it from our residents as we look at bus routes again to be more efficient in feeding buses into the Sprinter. There will also be a study down south to look at parking; they will have parking restricted just to riders of the NCTD which could cause an overflow in Encinitas, Del Mar, and other cities south. It will not impact Oceanside because we will be phase 2. The agreement was if it is a problem in the communities to the south, they would not go into phase 2, which would impact Oceanside.

[Councilmember Sanchez returned to the dais at 7:45 pm]

He will be watching that closely. If Councilmembers hear any concerns about people riding the trains in those cities, please let him know so he can stop that problem from coming to Oceanside. He made it clear he would not support it, and he had the support of the Board not to bring it to Oceanside if it did not work to the south.

He highlighted that SER at Libby Lake has 10 new IBM computers for youth and seniors. He talked to kids at Calavera Hills Elementary. He asked everyone to register and vote. He attended an event at Camp Pendleton.

He reported that he voted at the League of California Cities conference. There were 2 items that could impact Oceanside. One was a pretty much unanimous vote to bring back local control to cities to control drug and alcohol houses within the community. It is a big issue in some of the more urban cities where blighted neighborhoods will have 4-5 of these homes on a street. So they are trying to change the regulation for local control to influence that. There was also a bylaws amendment. The League has a Board of 50 members from the cities, and there was a movement by the caucuses [Latino, Pacific Asian, Black, and also Gay Transgender] to have votes on the Board. The vote failed 114-107. It needed 66% to change the bylaws so it was well below the required number. That was probably the largest issue that came up.

Today he visited Stone Truss. He showed pictures of the Oceanside Airport barbeque event. The Arts Commission has a theme for the painting of the utility boxes in the harbor called "Oceanside's Harbor Art Walk Heritage and History".

18. **Councilmember Jack Feller** -- reported on the Harbor Days events, American GI Forum, the S.U.N. project, the Gentlemen's Gourmet by the North County African American Women's Association, and coming events of the Brother Benno Fashion Show, the Luau at St. Mary's, and Boys and Girls Night Out. He announced that Lloyd and Vickie Prosser became grandparents Oct. 1.

19. **Councilmember Jerome M. Kern** – was at the other events at the Airport and the S.U.N. project.

Last week he took a tour of all the Base water facilities on the south side of the base, from close to Fallbrook and all the way down to the new wastewater treatment plant that is behind the commissary by the freeway. They have done amazing things; their recycled water program will be really good. They will be asking for an extension on the use of the outfall but may not need to use it, which will help us free up outfall space with the big projects. The other limiting factor of our growth is the wastewater and its treatment. So all these infrastructure projects need to be considered.

Tomorrow he will attend SANDAG for the sand replenishment project, and then on Friday he has the SANDAG regional planning.

20. **Councilmember Esther Sanchez** – attended the Federal hearing on the toll road and on behalf of the residents voiced her strong objection against the toll road. She also attended the S.U.N. project, the Gentlemen's Gourmet, and the South O Mmerchants meeting. She highlighted St. Mary's Luau to be held this Saturday.

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.

21. **Council: Adoption of an ordinance, Ordinance No. 08-OR0586-1, "... of the City Council of the City of Oceanside, California, amending Chapter 5, Section 5.12 of the Oceanside City Code and Article 10, Section 10.13 of the Oceanside Traffic Code by revising parking restrictions within bike lanes"** (introduced on 9/10/08, 5-0 vote)

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

22. **Council: Adoption of an ordinance, Ordinance No. 08-OR0587-1, "... of the City Council of the City of Oceanside rescinding Ordinance 07-OR0369-1 regarding City Council salaries and amending Section 2.1.70 of the Oceanside City Code to adjust the salary for members of the City Council in accordance with the provisions of Sections 36516 and 36516.5 of the California Government Code"** (introduced on 9/17/08, 4-1 vote, Chavez-no)

Following the reading of the title, **COUNCILMEMBER KERN moved** adoption.

COUNCILMEMBER SANCHEZ stated she heard the Deputy Mayor saying he would not do this because it is a huge raise for Councilmembers. She wants the whole story to be said. The Legislature changed the laws. Will the money we get actually be more or less?

CITY ATTORNEY MULLEN stated this action is to eliminate Council's previously adopted 5% increase, and we are replacing it with an ordinance that provides a 12% increase.

CITY MANAGER WEISS noted that the salary increases can only take effect at the next election. For the 3 seats that are up, even with this increase, there will be an approximate $800 a month pay decrease as a result of State legislation passed previously. The 12% being proposed is for prior years that Council did not initiate a pay increase. No matter what Council does, 3 seats will have an approximate $800 a month pay cut as of the election. So what Council is doing is increasing from that $800/month pay cut a 12% increase, which is roughly $600.

CITY ATTORNEY MULLEN noted that if Council did not adopt this ordinance, then Ordinance 07-OR0369-1 will remain in effect, which provides a 5% Council salary increase effective after the next election. Separate and apart from that, the City Manager is referring to AB11, which restricted the amount of money you can receive as members of the CDC to no more than $300/month. There has also been an Attorney General opinion that it could not be applied to Councilmembers; it only applies with regard to if you are re-elected and take a new term in office. So for those members — Councilmember Kern and Deputy Mayor Chavez - who were re-elected at the last election, the effect of that was to reduce the CDC salary for them. The other Councilmembers did not have that reduction and will not until after the next election.

COUNCILMEMBER SANCHEZ asked if by voting for this, the Mayor will be getting more money?

CITY ATTORNEY MULLEN responded that what is before them is an increase to the Council salaries after the next election of 12%. However, there will be a corresponding reduction in their CDC salary.

DEPUTY MAYOR CHAVEZ commented that if he voted for this, he would be voting to give himself a 12% increase because he has already had the pay cut.

COUNCILMEMBER SANCHEZ wanted to point out that if the Mayor were re-elected, he would be getting less with this. She **seconded** the motion.

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

ADJOURNMENT

MAYOR WOOD adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 8:05 PM, October 1, 2008.

[The next regularly scheduled meeting is at 4:00 p.m. on Wednesday, October 8, 2008]

ACCEPTED BY COUNCIL/HDB/CDC:

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Barbara Riegel Wayne
City Clerk, City of Oceanside