

NOT OFFICIAL
UNTIL AFTER
SUCCESSIVE
MEETING BY CITY COUNCIL



California

ITEM NO. 6

CITY OF OCEANSIDE

MINUTES OF THE

CITY COUNCIL

August 22, 2001

ADJOURNED MEETING 10:00 AM COUNCIL CHAMBERS

Mayor

Terry Johnson

Deputy Mayor

Betty Harding

Councilmembers

Jack Feller
Carol McCauley
Esther Sanchez

City Clerk

Barbara Riegel Wayne

City Treasurer

Rosemary Jones

The adjourned meeting of the Oceanside City Council was called to order by Mayor Johnson at 10:00 AM, August 22, 2001, for the purpose of a study session. The Pledge of Allegiance was led by Deputy Mayor Harding.

ROLL CALL

Present were Mayor Johnson, Deputy Mayor Harding and Councilmembers McCauley and Sanchez. Councilmember Feller was absent [representing Oceanside at the Little League All Star Game]. Also present were City Clerk Barbara Riegel Wayne, City Treasurer Rosemary Jones [arrived 10:47 AM], City Manager Steve Jepsen and City Attorney Duane Bennett. The pledge of allegiance was led by Deputy Mayor Harding.

STUDY SESSION ITEM

1. **Charter Cities Discussion**

COUNCILMEMBER McCAULEY reported that the charter city issue re-surfaced in Council's strategic planning session as well as in other meetings. Council voted to have City Attorney Bennett search out an authority on the issue in an effort to educate Council of the benefits and offsetting liabilities of being a charter city.

CITY ATTORNEY BENNETT introduced Mike Jenkins to present information regarding charter city status, addressing the pros and cons and any other information he deems relevant to share in that regard. He will also answer any questions.

Mr. Jenkins is familiar with the City of Oceanside and has handled litigation for the City in the past. He is currently the City Attorney for the cities of Diamond Bar, Hermosa Beach, Rolling Hills and West Hollywood. He is also a former president of the League of California Cities City Attorney's Department, etc. He is imminently qualified to discuss this subject.

MIKE JENKINS, Attorney, will provide a brief presentation and background on the differences between charter and general law cities. He does not have an opinion about whether Oceanside should or should not be a charter city because that is a matter for the community to decide. His presence is not to advocate one point of view or another.

He is aware that some Councilmembers have an interest in this subject and have been doing their own research. He hoped his preliminary remarks would address some of the issues, questions and concerns that Council and the public may have.

In describing the nature of a charter city, he reviewed that in the 19th century, it was perceived that there was a great deal of abuse by State legislatures against cities. The perception was that State legislatures felt they could interfere with the doings of cities at any time. Often, people with interests, such as land developers, railroads, etc., who felt they could not get their way with the local city officials would travel to the State Capitol to exercise their influence with State legislators and obtain special legislation for whatever they wanted without having to deal with the local cities. One of the major reforms in the area of State and local government toward the middle and latter part of the 19th century was the introduction of something known as Home Rule. In effect, Home Rule was a doctrine that provided that a city would have exclusive power and jurisdiction regarding matters that pertained to internal city business. That exclusive jurisdiction would entitle them to be completely free of interference by the State legislature; hence, Home Rule. In 1849, many states began adopting the doctrine of Home Rule in their State Constitutions, including California. The doctrine of home rule was incorporated in the California Constitution by way of providing that a city may obtain a charter in order to become a home rule city. Once a city obtains a charter, it then has all the protections and powers of home rule. The home rule provision in the California Constitution has been changed, rewritten and refined over the years, but that is the essence of the home rule doctrine, as currently in the California Constitution in Section 5A of Article 11. It provides that a city may adopt a charter and exercise home rule as regards matters that are municipal affairs.

The primary difference between a charter city and a general rule city is that charter cities may exercise plenary authority over municipal affairs, free of interference by the legislature and subject only to constitutional constraints. Like any other city, a charter city is subject to the United States Constitution and other provisions in the California Constitution. About 17-18% of the cities in the State of California are charter cities. Most of the cities in the State have incorporated since the mid-20th century, and the bulk of those were incorporated as general law cities.

What then is a municipal affair, because that is really the nub of the issue. What are those things/those subject areas of regulation for which a charter city is insulated from State legislative interference. The courts ultimately determine what constitutes a municipal affair in every given instance; it is not the State legislature and not the home rule City. For many years, the courts utilized a balancing test to determine what a municipal affair is. For example, a charter city passes an ordinance that conflicts with a State law, but the city insists that its ordinance should prevail because it is strictly an internal matter. The court would then weigh which argument sounded more persuasive. Is the position that it is not a municipal affair more persuasive, or that it only pertains to internal matters within the city more persuasive. The court would decide based on this balancing test.

A few years of ago, the California Supreme Court completely changed the test for determining a municipal affair. First, the Court said there are no such things as fixed categories of municipal affairs, so it is a constantly evolving doctrine. Something that may have been determined to be a municipal affair in a court case 20 years ago might today conclude differently by virtue of changed circumstances, environmental changes and changes in the law. Secondly, the Court decided that instead of using a balancing test, it would instead apply a 4-part test, which is:

1. The Court determines if there is a conflict between the State law and the ordinance in question;
2. If there is a conflict, then they look to see whether the local law implicates a municipal affair;
3. If the State statute involves extramural concerns, which are defined by the court to be "a dimension demonstrably transcending identifiable municipal interests." This is basically asking if the statute has impact outside the borders of the city; then
4. Is the State statute reasonably related to and narrowly tailored to the resolution of the statewide concern.

In his opinion, this test tends to favor State legislation, but there are a variety of opinions about this "Cal Fed" Case, which is called that because it came out of a case involving a lawsuit by California Fed Bank against the City of Los Angeles. If the State legislature passes a law and the subject matter of the law has some statewide implications, it will be sustained as against a charter city's ordinance, as long as the law is well written and reasonably relates to its purpose. However, there is language in the case that arguably supports charter cities. For example, there is wording that states it is not up to the legislature to decide; it is up to the courts.

After the Cal Fed case, there is not a lot of case law established. One big case was the Bradley v. Johnson case, which held that public financing of local elections is a municipal affair. That case has been touted as being good for the doctrine of home rule because it supported a charter city's enactment of an ordinance and was against a statewide initiative that prohibited public financing of elections.

In the past there have been certain subject matters that have been determined to be municipal affairs. First is internal governance of the City. The Constitution provides that the governance of a city is a municipal affair, and case law has affirmed that. This includes issues such as how the City is organized, the number of City Councilmembers, whether or not the elections are by district, employee salaries, etc. Basically, how the City government functions is a municipal affair.

Zoning matters are municipal affairs, so charter cities are not generally subject to the local planning law in the Government Code. They are not subject to the requirements pertaining to general plans and zoning ordinances, with a couple of exceptions, such as housing, which has been determined to involve matters of statewide concern. However, the fundamentals of zoning, such as the process for amending zoning ordinances, what procedures are followed, general plan issues and adoption issues, are all considered to be within the area of municipal affairs and not subject to State interference.

Contracting has been considered to be a matter of municipal concern, specifically public works contracting. Charter cities are not subject to the requirements set forth in the California Public Contract Code relative to public contracting. This includes the procedures involving bidding on public works construction jobs. It also involves the payment of prevailing wages, which is a requirement of the California Labor Code. While that issue has been somewhat up in the air, the Department of Industrial Relations tends to be very aggressive on the subject of prevailing wages. Presently there have been a number of cases suggesting that public works contracts that have no effect outside the boundaries of the cities are matters of municipal concern and are not subject to the Public Contract Code and Labor Code requirements.

Elections are another area within municipal affairs. The City determines how and when to conduct elections, the procedures, deadlines, term limits, duration of terms, etc. The subject of municipal utilities is considered to be a matter of municipal affairs. The establishment of utilities and the methods and procedures have been considered to be municipal affairs.

Regarding the use of public funds, the California Constitution has a doctrine that generally prohibits the gift of public funds. Some cases suggest that charter cities are not subject to this restriction. In his opinion, this means that charter cities have greater leeway to expend public funds on matters that are not typically considered governmental matters. If they were to move into the area where they might compete with the private sector in terms of operating a business of some kind, having a stadium or sports team or things that are generally outside of the traditional scope of municipal activity, these things are not specifically authorized to general law cities and are authorized to charter cities. The only reservation he has about saying that charter cities are not subject to the doctrine that prohibits the gift of public funds is that he does think at some point a court would rule that even a charter city cannot use its funds for purposes that have absolutely no benefit to the city. There is a limit.

Regarding procedures for issuing municipal debt, State law sets forth procedures for issuing municipal bonds. Charter cities have the ability to set up their own procedures.

In the area of taxation, charter cities used to have more authority. With the passage of Proposition 218, with its requirements for elections, taxation, and the establishment of assessments and fees, that area is not one where charter cities have particularly greater amount of flexibility than general law cities. There is one type of tax that a charter city may enact but that general law cities are specifically prohibited from enacting, which is a property transfer tax. Beyond that, general law cities have the same taxation powers as charter cities.

So again, while these areas are safely considered to be municipal affairs, the Cal Fed case made it clear that nothing is fixed or entirely certain. In any given instance, specific facts could justify a court in changing something from historically being a municipal affair into something that is a matter of statewide concern due to changed circumstances.

Mr. Jenkins then discussed items that are not considered to be municipal affairs. At this point, Proposition 218 governs most areas of taxation and is pretty comprehensive in setting forth the procedures for taxation. With regard to labor relations, charter cities are generally under the Myers Milias Brown Act and must conform to most of the labor relation statutes that govern cities. Labor relations are considered to be an area of statewide concern and include the Police Officers Bill of Rights, etc. Traffic regulations have generally been considered a matter of statewide concern. Regulation of telecommunications is not a municipal affair. While there is more room for regulating utilities, such as gas, electric, and water, telecommunications are protected by Federal law and other State laws. And cities are generally in the same boat in dealing with telecommunications providers. That has become a big issue for municipal regulation in the past few years because companies want to trench in the streets to provide telecommunication services to residents of the City and to actually go through the cities to provide those services on a statewide or regional basis.

Finally, compliance with certain State laws, such as the Brown Act and the Conflict of Interest Laws in the Political Reform Act, are considered to be matters of statewide concern and are not municipal affairs.

Addressing why a city would want to adopt a charter or not, he stated that some people believe that the gap in authority between a general law city and a charter city is fairly narrow at this juncture. They believe that the legislature has been generous in providing general law cities with powers similar to those of charter cities. An example is Government Code section 37100.5, which allows general law cities to adopt any tax that may be adopted by a charter city, with the only exception being real property transfer taxes as proscribed by Proposition 62, which governs general law cities but not charter cities. Government Code section 36502 is another and was adopted after *Cawdrey v. the City of Redondo Beach*, which held that term limits for Councilmembers are a municipal affair. Subsequent to that case, the legislature passed this section allowing general law cities to adopt term limits for their Councilmembers.

Some people believe there is not a great need for a charter since charter cities tend to follow the general laws in many of the areas described. For example, many charter cities follow State law when it comes to elections, zoning and contracting. In other words, they do not take advantage of the opportunities available under a charter.

The opposite view is that the legislature cannot be trusted because it is generally predatory. The benefit of a charter is that it creates an area of insulation within municipal affairs as defined. Some proponents of charters like the idea of having greater flexibility in the governmental structure and being able to organize the government in a way that is not specifically provided for in the Government Code.

From a purely legal point of view, the only real disadvantage to having a charter is if the city were to venture into a questionable area of regulation, was challenged, and the City's defense was that they were doing it on the strength of their charter because they consider it a municipal affair. That disadvantage is the possibility of litigation in an area that the courts have not yet determined whether it is or is not a municipal affair, such as rent control. Beyond that, there is no particular legal disadvantage.

The practical disadvantages are merely related to the time, effort and energy associated with going through the process of drafting a charter and the extent to which there may be divisiveness or conflict within the community over what a charter should or should not include. Cities have had different experiences with charters. Some have had very positive experiences where the community has favorably received the charters. In other communities, it has become a point of contention and controversy not unlike redevelopment. Redevelopment is either supported by the community or not supported. These are more of the local, political issues that have practical implications.

The procedures for adopting a charter are pretty simple: either Council can prepare a charter or can set up a Charter Commission by a vote of the people. If establishing a Charter Commission were passed, there would then be a vote electing 15 people to serve on the commission, and they would have 2 years to prepare a charter. The charter would be given to Council, then placed on the ballot and voted on by the people. If approved, it would be sent to Sacramento and filed with the Secretary of State. These procedures are straightforward and are set out in the Government Code.

Public Input

MARY AZEVEDO, 1783 Woodbine, spent a few days in the City Clerk's Office researching the 1986 charter proposal materials. Her initial interest in this issue was to have a primary election in the City, but not districting. Mention of those words brought up so much controversy. She feels that the City has so many major controversial issues, such as the resort project and the Rancho del Oro interchange, that to bring in something that has been controversial in the past would cause more upheaval. She speculates that sometime in the future, Oceanside will become a charter city, because there are some good opportunities for the city. However, at this time, it would be more beneficial for the City to deal with the other important issues facing it. A few years down the road, maybe the City can revisit this topic.

JOHN DUNZER, 3660 Merced, was not willing to wait to become a charter city because there are many advantages to being a charter city. He has researched the charters for the cities of Del Mar and Chula Vista. He is supportive of taking advantage of opportunities that could save some money through contracting or other areas. For the most part, change is good, and he supports the City becoming a charter city. He would like to see City revenues placed in areas that would provide services to the community. Whether it is contracting out the Police Department, regionalization of the Fire Department or using existing community centers for an additional senior citizens center, he would like to find ways to save the City some money in order to put some money into ball fields for the kids, etc.

JEAN KUJAWA, 4914 Glenhaven Drive, noted that a charter would have to specify certain things. She feels that is important because the City has no health department, and San Diego will not take any health-related complaints. The City would have to assume responsibility for health conditions. The City currently has a health concern that affects the health and welfare of seniors, but the seniors are in limbo about where to go to get help. The City ignores the problems, but someone needs to be in charge of health and welfare for the citizens, especially aging veterans. Also, public funds are not being spent equally throughout the City, and something has to be done, whether it is a charter or something else, to assure that every area of the City gets its share of public funds. Transportation is another issue because some communities are serviced and others are totally ignored. There must be an equal disbursement of all funds; that is the only way to do things. Whether or not they have a charter, all these items have to be addressed because they are important items.

[There was no further public input]

COUNCIL DISCUSSION

COUNCILMEMBER SANCHEZ had an opportunity to ask Mr. Jenkins a few questions yesterday. With the knowledge of what the City has gone through 4 times previously, she is concerned about the divisiveness this could bring to the City again, as it

has done before. When she asked for his opinion, Mr. Jenkins told her he was not an advocate of charter cities; and he would recommend that a city consider a charter only if it has a specific desire to do something that it could not.

Other than the 2 issues, voting by district or full-time salaries, everything else becomes esoteric, meaning those are the 2 major reasons why the City would be looking at a charter city. They know it is not about district elections, so full-time salaries are not a good enough reason to bring such a divisive issue before the people. The City has a number of issues, including Rancho Del Oro, El Corazon, Redevelopment and Ocean Hills, that are potentially divisive. This would actually draw the lines to all those points. There is a major distrust issue within the City. It is not just that the people distrust the local government; the local government is distrustful of its residents. Constituents complain about the way they are treated when they ask a question. For example, the City did a negative declaration for IDEC with the cancer-causing chemicals. She wants to try to console her constituents and make them realize that the City did everything it was supposed to do, then she discovers they did not, and she cannot get the necessary information to exhaust all options. That is distrustful. She agrees that the reasons are very narrow for why the City would want to venture into something so divisive within the community. Council's job should be addressing the issues the City already has instead of going into something else that is very divisive.

COUNCILMEMBER McCAULEY partially concurred with the comment made by Councilmember Sanchez regarding Council's duty to respond to the concerns of the constituents. However, that is not Council's only duty; they are elected for leadership. To her knowledge, anyone coming to her office with questions or asking questions of any Councilmember or staff has found them responsive. She does not believe those issues are in front of them on the agenda today.

She had questions for Mr. Jenkins. Under zoning, that includes land use. Mr. Jenkins affirmed it did.

COUNCILMEMBER McCAULEY advised that Council has before them an issue with the Regional Governance Efficiency Commission (RGEC), which is the additional governing body that could come in and dictate transportation availability and location. They would also have the ability to withhold certain funding from individual cities that did not subject themselves and go along with whatever RGEC mandates. In article 11, section 11A of the State Constitution under charters, it states that "a legislature may not delegate to a private person or body the power to make, control, appropriate, supervise or interfere with County or municipal corporation improvements, money or property or to levy taxes or assessments or perform municipal functions." She asked if that section would allow a charter city the ability to fight that type of condition being imposed on them by a County body, not a State body.

MR. JENKINS responded that it is difficult to give a definitive opinion on something that has some complex facts. Yes, land use regulations in general would be a municipal affair. Some exceptions include issues governed by the California Environmental Quality Act (CEQA), Coastal Commission, etc. Council would basically have authority over land use regulations.

Regarding interference by the State, Councilmember McCauley had mentioned a provision dealing with delegation that has been the subject of litigation in the area of labor relations and delegation of authority to arbitrators to make decisions on public employee salaries. The most recent court ruling was that delegating to a private individual to make a decision that would ordinarily be made by a public agency is unconstitutional. This applies to both charter and general law cities.

He does not necessarily understand the facts of this particular situation well enough to give a definitive answer. If what is going on can be characterized as purely internal without any effect outside the boundaries of the City, then the City has another tool in its arsenal to resist incursion by a County, a regional body or the State in certain areas. That

tool is not available to a general law city. As a last resort, when a general law city has played all of its cards, the one card it does not have is the defense that it is a municipal affair.

On the other hand, the State legislature has been somewhat aggressive in certain areas in finding that matters have statewide concern and have extra municipal significance, including transportation and circulation and housing and urban sprawl. It is unclear how the courts would react in a case involving such a conflict. However, he has previously explained some of the competing considerations. On that particular issue, he would need more facts about the entities and what the State legislation is, in particular, to give a precise answer.

COUNCILMEMBER McCAULEY did not expect him to provide an answer to the problem. She was providing a scenario where an additional agency or body is being given authority over local land use that is solely within the County of San Diego. The argument could be made at the State level that this could be a pilot program; many arguments can be made. The narrow gap between charter cities and general law cities is, as Mr. Jenkins previously said, a result of the climate in Sacramento and the State legislature as far as stepping back and allowing municipalities/jurisdictions to govern themselves. Due to some recent issues, she thinks that gap is beginning to widen because the climate in Sacramento is not as amenable to local jurisdictions as it was in the past.

Regarding the labor regulations Mr. Jenkins had cited, SB402, where he indicated that a disadvantage of a charter city was the possibility of ending up in litigation, she asked whether that could also be the advantage. She understood that there are certain things that charter cities can enter into litigation over with the State that a general law city cannot. For example, RGEN is an example. There are 4 charter cities in the County of San Diego. If any one of those charter cities wished to go into litigation against the RGEN plan, they could. However, a general law city could not because it would be subjected to the State legislature as its governing body.

MR. JENKINS reiterated his earlier point that a charter city has a tool to its advantage over a general law city when it comes to litigation. When there is a conflict between local ordinance and a State law, the argument is that this is a municipal affair, and the State legislation should give way to the local ordinance. Councilmember McCauley was correct that when the State passes a general law of general application, a general law city has no defense against it.

For example, a general law city in Los Angeles County failed to adopt a local coastal program. After a number of years, the State legislature passed a specific law directing the Coastal Commission to prepare the local coastal program for that city. That city prepared one for the legislature's review, but the Coastal Commission's attitude was they would do it for the city, while the city's position was that it is local matters involving zoning, land use regulations, etc. The local coastal program encompasses all of those areas. This is a general law city. Therefore, their arguments did not have the one component that it was a municipal affair. On the other hand, the protection of the coastline is clearly a matter of statewide concern. So even if the City had that argument available, it probably would not have prevailed.

The answer to the question is a qualified yes. By virtue of being a home rule city, a charter city would have an argument and a basis to litigate that a general law city does not have.

COUNCILMEMBER McCAULEY stated that was basically what she wanted clarified. Oceanside has its own local coastal plan, and although the Coastal Commission approves it, the City still has the opportunity to reject a cookie cutter local coastal plan. They can put in what is specific to this community. It is then incumbent upon the City to convince the Coastal Commission that this falls within the Coastal Act.

Regarding traffic issues, Mr. Jenkins had mentioned that the State has the ability to govern traffic issues. She asked if that referred to laws, such as enforcement, speed, etc., that did not include land use.

MR. JENKINS was referring to the basic traffic laws contained in the California Vehicle Code pertaining to maintenance of vehicles, turn signals, basic rules of the road, etc., excluding those things the Vehicle Code specifically reserves to cities, such as parking regulations and the like.

COUNCILMEMBER McCAULEY stated that her position on being a charter city was never an issue of districts or full-time salaries, because those 2 capabilities are also available to general law cities as well.

MR. JENKINS replied that the Government Code provides for alternative forms of government, which are available to general law cities, and that includes electing Councilmembers by or from districts. The general laws do provide some alternatives to general law cities that are different from the standard 5 at-large elected councilmembers. It does not provide the complete range of possibilities that are available to a charter city. One example is the strong mayor form of government, where the Council is likened to a mini-legislature as found in Los Angeles and other large cities. Those types of governments are not available in the Government Code for general law cities but would be for charter cities. Councilmember McCauley is correct that the district issue is available to general law cities.

DEPUTY MAYOR HARDING asked if charter status would afford Oceanside any advantage in forming a utility district. For example, San Marcos is a charter city, and they are forming a utility district.

MR. JENKINS responded that San Marcos believes that its charter affords them greater authority and flexibility in the area of utilities and aggregation issues, which they are looking into. He does not have all of the details, but the San Marcos City Attorney and her partners, who have been involved in the city charter and the utility situation, believe that their charter provides them with greater leeway and authority. There are a number of general law cities that have expressed an interest in this area. Obviously, it is very complicated. Now that there seems to be a surplus of electricity, the very intense interest by many cities to do this has died down, but there are some still moving in this direction. General law cities do have some authority in this area; the Constitution has a specific provision that allows for cities to have municipal utilities. It is not restricted to charter cities. However, the attorneys in San Marcos have looked into the issue and believe their charter provides them with some additional area of authority. It is not clear to him how much more authority they think they have. There is a constitutional provision allowing cities to own and operate municipal utilities, whether they are charter or general law.

COUNCILMEMBER SANCHEZ inquired about the issue of contracting with general law and charter cities. If any of the funds are State or Federal, she asked whether State or Federal law have to apply to that contract.

MR. JENKINS confirmed that it would, adding that this is particularly true with Federal funds. Federal procurement regulations for obtaining and procuring contractors are very strict for projects that are federally funded. They typically require the project to be put out to bid and that the contract be awarded to the lowest responsible bidder. Generally speaking, compliance with California's Public Contract Code provisions are the equivalent of, and would satisfy those Federal procurement regulations. However, if for example the city was utilizing federal funds that were subject to these procurement requirements and the city was going to put out a project to bid, even if the city's charter and ordinances allowed the city to hire a contractor without through the bidding process, the city would have to go through the bidding process in order to comply with Federal law.

COUNCILMEMBER SANCHEZ questioned if there is a distinction between charter or general law cities regarding full-time salaries.

MR. JENKINS replied there is a provision in the Government Code that allows all cities, including general law, to put a question to the voters about Councilmember salaries and to allow for Councilmember salaries that go beyond the specific restrictions that are set out by way of population for general law cities in the Government Code. So the people could vote to do that. The difference is that, with a charter city, the charter could allow the

Council that authority to deal with salaries and not make it subject to a popular vote.

COUNCILMEMBER SANCHEZ asked if that would include overtime, etc.

MR. JENKINS responded that generally issues of overtime are subject to the Federal Labor Standards Act (FLSA), which governs public agencies. That is a matter of Federal law, and there is no distinction between general law and charter cities when it comes to that.

COUNCILMEMBER McCAULEY was aware that the wage issue is available through a vote of the people. With charter cities that have a charter commission, when a charter is established she believes that also has to be established at that time.

Regarding the prevailing wage issue, if the City had been a charter city when it built fire station # 6, which did not include Federal or State dollars, the City's savings on that project would have been roughly 10%. Her interest in a charter is the prevailing wage issue and the Home Rule issue, and she does think that gap is widening.

There were 2 other issues of great concern the last few times the charter question came before the City. One issue was whether or not it was mandatory that there be districts. As she understood it, districting is not mandatory but something that needs to be written into a charter. The other thing was that for anything that is not written in the charter, reverts back to general law if it is not specified or spelled out.

She asked for Mr. Jenkins to comment on those 2 items.

MR. JENKINS confirmed that a charter city is not obligated to elect its Councilmembers from districts. Regarding the second question of when the city charter is silent, the issue goes mostly to the importance of drafting. If a city is to draft a charter very carefully, case law and the Constitution provide that a charter is considered a limit on authority, not a grant of authority to a charter city. What that means is actually counterintuitive because they think of the word "limit" as meaning restrictive, when in this instance it means the opposite. A charter city has all powers that a charter city may possibly have except as limited by its charter. A charter is a document of limitation. So when drafting a charter, the first thing that one ordinarily puts in a charter is the wording, "this city shall have all the powers that a charter city may exercise." Then the charter should set forth whatever limits on that authority that the Charter Commission, City Council or the people determine might be appropriate. The charter could then be ½ a page long. The charter for the City of San Marcos is 1½ pages long. One then has to adopt ordinances to implement and exercise one's charter authority.

The real question is what happens in the absence of implementing ordinances. For example, a charter is adopted that is relatively simple and provides the City with all of the powers and contains very few limitations. In that instance, the city would decide to award a public works contract. The question is whether, if there is nothing in the charter that explains how to do it, that then reverts back to the Public Contract Code provisions that require that it go out to bid if it is more than \$5,000 in value, etc., or would it have its own procedures. A city would have to enact the necessary procedures/ordinances to exercise the home rule authority in those areas in which the Council has an interest. If the city does not, by way of default the City would have to use the State laws. If there is not an ordinance in effect governing the processing of initiative and referendum petitions, then by default the City would have to comply with the Elections Code provisions because that is all that would be available.

So, the answer is, in most instances, yes the City would end up defaulting to the State law. There are some cases that discuss this issue where a charter city does not comply with the applicable State law but also does not have its own procedure in place and is instead simply relying on the charter, which was silent on the issue of giving them the authority to do whatever they want to do. This is where the courts have some trouble. The courts are a little reluctant to allow that if no procedures are in place. If a City has ordinances in place that set forth all of the procedures, then they would govern over the State law.

COUNCILMEMBER McCAULEY restated that it would be incumbent upon the charter city to make certain that it has done the necessary housekeeping to support the plenary authorities given through the charter.

The other issue was explained very well, but it was one of the fears, which is that a charter would give a city the authority to tax or create taxes without a vote of the people. Because of Proposition 218, it does not give charter cities or any city that authority, with the exception of the property transfer tax mentioned earlier.

MR. JENKINS affirmed that was correct. Proposition 218 is part of the Constitution that governs both charter and general law cities. It sets out the procedures that require a vote of the people for both a "general tax" and a "special tax" of whatever type. Even a real property transfer tax is subject to a vote. The only difference is that a charter city has the authority to enact such a tax, and a general law city does not. He is not familiar with all of the taxes in Oceanside. However, taxes such as a utility user tax, a flat parcel tax or other taxes that are not specifically prohibited of general law cities are equally available to both types of cities, but only after compliance with Proposition 218.

COUNCILMEMBER McCAULEY believed that was in Article 13C, Section 2 in the Constitution, and it takes away the authority from charter cities. Therefore, this is a fear that should no longer exist.

COUNCILMEMBER SANCHEZ asked if Propositions 218, 62 and 13 contributed to the narrowing of the gap between charter and general law cities.

MR. JENKINS responded it certainly did, when it comes to taxation. Combined with Government Code Section 37100.5, which provides that a general law city may enact any tax that a charter city may enact, that also has contributed to equalizing the 2 types of cities for purposes of taxation.

DEPUTY MAYOR HARDING commented that the charter city issue arises every couple of years. Her personal opinion is that a charter city would be good. It would give them more home rule, particularly as more unfunded State mandates come into effect. These mandates are crippling Oceanside and most cities that do not have a huge reserve.

In her 7 years on Council, very little has been accomplished that has not had some people against it. The most popular vote may have been supporting the Oceanside Little League Team and sending Councilmember Feller to Pennsylvania to support that effort, and she has already had 3 complaints. Divisiveness just happens, and that is when leadership has to take over to make the best decisions possible. Anything is divisive.

She believes if Council had voted 5-0 the last time this issue was put on the ballot, the charter would have passed. There was no publicity because Council was not in consensus. Unless all of Council agrees, she does not believe the City should go down that road because it will be defeated. The entire Council has to want a charter in an effort to educate the public on what it really means. She believed Oceanside needs the charter. In the future, the City will need it more and more. Everything from the State level assures her the City will need every tool possible. She does not think Council should go down this road, because it does not have a 5-0 vote.

COUNCILMEMBER SANCHEZ stated that with respect to State mandates, concerns, the courts and their interpretations, a charter would not give the City an edge. These are issues that were voted on in State elections. This would be divisive. A committee would take 2 years to create the charter, which would be 2 years of divisiveness on an issue that would join other issues. Oceanside does not need that right now. Council has some very important goals before it. The Councilmembers do not all agree on how to get there. Each Councilmember was elected because they represent different interests in the community. This is not the time to be going down a road that is going to create even more divisiveness in the City.

COUNCILMEMBER McCAULEY thought this meeting created a lot of good dialog. She appreciated the information that Mr. Jenkins provided. It is something the general public needs to know more about. If the general public wants to go in this direction once they know what a charter is about, it is incumbent upon Council to act on that. Prior to that happening, she thinks it is important to let the public know exactly the benefits and liabilities of a charter city. So far, the main liability would be the time it would take to put together a Charter Commission. That should not preclude Council from allowing the public to take a look at this. She recommended bringing this back to a regular Council meeting at a future date to see where the City should go with this. Perhaps some other groups would want to bring this forward to Council. Mr. Jenkins cleared up a lot of the confusion behind the charter city issue. The Council is split on this. Unfortunately, not all 5 Councilmembers are present to get a read. The information provided to Council gave a solid base to go from.

MAYOR JOHNSON has gone through this type of workshop and discussed this issue a number of times and appreciated the information presented. He agreed with some of the things stated by Councilmembers. He would like to make it perfectly clear that this city does not have a major level of distrust. Everybody on Council was elected to represent all of the constituents. There are no favored groups or individuals they support. This issue has been divisive in the past. It would be a distraction if Council proceeds in the future. He felt very strongly that he could now support pursuing the charter for the reasons that were discussed. Last November, 2 new people were elected to this Council. Council is doing something that has never been done before by working hard to build a team. For the most part, they seek consensus. When issues are won or lost, Council moves forward. They are doing a fine job of addressing the issues and seeking consensus.

There are 3 main issues that are very important to the people in the City:

- 1. Hotel development
- 2. Traffic issues
- 3. Airport issues

Council's plate is full at this time with those 3 issues. As Mr. Jenkins stated, the gap between charter and general law cities is not as wide as it was in the past. Depending on how a charter form of government is drafted, if it can help save the City money to provide additional services for the citizens, he would support it. However, his focus right now is to address those 3 major issues he outlined.

He wanted to make it perfectly clear that this City is not in turmoil. There is not a lot of distrust in the City. Council is doing a fine job of addressing the issues in the City. Just a few years ago, Council was hammered at every meeting as a policy-making body with issues regarding crime and quality of life. Each month/year since he has been on Council, they have addressed those issues. Today, they seldom hear about the crime level, graffiti or prostitution. He is thankful the concerns today are traffic, the airport and hotel development. Those are good concerns compared to the issues that existed a few years ago. Money will always be a problem, and as more is revenue is received, more can be done for the citizens. He feels very strongly about what Council is doing. They are heading in the right direction.

COUNCILMEMBER SANCHEZ reported that one crime that has not been affected at all has been drugs. That is something within their purview and needs to be addressed. Council is not addressing the need for ball fields that would keep children from playing in the streets. The issues they have in terms of law enforcement are speeding down streets where kids are skateboarding. The issues are still there; they still have a lot of problems that need to be addressed.

MAYOR JOHNSON asked everyone to take a closer look at Oceanside. It is the third safest city in the County of San Diego behind Coronado and Carlsbad.

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August 22, 2001

Council Minutes

ADJOURNMENT

MAYOR JOHNSON adjourned the workshop at 11:23 AM on August 22, 2001.

ACCEPTED BY COUNCIL:

Barbara Riegel Wayne, CMC
City Clerk, City of Oceanside



California

CITY OF OCEANSIDE

MINUTES OF THE CITY COUNCIL

September 19, 2001

ADJOURNED MEETING 10:00 AM COUNCIL CHAMBERS

Mayor Terry Johnson **Deputy Mayor** Betty Harding

Councilmembers Jack Feller **City Clerk** Barbara Riegel Wayne
Carol McCauley

Esther Sanchez **City Treasurer** Rosemary Jones

The adjourned meeting of the Oceanside City Council was called to order by Mayor Johnson at 10:00 AM, September 19, 2001 for the purpose of a workshop. The Pledge of Allegiance was led by Deputy Mayor Harding.

ROLL CALL

Present were Mayor Johnson, Deputy Mayor Harding and Councilmembers Feller and Sanchez [arrived at 10:02 AM]. Councilmember McCauley was absent. Also present were City Clerk Barbara Riegel Wayne, City Manager Steve Jepsen and City Attorney Duane Bennett.

WORKSHOP ITEM

1. Gateway/Landscaping Priorities

PETER WEISS, Public Works Director, stated staff is seeking Council's approval and direction on the proposed gateway and corridor enhancement projects, as well as the underground utility districts. The items presented are a result of the direction given to staff in April at the Council retreat. Council created a list of priorities and directed staff to bring items back. This topic is one of those items. Council previously reviewed these priorities in 1999, and there have been a number of accomplishments since then. Staff has prepared exhibits that include: accomplishments, approved and funded priorities, unfunded priorities and the proposal placed before Council today.

[Councilmember Sanchez arrived at 10:02 AM.]

In agreement with the Economic Development Commission's Gateway Committee, staff is recommending the following top priorities for gateway and corridor enhancements:

1. The design and installation of a landscaped median on Mission Avenue between I-5 and Horne Street (along the high school frontage)
2. The development of a landscape design on North Coast Highway from SR-76 to Harbor Drive, including the area along SR-76 at the Visitors Center
3. The development of a concept study for Oceanside Boulevard from I-5 to Crouch Street
4. The enhancement of the Sunshine Brooks alley extending from Mission Avenue to Civic Center Drive, including pavement enhancements, trash enclosure construction and a mural on the rear of the building. Staff has received input from the Arts Commission regarding the mural.

Staff would also like Council's consideration for the following 3 underground utility

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MEETING
ECONOMIC
DEVELOPMENT
COMMISSION**

districts, not listed in any priority order:

- The Mission Historic District
- Mission Avenue: Airport Road to El Camino Real
- Oceanside Boulevard, Crouch Street to El Camino Real.

By way of background, the Oceanside Boulevard underground district has been the City's highest priority underground district for the last several years. Staff was working with the various utility companies, and it appears that the City will have sufficient funds through San Diego Gas and Electric Company (SDG&E) to pursue any district by sometime late next year. However, because of federal money the City received for street repair, the City had to identify specific segments of streets and the City had to use that money within a certain timeframe or they were subject to losing it. They recently re-paved Oceanside Boulevard with those funds. City policy states that streets that have been paved or re-paved within any 3-year period cannot be dug up again without significant expense. So, although the Underground Utility Subcommittee had recognized Oceanside Boulevard as a top priority in the past, Council may want to give staff different direction in light of the policy and the recent re-paving.

Since 1999, the City has had a number of successes. He displayed on computer slides the proposed priorities with conceptual ideas for what those areas could look like. If Council wishes to pursue it, a landscaped median from I-5 to Horne Street--along the frontage of the high school on Mission Avenue was rated high as far as the amount of money available. Council approves approximately \$250,000 per year out of the General Fund for gateway enhancements. They also try to expand as much landscaping as possible with their eligible street projects. For example, the current Mission Avenue improvements located east of I-5 include landscaping enhancements as part of that street project.

Council previously discussed the Coast Highway area, from SR-76 to Harbor Drive, in a workshop with Redevelopment. Staff is looking to improve the east side of that area with landscaping and enhancements along the I-5 right-of-way. One of the key areas staff has identified is Oceanside Boulevard from I-5 to Crouch Street since it is the first view of Oceanside when exiting I-5. This is a significant cost issue, so they are considering completing this project incrementally. Staff recommends developing a concept plan, and as they move forward in future years, they would create a plan that could be implemented within the available funding. This area is located along North County Transit District's (NCTD) right-of-way, so staff will be coordinating efforts with them. NCTD is also looking at this area as part of the east-west rail lines, so a coordinated effort is important. Conceptual ideas were displayed.

COUNCILMEMBER FELLER asked if it is possible to plant anything in the extremely hard ground along Oceanside Boulevard.

MR. WEISS responded they would have to do some grading and soil amendments because the current condition of the ground is not adaptable to plant growth.

DEPUTY MAYOR HARDING thought that most of that area is NCTD right-of-way. She felt it might be possible to jump-start the east/west line landscaping by NCTD coming in with some money also, since they need to do landscaping along that corridor. This might be an opportunity to negotiate the landscaping for that whole area.

MR. WEISS pointed out that there is a portion that is City right-of-way. However, some of what is proposed would be in the NCTD right-of-way.

Continuing his presentation, Mr. Weiss reviewed some of Council's accomplishments, indicating that several years ago Council set priorities for projects, and staff has attempted to implement as many as they could. A number of projects were funded, not so much from the money that Council allocated to gateways but staff was as flexible as possible with the City's underground utility district and pavement money so that they can use those funds to do enhancements within the rights-of-way as they move forward.

He displayed computer slides of various areas. One example was Surfrider Way. Several years ago there was an underground utility district implemented on Surfrider Way from Coast Highway to Pacific Street. Along with that, the City installed medians all the way down the street and made parkway enhancements, which made a significant difference. When the City finished installing the underground utility lines and completed the landscaping on Mission Avenue, the results were fairly dramatic.

Other slides included: the City-initiated project on College Boulevard between Roselle Avenue and Thunder Drive, with trees and landscaping planted in the median using an incremental approach so that the City continues to do more as resources become available; Oceanside Boulevard from Melrose Drive heading west along the frontage of the City's Operations Center, where City forces did the design and the majority of the overall installation.

MAYOR JOHNSON asked the status of the area between Saint Margaret's Church and Peacock Boulevard.

MR. WEISS reported that area is on the priority list, but it is not being proposed as a funded priority because the landscaping and the median is a requirement of Phase II of the Prescott Industrial Project. That is Prescott's main frontage. The project has received certain approvals, and staff anticipates that it will be moving forward within the year. It is a development obligation currently conditioned to be installed by the developer.

Continuing, Mr. Weiss reported that Capistrano Drive improvements have been in since 1999. When seen from I-5, the color and landscaping makes a big difference to what was a very desolate median. City forces put improvements in along the El Corazon frontage from the entry into the Agri-serve building out to El Camino Real. The plants and landscaping made a big difference along that frontage. The other area where the City funded a portion, with some Community Development Block Grant (CDBG) money for one of the other corners, is the I-5 interchange at Mission Avenue. There have been a number of improvements there, including a rose garden that turned into a trash area which was very difficult to maintain. Since Caltrans was not receptive to the weekly maintenance it required, the City agreed to replant it with decorative and easily maintained plant material, and staff would provide the routine maintenance.

MAYOR JOHNSON asked if there had been any discussion with Caltrans regarding the east side of the bridge at I-5 and Mission Avenue near Terry's Body Shop.

MR. WEISS replied there has not been a lot of discussion with Caltrans on that because of 2 issues: 1) they have about \$60,000 in CDBG money to do some landscaping and a wall; and 2) the Public Works Department operating budget has about \$20,000 in matching funds to do enhancements there as well. The cost for that is reflected in the approved and funded priorities. On a side note, Caltrans does have a landscaping project for the I-5 corridor through Oceanside that includes the medians and the parkways. Formal plan details have not been released yet, but staff will present it to Council once they have 50% of the design completed. He believes it is a \$2,500,000 project to landscape the I-5 corridor through Oceanside.

DEPUTY MAYOR HARDING stated that her number 1 priority has been this interchange on both sides of Mission Avenue. It is so visible, and now that Mission Avenue east of I-5 is being improved so drastically, that should be completed as soon as possible.

COUNCILMEMBER SANCHEZ agreed it should be completed since the opportunity and the funding is available. She questioned why the Sunshine Brooks alley project was going to cost as much as \$150,000 instead of maybe \$100,000. It seems to be a lot of money for a very small area.

Regarding the Mission Avenue median, she suggested it would look better if there were no trees in the median but something at eye level vs. tall palm trees.

COUNCILMEMBER FELLER said there are a lot of walls being built along SR-76. If the City puts up walls, they need to make sure they have fast growing plants to cover those walls. The walls along SR-76 are obvious.

COUNCILMEMBER SANCHEZ asked if the City had considered alternatives with varying lower costs besides the \$150,000 Sunshine Brooks Alley Project.

MR. WEISS replied that the funds for the Sunshine Brooks project are based on the concept plan that Council approved several weeks ago. The primary cost here is not landscaping but the re-paving of the alley, including brick enhancements and the construction of the trash enclosures, as well as the landscaping. They could investigate reducing the amount of repaving, but they are attempting to dress up the alley and correct the drainage and redo the asphalt, which is a significant expense. Staff could certainly look at reducing the cost of those items. Council will see that project again to approve the plans and specifications and call for bids. Staff could look at reducing costs to reallocate the various monies. Project funding is not from the money that Council has set aside for gateway improvements. It is funded entirely from the street repair money, which is the same money used for potholes, street repair and overlay projects.

In an effort to put the alley project into perspective, **CITY MANAGER JEPSEN** explained that the cost for a median is about \$1,000 per foot. Therefore it would be about \$175,000 to do the median in front of Oceanside High School. The City is trying to transfer money around to get some of these other things going, but there is a level of quality needed when the commitment is made, or they should find a way to phase them in so the City can at least get the base done. As much as staff would like to cut costs, the significant base cost is paving the alley so that water can drain. There will not be a huge opportunity for cost savings, but maybe some of those improvements could be phased in if Council is looking to transfer some of those costs.

Continuing with his presentation, **MR. WEISS** reported that City forces have implemented some landscaping improvements over the last couple of years on Canyon Drive near the School District's bus facility and along the landfill.

This concludes the slides of the accomplishments over the last few years.

Exhibit C in the Council packet is a list of landscape priorities that have already been approved, and they are funded and are now in various stages of completion, which include College Boulevard from Adams Street to the Murray Bridge. Council has approved the design plans for that project, which is expected to go to construction around January 2002. Similarly, on Mission Avenue at the I-5 northeast ramp, there will be spot landscaping and a fence as part of the CDBG program. Based on Council's input today, that can be expanded or remain as is. Another area is Mission Avenue from I-5 to Archer Street, which is currently under construction. The landscaping improvements are funded with money the City received from Caltrans for the relinquishment. There are no funds available for landscaping beyond Archer Street. Mission Avenue from Archer Street to Mesa Drive and down into the Valley area will be shown to Council as an unfunded priority.

Council did approve a downtown pedestrian streetscape enhancement plan, which is just a planning effort for the downtown area and is expected to result in additional priorities in the future. Council has also approved the South Coast Highway project from Eaton Street to the South City limits. Staff is developing plans for that. The final project in progress is on Vista Way from I-5 to Coast Highway. They have proposed spot medians and curb pop outs as part of the third phase of the traffic-calming program on Vista Way. Funding for that is entirely out of the Traffic Calming Program instead of the landscaping programs.

Looking at Exhibit D, the City has about \$11,000,000 in unfunded priorities. Staff's recommendation is that, as funding becomes available and as projects come forward on any of these street segments, whether they are street or utility projects, staff tries to maximize the use of the various funding sources to implement as many of these projects as possible. For example, NCTD has committed to working with the City to landscape the Oceanside Boulevard corridor. If NCTD wanted to move immediately to landscape that corridor, staff would push for a landscaping plan that met the City's requirements. Public Works is looking at any means possible to implement as many of the projects as possible. Some projects may be developer-driven, and some may be projects that the City can complete independently. However, the priorities presented to Council are those that staff is

certain can be implemented with available funds so that the City does not take on an expensive project that would take years to accomplish.

COUNCILMEMBER FELLER asked if the College Boulevard project from Adams Street to Murray Bridge would be affected by the dual-use plan that is under consideration for the school and fields. He asked if this location would be used as an entrance at a later date. He did not want the City to put landscaping in that would be torn out later.

MR. WEISS replied that staff is aware of that plan. This proposal is to simply do the landscaping, parkways and some enhancements to the bike path area. Formerly this plan included an access off Adams Street into a parking lot to serve the toll bridge, but that is no longer a part of this plan. When and if that comes forward, it will not affect this at all.

Another issue as it relates to the Sunshine Brooks alley is the painting/mural on the back of the building at the Sunshine Brooks Theater. When staff brought the concept plan to Council, the direction was to go back to the Arts Commission for their input on some type of painting/mural in that area. At their most recent meeting, their recommendation was that any type of painting on a publicly owned building is considered art and is in the control of the Arts Commission as it relates to their Arts in Public Places Policy. They would like to control the process and location of art on public buildings in the City. By unanimous vote, the Arts Commission would like to do an invitational call for artists, with a minimum of 20 artists, and include the local high schools and colleges to participate in a juried process. The artists' submissions must reflect the spirit of the City. The Commission was very clear that they did not want to create a specific theme for the downtown area, but rather the submissions should reflect the spirit of the City. The Commission appointed Chairperson Kathleen O'Brien to be the liaison with staff to work out the details. The Arts Commission was made aware of the construction schedule and was committed to expediting the selection process to keep within that schedule.

MAYOR JOHNSON asked who would have ownership rights to the mural upon completion, if the City approved the Commission's recommendation.

MR. WEISS noted that the Commission understood that, in the call for artist submissions, the artists would need to recognize that once the painting is in place, it becomes the sole property of the City, with no rights to the artist for approval of the removal or repainting. This would be part of the artist's contract.

COUNCILMEMBER FELLER inquired about the cost to go through the submission process along with the artist's charges to purchase their work.

MR. WEISS replied that the only cost for the proposal process is staff time to assemble the letters. The proposal will require the artist, at no cost to the City, to provide a sketch that reflects the spirit of the City. The request for submissions would include a photo and dimensions of the back of the building. Based on the process the Arts Commission used for the water treatment plant, the Arts Commission will have a subcommittee review the sketches and narrow them down to the top 2 or 3 and select 1. That selection will be submitted to Council for recommendation.

CITY MANAGER JEPSEN suggested that, for the mural on the back of the Sunshine Brooks Theater, and any future mural projects, 2 criteria be met: establish a reasonable cost because it can get out of hand, and the project needs to be completed within a reasonable amount of time. It is not unrealistic that, if they are going to do a juried selection process, as part of the submittal they let the artists know how much the City will be able to compensate them for all costs and how long they have to complete the project. Neither of these should be open-ended issues. Staff's interest is to provide quality within a defined period of time and amount of money. The Commission's interest is in the quality of the artwork and the credentials of the selected artist.

Staff has debated about the Arts Commission's control of art in the community whether on banners, murals or art in the public rights-of-way. There needs to be a balance between encouraging art and controlling art in a public sense. If it is Council's intent to have all art in public buildings or plazas channeled through the Arts Commission, Council needs to communicate its expectations on how the Commission should deal with it. A juried

art selection takes longer; the costs increase; and the end result may cost a lot to maintain, even if it is beautiful. The Civic Center complex is a result of a contest and will be a treasure to the community for a long time, but it is very expensive to maintain.

DEPUTY MAYOR HARDING served as the liaison for the Arts Commission when the Art in Public Places Ordinance was passed a few years ago. The purview is quite specific. She suggested giving the Arts Commission that direction when the City needs the art to meet certain monetary and timeline criteria. Some college students or classes only get paid for time and materials, so it is great that this would be open to them. If the City does not go through the Arts Commission for this, Council should revise the ordinance on public art. Art in Public Places has nothing to do with private property or private developers in Oceanside. Art in Public Places has to be recommended by the Arts Commission. Council always has the ability to override that, as it did with the Branch Library. Before Council forwards this to staff, she suggests they take a close look at the ordinance.

COUNCILMEMBER SANCHEZ imagined there would be a number of artists interested in this because it would advertise their work. She would like to look at the ordinance to see if there is any opportunity for community input. The parameters set for sketches are very open and do not give much guidance as to what the Commission is looking for. Therefore, she would like to review those parameters. She is also concerned that if the Commission has a certain design in mind, people could argue that they could have met those criteria if they had known. She encourages the Commission to set parameters and to have input from the community. She would like to see this be as fair as possible.

Additionally, she asked if there is a treatment that could be placed on this work to keep it graffiti-free, how much that would add to the cost and whether the artist would be responsible for making sure that process is applied.

CITY MANAGER JEPSEN supposed the submittal package could contain the requirement to spray the mural with a graffiti-resistant material. The original concept did not specify that the City would make the mural graffiti-free. There have been no problems in the past with murals in the community. They are respected, particularly when there is neighborhood input in the selection process. If graffiti becomes a problem, they can spray afterward, although the City would be responsible to clean up the mess.

MR. WEISS explained that the Arts Commission specifically discussed the graffiti issue, and they elected to not have the mural graffiti-proofed for the same reasons outlined by the City Manager. The original estimate for the straight painting was about \$11,000, and the Arts Commission has agreed to use \$4,000 of their \$25,000, for a total of \$15,000 available to the artist, which would be in the letter calling for artists. It gives the timeline and the \$15,000 budget to cover everything for this project. The guideline regarding the type of artwork is very open-ended. The Arts Commission will narrow down the selection, and staff will probably get input from MainStreet and other downtown organizations. The Commission will then make a recommendation to Council for the Council's final decision.

COUNCILMEMBER FELLER asked if all of the art procedures require a bid process and a juried selection.

MR. WEISS replied that not all of them require a juried selection. The Arts in Public Places Policy defines 3 categories of projects:

1. Projects required to have art as a component of the project, such as the wastewater treatment plant, go through a juried process
2. Projects with no visual impact, such as sewer line replacements, waterlines, storm drains and asphalt improvements, do not get input from the Arts Commission, but are the basis for the Commission's \$25,000 grant
3. Median and parkway enhancements, such as decorative concrete, are not seen by the Arts Commission either but have Council's guidance on the upgrades

It is only those types of projects that may have a stand-alone piece of art or a component of the project that needs to have art, and those are rated every year in August

after the CIP program. Staff goes to the Arts Commission with a list of projects, and there is a selection based on which of those projects meet the criteria for a stand-alone piece of art. For those, the Arts Commission wants to control the process and location of the art and go through the jury selection process. So, it will not be every project but just those that are highly visible and require an art component.

CITY ATTORNEY BENNETT stated that Councilmembers have mentioned an art in public places ordinance, but there is no such ordinance. He clarified that they are actually referring to a policy, not an ordinance.

COUNCILMEMBER SANCHEZ is concerned about the fairness of the process and the vagueness of the criteria for submission and recommended another step. The Commission should decide on a basic sketch that depicts something, then to allow others to submit art based on that theme or depiction. If it is open-ended, it will not seem fair. There are a lot of talented local artists who could translate that into something else. Another step would make it fairer. Art is not objective but subjective.

MR. WEISS assured Council that staff would work with the Arts Commission to do their best in ensuring fairness. Council will be exposed to the overall selection process in October when they will select artwork for the wastewater treatment plant. The Commission selected 3 distinctly different types of art pieces for the plant that will be on display 2 weeks prior to the Council presentation.

He encouraged everyone to let staff know of any artists who should be included in the mailing.

Continuing the presentation, Mr. Weiss referenced Exhibit E, which details the potential underground districts. The current list is in priority order but has not been re-reviewed by the Underground Utilities Subcommittee. They are aware of the concerns with Oceanside Boulevard since the City used the money to repave it before the utilities could be put underground. Staff suggests that the Oceanside Boulevard undergrounding district be deferred until some point in the future so that they are not cutting through newly placed asphalt. To replace that, 2 areas rated very high in meeting the utility company's criteria for the underground districts. They include the Mission San Luis Rey Historic Area and Mission Avenue from Airport Road to El Camino Real. These are both highly visibility areas and are based on the ranking from the utility company because it is not City money. The utility company gives the City allocations, and once those allocations accrue, Council can adopt a resolution to implement these districts.

Staff is asking Council to establish a priority for those districts so that staff can move forward through the subcommittees and the utility committees and then back to Council. Should Council select any of these, staff will not be back to Council until next spring with the implementation proceedings to begin moving forward. However, staff needs Council's priorities so they can go to SDG&E, Pacific Bell and the other utilities to determine what needs to be done to implement those districts. Staff's recommendation is to change the priority from Oceanside Boulevard to the Mission San Luis Rey Historic area or Mission Avenue from Airport to El Camino Real.

DEPUTY MAYOR HARDING thinks the Arts Commission jury process is extremely fair. Anyone can suggest an artist be included in the selection. The very purpose of the Arts Commission is to encourage local artists. It is a very fair process that can be done very quickly. She would not want to see it changed at all since it would involve changing the bylaws and work plans of the Commission.

MAYOR JOHNSON asked Mr. Weiss to give copies of the art policy to all Councilmembers.

Public Input

ANNE-MARIE MAXE, 818 Washington Avenue, representing the Image and Gateway Committee of the Economic Development Commission, wished to thank Council for the appropriations and funding toward landscaping and improvement. The Committee endorses the priorities for landscaping and design studies presented by Mr. Weiss. The

City has come a long way in improving landscaping and visual impact, and they need to continue on that track. Ultimately, landscaping is important to not only the visitors and tourists but also for the citizens of Oceanside. The landscaping establishes a sense of civic pride and establishes a baseline for what they consider acceptable. The Committee encourages Council to approve this plan as presented. The Committee was frugal in its suggestions and focused on the absolutely key gateway areas, which is why they agree with Mr. Weiss' priorities as presented.

LOU LIGHTFOOT, Lightfoot Planning Group, representing Mission San Luis Rey, stated that approximately 1 year ago the Mission committed to Council to do a comprehensive master plan for the Mission property. The draft plan is completed and was approved by the local board of directors. They are hopeful that this week it will be approved by the Franciscan Province board of directors. The goal is to file it with the City for staff review on October 1st. Part of the plan identifies the necessary infrastructure improvements on the Mission property. Undergrounding the existing utilities across the property is one of the most significant improvements needed. The overhead electric and telephone lines on the property are unattractive because the electrical lines are the thicker 12 KV transmission lines, rather than the standard 12 KV distribution lines seen in neighborhoods or downtown. Also, it is a hodgepodge of a system because it is so old. The communication/telephone lines are on their own set of poles that hold a big, thick, black cable, so there is a double set of poles: 1 carrying the telephone lines and the other carrying the electrical lines.

In addition, the undergrounding of the utilities would not only benefit the Mission but also some City properties. Currently, both lines (electrical and telephone) run in front of Heritage Park. Then they cross the Mission property atop the knoll, which is the proposed site for the new Stations of the Cross. The electrical lines next run in front of the entire length of the Mission property, and the telephone lines run the entire length of Mission Avenue. Both lines converge in front of the Ivey Ranch Handicap Park and Ranch House entrance. The Mission, Heritage Park, the Episcopal Church and the cemetery would benefit from underground utilities. He requested that Council consider moving this particular project to the top of their priority list since the Mission is on the verge of adopting a plan. The Mission would be able to move on with other projects to enhance the appearance and productivity of the property with Council's approval of this project.

LARRY HATTER, 2344 Littler Lane, is a member of Mission San Luis Rey Board of Directors. He also encouraged Council to support the Mission district underground utility project for 3 reasons:

1. Tourism benefit – The Mission is the number 2 tourist attraction in Oceanside.
2. Economic benefit – The Master Plan for the Mission potentially puts some of the property on the property tax rolls, so the City could potentially collect property taxes, and possibly transient occupancy tax and sales tax money.
3. Timing – The Mission is seeking final approval of its Master Plan. Later in the week they will be sitting with the property owners to encourage them to accept the Master Plan.

He petitioned Council to make the Mission number one on the priority list for undergrounding. Council could even require the Mission to submit its Master Plan within the next 9 months as a prerequisite to the underground utilities project. This is a dynamic opportunity for the City of Oceanside.

ED GABARRA, 4050 Mission Avenue, is the Administrator at the Mission San Luis Rey, representing the Franciscan Friars. He showed a picture of the Mission, highlighting how unattractive the power lines are in front of the Mission. By placing the Mission District at the top of the priority list for underground utilities, the entrance to the Mission will be more attractive, making the entire historic core of the Mission District more attractive. Tourism and business will increase as a result of this. He pleaded for Council to put the Mission project at the top of the priority list.

JOAN BROWN, 421 Creek Road, sees the Mission Avenue corridor from her house. The Mission Avenue Corridor Action Plan is about a year late, but it is happening. The Manchester project at the ocean and the Mission should both be correlated down the

Mission Avenue Corridor. It is great that the City is putting the utilities underground, but she feels landscaping is the most important. She agreed with Councilmember Sanchez that palm trees are beautiful, but they are not at eye level so there still is a vacant look. She has not seen any landscaping go in on Mission Avenue. The parkways east of I-5 have 20' x 20' squares in the sidewalks, but no plants. Except for the corner of Canyon and Mission, nothing green has been planted from the Mission to I-5. There is a mile of new sidewalk, but nothing planted along the sidewalk. Additionally, the weeds are as high as the chain link fence. The City needs more greenery, especially on Mission Avenue when tourists go from the proposed hotel to the Mission. If the City starts planting trees and shrubbery now, then when all is completed, the vegetation will be grown.

[There was no further public input]

Discussion

COUNCILMEMBER SANCHEZ felt that tall trees in the median are less pedestrian friendly, and she is aware that the City wants to become a more pedestrian-friendly town.

She feels the Mission Historic area is a priority. She would like to see Balderrama Park move up in priority. The staff report stated that it takes a few years to get to the position of talking about funding a project. While the City has priorities, she has not heard anticipated costs or estimated timelines. She asked whether the City would rely solely on the \$500,000 a year from SDG&E. She would like to have this information to find out which project will take the longest and to get a sense for the entire piece.

MR. WEISS replied that the City receives an allocation, which is essentially an IOU, from SDG&E of about \$500,000 per year. When the City collects enough IOUs to where the next priority district comes into possibility, then the utility companies will do an estimate. The City can only give a ballpark estimation of what the Mission Historic District is going to be. Until the Council designates a priority, the utility companies will not do an estimate for the City. That is why priorities are important. Once the utility companies have the priorities from Council, they do an estimate and then budget the money. The funds are not readily available once approval has been allocated; it typically takes until the next year for the utility companies to actual budget for the undergrounding.

If Council chose today to make the Mission Historic District as the top priority, then staff would go to the utility company representatives, who would pull the plans and give the City cost estimates and plans. Given the size of the Mission Historic District, the City has a \$1,000,000 allocation and will get another \$500,000 for the next fiscal year. Staff would recommend that either the Mission Historic District or Mission Avenue from Airport Road to El Camino Real could be funded for the next year. He does not have the ability to give Council a detailed estimate because he cannot get that from the utility companies.

COUNCILMEMBER FELLER recommended holding off on the underground utilities on Oceanside Boulevard for 3 to 5 years until the Rancho Del Oro and SR-78 interchange is built. That may take some pressure off Oceanside Boulevard, and it would be easier to put the utilities underground.

He asked the City Attorney if he could vote or even talk about the issue of the Mission District as he has a business that may or may not be within the boundaries of the Mission District.

CITY ATTORNEY BENNETT replied that, at this point in time, he saw no reason why Councilmember Feller could not participate. He would need more specifics to talk more about his concerns and would need to meet with Mr. Weiss about the economic benefits that would be derived from this project. However, if the impact on Councilmember Feller or his business would be similar to or the same as a percentage or proportionate number of business owners in the vicinity, there would be little or no conflict. He will discuss it further with Councilmember Feller at a later date.

DEPUTY MAYOR HARDING moved that Council make the Mission San Luis Rey Corridor the number one priority, and thereafter follow staff's recommendations. Council may be reversing the Mission Avenue corridor study because the City was going to work on

that, segment by segment, up the corridor. Many business owners worked long and hard on the entire corridor, and there may be a few motel and business owners that could be unhappy. She feels this is the time for the Mission San Luis Rey because everything is coming together.

She further added that if Council does not receive the master plan from the Mission within 9 months, they should re-visit the priorities. The outcome of the meeting with their higher-ups is uncertain, and she would not want this money to remain unused for a long period of time. Therefore, if their plans are stalled, the City could then do the other segment of Mission Avenue and then include the Mission project at a later date.

MR. WEISS responded that Council's actions today would not create this district. Once all the pieces are put together, such as when SDG&E has provided their estimates and the City knows they have enough money to move forward on this project, at that point, Council will be asked to adopt a resolution approving this as the underground utility district. That will not happen within the next 3- 5 months. By the time the resolution comes before Council, the Mission will have provided more information for Council to determine whether to adopt the resolution or proceed to the next project.

COUNCILMEMBER SANCHEZ seconded the motion.

CITY CLERK WAYNE clarified that the motion is for approval of Exhibit E of staff's recommendation [for utility undergrounding]. Council concurred.

The motion was **approved 4-0**, with Councilmember McCauley absent.

MR. WEISS asked for Council's direction in regard to the gateway priorities.

COUNCILMEMBER SANCHEZ agreed with Councilmember Harding that something should happen along Mission Avenue at the I-5 Interchange (east side) to Horne Street. She would like this project completed, taking into consideration the landscaping comments from the public speakers. She would also like to see the costs added to the report.

MR. WEISS reiterated that, regardless of the recommendation today, staff must return to Council with a defined plan. If Council would like to see design plans and costs for the median, if Council would like to keep the median, staff could actually do a separate design plan for the northeast corner of the interchange, and a separate one at the high school frontage. Staff could submit a different plan for each area, but they would all have a common theme. Staff could put costs with that, and Council could then decide which of those they would like to fund.

DEPUTY MAYOR HARDING recommended landscape improvements to beautify both sides of the whole I-5 interchange at Mission Avenue. This is her number one priority so that people entering and exiting the freeway will see a completed project. Hopefully the west side will have landscaping that will last because it seems like there have been quite a few that did not work over the past 10 years.

MR. WEISS reiterated that Caltrans is in the process of putting plants together for that entire interchange.

DEPUTY MAYOR HARDING inquired if that will take 7 years to get it here.

MR. WEISS indicated Caltrans is looking at having construction start here within 2 years. This is only for the I-5 corridor from south Brooks Street to north Nevada Street. They are doing the entire corridor but their portion of the corridor is one of their higher priority areas. Caltrans is funding this from their operations budget. This project is not for the I-5 corridor study; this is an actual improvement project to do landscaping that they would like to go under construction within 2 years.

COUNCILMEMBER HARDING asked if that would be the entire I-5, Mission Avenue interchange, east, west, north and south.

September 19, 2001

Adjourned Meeting Minutes

MR. WEISS responded positively, and explained that in the CDBG program Council approved funding to do spot landscaping and a screened wall along that northeast ramp so that the commuters who use that ramp will have a landscaped view instead of the residential or business area. Other upgrades, such as in front of Ocean's 11, are within Caltrans' plans for an enhancement of landscaping only within that interchange.

COUNCILMEMBER FELLER has a priority of enhancing Oceanside Boulevard as well because that is traveled just as much, and probably even more, than Mission Avenue and definitely needs some work. He would like that to be high on the list.

COUNCILMEMBER SANCHEZ moved to approve the proposed [gateway and corridor enhancement] priorities as recommended by staff with the expanded plan on I-5/Mission Avenue; **DEPUTY MAYOR HARDING** seconded the motion; the motion was approved 4-0, with Councilmember McCauley absent.

ADJOURNMENT

MAYOR JOHNSON adjourned the workshop at 11:16 AM on September 19, 2001.

ACCEPTED BY COUNCIL:

Barbara Riegel Wayne, CMC
City Clerk, City of Oceanside

NOT OFFICIAL
UNTIL APPROVED BY 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

SEPTEMBER 13, 2006

REGULAR MEETING **4:00 PM** **COUNCIL CHAMBERS**

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

Mayor
HDB President
CDC Chair
Jim Wood

Deputy Mayor
HDB Vice President
CDC Vice Chair
Shari Mackin

Councilmembers
HDB Directors
CDC Commissioners
Rocky Chavez
Jack Feller
Esther Sanchez

City Clerk
HDB Secretary
CDC Secretary
Barbara Riegel Wayne

Treasurer
Rosemary Jones

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

City Attorney
HDB General Counsel
CDC General Counsel
John Mullen

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

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB) and Community Development Commission (CDC) was called to order at 4:01 PM, September 13, 2006 by Mayor Wood.

4:00 PM - ROLL CALL

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

COUNCIL, HDB AND CDC CLOSED SESSION ITEMS

CITY ATTORNEY MULLEN titled the following agenda items to be heard in Closed Session: 2A, 2B, 2C and 3. Closed Session and recess were held from 4:03 to 5:02 PM.

MAYOR WOOD reconvened the meeting at 5:02 PM. All Councilmembers were present. Also present were City Clerk Wayne, City Treasurer Jones, Interim City Manager Martin and City Attorney Mullen.

5:00 PM

Pastor Carl Souza gave the Invocation. Police Chief McCoy led the Pledge of Allegiance.

PROCLAMATIONS AND PRESENTATIONS

- Presentation – “Pet of the Month” was presented by Julie Bank, Executive Director of the North County Humane Society and SPCA
- Presentation – Mayor’s Excellence Award to Paul Wise and Jorge Hernandez – Police Chief Frank McCoy explained the details of the horrific traffic accident at El Camino Real and Mesa Drive on July 21, 2006, during which these 2 individuals, as part of a citizen’s group of individuals, were first on the scene to assist in rescuing 5 individuals. Plaques were presented to both.

Mayor Wood also introduced Jeff Bowman, the City’s new Interim Fire Chief.

- Proclamation – Oceanside High School Centennial – Presented to OHS Principal Kimo Marquardt, who highlighted the events to take place this weekend.
- Proclamation – Constitution Week – September 17-23, 2006 – Presented to Victoria Nihiser, who noted the week-long commemoration of this document.
- Proclamation – Harbor Days 2006 – September 16-17 -- Presented to Chamber of Commerce Co-Chairs Marva Bledsoe and Colleen O’Harra, who highlighted the events to take place.

CLOSED SESSION REPORTS

4. Closed Session report by City Attorney

CITY ATTORNEY MULLEN gave the following report on items previously discussed in closed session:

CITY COUNCIL, HDB, and CDC CLOSED SESSION ITEMS

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

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 (WCOE), and Unrepresented]

No closed session was held on this item.

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

- A) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: 3.1 acres at the intersection of Rancho del Oro Drive and Ocean Ranch Boulevard (APN 160-572-10); Negotiating Parties: City of Oceanside and Ivey Ranch, Inc.; Negotiator for the City: Douglas Eddow, Real Property Manager; Under Negotiations: Price and terms for the acquisition by the City or exchange of properties

There is no reportable action under the Brown Act.

- B) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: 1.95 acres at the intersection of SR 76 and Foussat Road (APN 160-270-77); Negotiating Parties: City of Oceanside and Thomas Enterprises; Negotiator for the City: Douglas Eddow, Real Property Manager; Under Negotiations: Price and terms for the sale or lease to Thomas Enterprises

There is no reportable action under the Brown Act.

- C) 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 Northwest Atlantic Partners; Negotiator for the City: Jane McVey, Economic Development and Redevelopment Director, and Douglas Eddow, Real Property Manager; Under Negotiations: Price and terms of a sale and/or lease

There is 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))

Page v. City, Superior Court Case No. GIN048539

There is no reportable action under the Brown Act.

Changes to the Agenda:

City Clerk Wayne announced changes to the agenda: Item 18 has been continued to the September 20 meeting; Item 23, as noted, is continued to October 11; and Item 30 has been removed from the agenda.

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

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

RENEE GLOTZBACH, 1877 Matin Circle, San Marcos, reported on the violence sweeping America that is brought on by alcohol and drugs. She reported on the crime and youth statistics, with 9 out of 10 testing positive for alcohol and other harmful drugs when

arrested. She asked Council to remove alcohol at all civic events and parks that include children.

THOMAS J. DEMPSEY, 3641 Esplanade Street, expressed his concerns with needed traffic items in the Lake Boulevard area; traffic signals in the Lake area and the lane reduction intersection at Lake Boulevard and Esplanade; traffic signals to replace the all-way stop signs at Lake and Mira Monte Drive; and traffic calming on Mira Costa Street. He stated that public safety is needed now.

VERNON ALLEN, 1813 Magnolia Court, thanked Council for the reappointment to the Parks & Recreation Commission. Also, he opened an Edward Jones investment company in Oceanside, and he explained how he overcame many issues for his success. He emphasized there are opportunities in Oceanside regardless of ethnicity.

GEORGE BARRANTE, 5044 Chalet Drive, was impressed with the book he received from the City, which showed they only have about .6% of jobs per household where neighboring cities have up to about 2.5%. In another chart on sales tax per capita, Oceanside had about \$94/capita and their neighbors went as high as \$280. So his conclusion is that Oceanside needs more businesses with more jobs and more sales tax, and they need a balanced community. He proposed a procedure to form a committee to quickly identify the businesses that they want to come here and where they are, put together teams to go to those CEOs/businesses on why they should move to Oceanside, and then follow-up on that. They cannot wait for the businesses to come here, so he urged Council to form this committee

MONA MAERTENS, 959 Vine Street, manager/owner of Vine Street Apartments, spoke about one year ago and again is asking for help in considering installing speed bumps on Vine Street. She has worked hard for 11 years to turn the Vine Street Apartments building around. Traffic is bad between 3:30 and 6:30 pm. She is not asking to reduce this noise, but to slow it down.

WARREN NAEGELE, 3513 Ponderosa Drive, is representing a group of people who are interested in not selling the property outside of Pala or making that road go through. They had a meeting with about 100 people who were all in favor of not having the City sell any property there. He presented a petition [5 pages – 25 signatures] with the preamble stating that they do not wish to have the Pala property sold at this time. They wish the City to consider immediately taking it off the 'for sale' list, getting suggestions from involved citizens on the use of the property and allowing an opportunity for research and input.

JIMMY KNOTT, 124 Sherri Lane, thanked some individuals for their behind-the-scenes work. One mobile home park in the City has given notice to their residents that they will be closing within the next year, and the residents are scared. City staff examined the paperwork and stepped in, and the owner now has to step back. This is a heads-up to Council.

CONSENT CALENDAR ITEMS [Items 6-22]

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.

CITY CLERK WAYNE removed Items 8, 10, 13 and 19 from the Consent Calendar for discussion due to receipt of a Request to Speak.

COUNCILMEMBER CHAVEZ pulled Items 10, 13 and 20 from the Consent Calendar for discussion.

6. City Council/Harbor/CDC: Approval of Joint Minutes of the Small Craft Harbor District Board of Directors, Community Development Commission and City Council from the following meetings:
 - July 12, 2006, 4:00 p.m., Regular Meeting
 - August 2, 2006, 4:00 p.m., Regular Meeting
 - August 9, 2006, 4:00 p.m., Regular Meeting
7. City Council/Harbor/CDC: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)
8. **Removed from the consent calendar for discussion**
9. CDC: Approval of two loan applications in the amounts of \$22,240 and \$60,951 under the Community Development Block Grant (CDBG) Housing Rehabilitation Program
10. **Removed from the consent calendar for discussion**
11. City Council: Approval of a professional services agreement [**Document No. 06-D0570-1**] with J.F. White Contracting Company of Framingham, Massachusetts, in an amount not to exceed \$248,300 for the Ocean Outfall Analysis – Remote Operated Vehicle Inspection project located offshore north of the mouth of Loma Alta Creek, and authorization for the City Manager to execute the agreement
12. City Council: Approval to accept \$11,625 in grant funds from the California State Library awarded to Oceanside Public Library for the Public Library Staff Education Grant Program and approval to budget these funds to the Library Department
13. **Removed from the Consent Calendar for discussion**
14. City Council: Approval of a budget transfer in the amount of \$217,025 from the Unallocated HOME Account to the HOMEownership Program/CalHome Loans Account to supplement the CalHome First-Time Homebuyer Program
15. City Council: Approval of a temporary street closure of Pier View Way from Coast Highway to Nevada Street and Freeman Street from Mission Avenue to Pier View Way from 1:00 p.m. to 4:00 p.m. on September 24, 2006, for the Oceanside Museum of Art groundbreaking ceremony parade
16. City Council: Acceptance of the Treasurer’s Report for the quarter and year ended June 30, 2006
17. City Council: Adoption of a resolution, **Resolution No. 06-R0571-1** “... providing for additional temporary partially paid military leave of absence and continued health benefits for City employees called to active duty with the armed forces by the President of the United States to combat terrorism,” extending the provision of additional temporary, partially paid military leave of absence and continued health, retirement, and leave accrual benefits for one additional year
18. [City Council: Adoption of a resolution approving General Plan Amendment (GPA-7-05) to change the land use designation from Office/Professional to Residential on a 28.2-acre site located in the Rancho Del Oro Master Plan area, west of College Boulevard and north of Old Grove Road, and adopting the Mitigated Negative Declaration related to the project – Applicant: RPRN Land Co., LLC (approved 8/9/06, 3-2 vote, Chavez and Sanchez – No)]

This item has been continued to the September 20, 2006 meeting.

19. **Removed from the Consent Calendar for discussion**
20. **Removed from the Consent Calendar for discussion**

21. City Council: Authorization to award a contract [**Document No. 06-D0574-1**] in the amount of \$126,030 to Southwest Growers and Landscaping, Inc., of Huntington Beach for the Tee Box Rehabilitation project located at 825 Douglas Drive; authorization for the City Manager to execute the agreement upon receipt of all supporting documents; and approval of a budget appropriation in the amount of \$70,000 from the Municipal Golf Course Improvement Fund 596 Unallocated Fund Balance to the Tee Box Rehabilitation project
22. City Council: Approval of a request by Kinane Events for temporary street closures of Coast Highway from Surfrider Way to Wisconsin Street, Mission Avenue from Coast Highway to Pacific Street, Pacific Street from Seagaze Drive to Surfrider Way, and The Strand from Breakwater Way to Seagaze Drive from 4:30 a.m. to 11:00 a.m. on November 23, 2006, for the Oceanside Turkey Trot 5K Run, and in-kind support services in the amount of \$1,453 for the event

DEPUTY MAYOR MACKIN moved to approve the balance of the Consent Calendar items, excepting Items 8, 10, 13, 18, 19 and 20. **COUNCILMEMBER SANCHEZ seconded** the motion. Motion **was approved 5-0**.

8. **City Council/CDC: Approval of Change Order 1 [Document No. 06-D0568-1] in the amount of \$199,831.67 to 3D Enterprises, Inc., for additional curb, gutter, sidewalks, irrigation, landscaping and decorative cobblestone paving for the North Coast Highway Gateway Landscape Improvements project, and authorization for the Public Works Director to execute the change order**

THOMAS J. DEMPSEY, 3641 Esplanade Street, questioned how funds are accumulated for this project, while public safety is denied.

PETER WEISS, Public Works Director, explained that the funds for this project are all redevelopment funds and would not be eligible for use for a traffic signal in the Lake Boulevard area.

MAYOR WOOD moved approval of Item 8. **COUNCILMEMBER CHAVEZ seconded** the motion, which was **approved 5-0**.

10. **City Council: Approval of a one-year professional services agreement [Document No. 06-D0569-1] with James E. Miller of Irvine in an amount not to exceed \$78,000 for internal audit and financial consulting services for the Financial Services Department, and authorization for the City Manager to execute the agreement**

THOMAS J. DEMPSEY, 3641 Esplanade Street, stated the City spends a lot of money, and it is just placed on the Consent Calendar and is not explained to the public. He asked for an explanation of this item and what will be audited.

COUNCILMEMBER CHAVEZ stated that, in looking at the backup material, it is clear what will be audited. It talks about the processes within the City dealing with internal service fund charges, cost allowance plans, transient occupancy tax (TOT) collections, encumbrances, consolidation of accounts, etc. He requested further review of what the Council can expect for this money.

NITA MCKAY, Financial Services Director, stated this item is part of the Financial Services Department budget that was approved in June 2006. The City has an external independent auditor that looks for material items that would misstate their financial statements. The internal auditor being proposed would be assisting her in looking at their internal controls and processes. There are areas that could be improved upon, such as the purchasing policy, the encumbrance accounting and the cost allocation plan so that there is a justifiable method of allocating costs to the capital improvements projects and so there is justifiable documentation in their charges to the utility funds. They can also expect this auditor to assist in TOT audits of the local hotels to make sure the City is collecting the correct amount of revenue from them. Therefore, it is for both the revenues and

expenditures and to make certain there are proper controls in place to make certain they continue to operate efficiently and effectively financially. Those are just some of the areas. From his recommendations, she will provide a report to the Council on the areas that are being improved upon in policies and internal controls. Items which can be improved upon are the purchasing policy, which includes the Cal Card expenditures, etc. and which are internal policies and controls.

COUNCILMEMBER CHAVEZ had asked for this overview because they are spending \$1,400,000 for a financial system that will take about 18 months to implement.

MS. MCKAY indicated it will probably take 2 years to implement.

COUNCILMEMBER CHAVEZ stated this is dovetailing with that. It is important to be proactive to address some of the items they have heard about. Ms. McKay had informed him about the credit cards in the City.

MS. MCKAY believed they have about 200 Cal Cards issued to City employees, and at the final month of the year [June], card expenses was approximately \$5,000,000. [NOTE: this amount was later corrected to reflect \$95,038 for June per a City Treasurer memo dated September 18, 2006.]

COUNCILMEMBER CHAVEZ moved approval of Item 10, and **COUNCILMEMBER SANCHEZ** seconded the motion.

DEPUTY MAYOR MACKIN stated that, when they talk about the audit with the TOT for the hotels, she hopes they look closely at the weekly rentals/summer rentals. There are many along the west side of I-5, and the City should be receiving TOT on those short-time stays as well.

MS. MCKAY stated that is correct, and they will be looking at all of those.

Motion was **approved 5-0**.

13. **City Council: Approval of a budget appropriation in the amount of \$175,000 from the General Fund Unallocated Fund Balance to increase the FY 06-07 budget for the Public Works Department to accommodate organizational changes due to the creation of the Community Development Department, AND**

20. **City Council: Authorization to award a contract [Document No. 06-D0573-1] in the amount of \$287,084 to Western Rim Constructors, Inc., of Escondido for the Vista Del Rey Property Grading project located west of Benet Road and south of the San Luis Rey River, and authorization for the City Manager to execute the agreement upon receipt of all supporting documents; acceptance of \$143,810 from the Deutsch Company (their share of the project) and approval of a budget appropriation in the amount of \$224,274 from the General Fund Unallocated Fund Balance to the CIP project account to fund the agreement and related project costs, totaling \$368,084**

Regarding Item 13, THOMAS J. DEMPSEY, 3641 Esplanade Street, thought that reorganization and consolidation was to save money. He asked for an explanation of this expenditure.

COUNCILMEMBER CHAVEZ had brought this up along with Item 20 since both deal with unallocated reserves to be spent. Last year, they had \$92,000 in reserve, and between these 2 items, it is about \$300,000. When they finish out a year, it normally takes a period of months afterward until the actual revenues and expenditures are known. When the City closed the 2005 budget, there was about \$2,500,000 in additional expenses they had to pay. That was not a problem since they had significant reserves to cover that. This year when they approved the budget, they allocated most of their reserves, which was one

of his concerns. If they have the same experience as 2005, they could find themselves short \$300,000. He did not think the City was in trouble, but Council needs to be fiscally responsible.

PETER WEISS, Public Works Director, responded to Mr. Dempsey's issue of the consolidation. About 1½ years ago, the City embarked on creating a Community Development Department (CDD) with 2 departments of building and planning combined. There was also a separate department that combined development engineering and transportation. When Gerald Gilbert left, those 4 were consolidated into one large department, which was the Community Development Department. That was done as they embarked on the preparation of the budget for this current year. However, last November Council approved the mid-year budget, and 2 of the items were included in the staff report. With the departure of Frank Watanabe, the CDD was split again, and the transportation and engineering programs came back to the Public Works Department. Two items regarding the signal maintenance contract and materials and services were not included. Additionally, the 3rd item as part of this action, which was part of the Council decision package for this budget, included the airport study. Although there had been discussion about funding for that, through an oversight, it was not included in the budget.

So it is not that the consolidation did not result in cost savings, because there were savings in a couple of positions. These were items in the mid-year budget that just did not get carried forward.

Councilmember Chavez's concern has to do with the 2 items dealing with additional General Fund reserves for agenda Items 13 and 20. As of June 30, the City will have roughly \$2,200,000 of revenues that were in excess of expenditures for a number of reasons. Although the additional money they are asking for will reduce the surplus revenue, Council did allocate all reserves except Healthy Cities to a number of key projects, including Mance Buchanon Park, grading and the new Senior Center. With those projects, the balance of their reserves will be exhausted. As was explained through the budget process, there is a little leeway, but there is not a lot. They still need to be judicious and fiscally responsive in how they look at what is happening through the City's operating budget.

Should the City be in a position as a couple of years ago where expenditures exceeded the revenues, then there would be cause for alarm. However, Ms. McKay stated that Council would be getting regular updates so that, should there be some significant change in the revenue pattern, Council would have plenty of time to make any necessary adjustments.

COUNCILMEMBER CHAVEZ asked for an overview of some of the resources and encumbrances.

MR. WEISS stated that one of the issues in the City's current financial system is that it does not track encumbrances. As an example, in the street program staff knows they will buy so much worth of asphalt in a year, and they will issue the contract for that amount. However, the budget will show only the amount they would spend in a given period of a week, month, etc. It will not show the encumbrance of the full amount. The monthly reports only show the money that has gone out and not the amounts that have been promised to go out.

COUNCILMEMBER CHAVEZ stated they just need to be fiscally responsible. He **moved** approval of Items 13 and 20.

MAYOR WOOD stated that on a consent item Council is being addressed regarding their fiscal responsibility as a Council. He is not sure the Consent Calendar is the best place to address this issue. Council relies on the City Manager and staff to make sure Council is aware of the operational budget of the City. They brought this up during the budget process and did not see any problems. The big issue was that they had been holding off on hiring 107 positions over several years in order to balance the budget. They seem to have

the ability to hire those people now, who are providers of service to the citizens. With that in mind, Council made that decision.

Hearing this discussion, it sounds like they have financial problems, although he does not believe they do. He asked staff to address this.

MS. MCKAY reviewed that it was addressed during the budget hearings in June, and she still does not believe the City has financial difficulties. Staff projected that they would finish FY 2005-06 with a \$1,500,000 surplus, and they actually came in with an approximately \$2,200,000 surplus in the general fund. That is the money being directed to be allocated for additional items that come up during the next fiscal year, 2 of which are on the agenda this evening.

For the current fiscal year 2006-07, staff has also projected that, if all the staff positions are filled at 100% and all expenditures are spent and the revenues come in as projected, they would have a \$92,000 surplus, assuming all positions are filled at July 1, 2006.

MAYOR WOOD appreciated the clarification. If they had some financial issues or trouble brewing, staff would let them know.

INTERIM CITY MANAGER MARTIN responded most assuredly. They keep a very tight watch on the budget.

COUNCILMEMBER FELLER knows they are not going in the 'red' on this. However, following such items as the price of real estate, the report is that it is slowing. So here goes \$300,000. If they are not careful, in the 2006-07 fiscal year they could be in the red if they keep spending.

Regarding Item 20, he questioned the purpose of the grading.

MR. WEISS responded that, a number of years ago when the City was acquiring property to build the flood control project, they entered into an agreement with the Deutsch Company for a property exchange for a variety of properties. That agreement also required the City to grade the triangular piece of property on the west side of the Deutsch plant and the west side of where Airport Road hits the bridge. The agreement before Council today is the contract to do that grading. The City has a share, as does the Deutsch Company. So it is an obligation of the City as a result of property acquired from Deutsch. They agreed in exchange for that property to do some grading on their behalf. The grading has nothing to do with the river project. It is property that is owned by the Deutsch Company, and it is to raise the property to be above the flood elevation in that area. This is private property.

COUNCILMEMBER SANCHEZ felt the conversation at the dais sounded like they were having some real problems. Instead they should be celebrating the bigger surplus than was expected. They are in a better position than they thought they would be. However, the way this is worded is to accommodate the creation of the Community Development Department. That is something that was done before former City Manager Jepsen left. Now that they are looking at having another City Manager come in, she was wondering what the status is of the Community Development Director. She asked if they are out looking for someone or are waiting for the new City Manager.

INTERIM CITY MANAGER MARTIN reported that they are actually holding off on a Community Development Director pending the new City Manager.

COUNCILMEMBER SANCHEZ commented that these funds are specific to these reasons. As to the creation of this department, she asked what other needs there are because she wants to make sure development staffing is in place to respond to developments, whether they be large or small. She asked if things are in place now.

MR. WEISS responded that at this point staff has a structure in place that is reasonably accommodating for development activities. They are still advertising for a couple of key positions, and they still have some consultant support to augment staff until the permanent positions are filled.

The issue in the staff report is a result of the creation of the department and then splitting it back up. Currently building and planning are under the jurisdiction of Mr. Blessing, and the transportation and development engineering is what Mr. Weiss is overseeing. So on paper, there is a Community Development Department pending the new City Manager coming in. Staff is moving forward and being responsive. Their goal is to streamline the process, and they are looking at structural and process changes to do that.

COUNCILMEMBER SANCHEZ seconded the motion. Motion was **approved 5-0**.

- 19. **City Council: Adoption of Resolution No. 06-R0572-1, "... approving the Final Map of Piazza D'Oro" project, a one-lot mixed-use development consisting of 28,544 square feet of commercial space, 20 live/work units, and 201 residential condominium units located on 16 acres at the northwest corner of Vista Way and Rancho del Oro Drive, and authorization for the City Clerk to record the Final Map with the San Diego County Recorder**

THOMAS J. DEMPSY, 3641 Esplanade Street, questioned the traffic signals since this project was conditioned to install 2 traffic signals, one at Buena Hills and Vista Way and the other at Del Oro Road and Cameo. He asked when these signals will be installed.

In response, **DEE SNOW**, representing K. Hovnanian (developer), stated they are bonded for everything including the traffic signals, and she does not know of any outstanding issues.

PETER WEISS, Public Works Director, does not have the answer off hand regarding which signals were required, but all the improvement requirements that were part of the conditions of approval have been adequately secured and designed. Staff will follow up on this to inform Council and Mr. Dempsey on what signals are conditioned.

COUNCILMEMBER SANCHEZ would be voting against this since she was the only councilmember to vote against this project. It was brought to Council as a mixed-use project, and it was less than 5% non-residential so she does not think it is appropriate.

COUNCILMEMBER FELLER moved approval of Item 19. **COUNCILMEMBER CHAVEZ** seconded the motion. Motion was **approved 4-1**, with Councilmember Sanchez voting no.

6:00 P.M. – PUBLIC HEARING ITEMS

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

This hearing is being continued to 6:00 p.m. on October 11, 2006

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24. **CDC: Consideration of a resolution approving Development Plan (D-204-06) and Regular Coastal Permit (RC-205-06) for the addition of a unit to an existing residential duplex located at 706 North Cleveland Street – Applicant: Darin Hudson**

MAYOR WOOD opened the hearing and requested disclosure of Commission member and constituent contacts and correspondence. Councilmember Sanchez reported no contact; all others reported contact with staff. The City Clerk reported no correspondence.

SHAN BABICK, Associate Planner, gave the staff report, stating this is to legitimize a non-permitted unit on an existing duplex located at 706 North Cleveland Street. This action would thereby change the duplex into a triplex. There will be no changes to the physical building, other than the condition to remove the driveway to take the access off a secondary street or alleyway to provide more on-street parking, as well as to reduce potential public health and safety issues by cars backing out into the street.

Staff believes this project, which was a conversion back in 1987, is consistent with the neighborhood. There are some of these types of commercial uses that have been converted to residential units. The project meets the intent of the Redevelopment Plan, makes good use of the commercial use and legitimizes the unit that was not permitted.

The Redevelopment Design Review Committee approved this project on June 23 with the recommendation to eliminate the driveway. The Redevelopment Advisory Committee also reviewed this project on August 14, and they approved the project unanimously.

Applicant

DARIN HUDSON, applicant/owner of 706 North Cleveland Street, used computer graphics to show the existing structure as it now stands. He lives in the top unit, with 2 units below. He is trying to legitimize the 3 units as it was built in 1997. It has 3 existing meters, 3 gas lines and 3 hot water heaters.

COUNCILMEMBER SANCHEZ questioned the parking.

MR. HUDSON stated there is a 5-car garage in the alley. Right now it meets current codes for 3 units.

MR. BABICK further responded that there is a 3-unit parking garage and a 2-unit parking garage. The driveway [to be removed] was used as a vehicle access. They do meet the current minimum standards for 3 units (2 one-bedroom units and 1 two-bedroom unit).

COUNCILMEMBER SANCHEZ questioned if there was any room to add another parking area in the back.

MR. BABICK responded there is no room in the back for additional parking.

COUNCILMEMBER SANCHEZ is looking toward the future, and she knows the Planning Commission will be looking at suggestions for changes in the requirements. Certainly that would include this area as well. The City needs to look at their parking requirements. Probably every unit could use 2 spaces.

MR. HUDSON responded that the garages in the alley go from property line to property line, and there is space in front of each garage to park. So really 10 cars could be parked in the back, which is more than adequate. Regarding the driveway in the front, this used to be the driveway when it was a warehouse back in the 1950s+. It is not being utilized as a driveway any longer. He enjoys using the driveway for his bike and skateboard

and would rather keep it. He did not believe Engineering spoke specifically of pulling the driveway out with the curb cut.

Public Input

ERIC TAKACH, 702 North Cleveland Street, lives next door to Mr. Hudson, and he is in favor of this. He has lived there 7 years, and all that time he wondered why there were 2 meters in a 3-unit apartment. He agrees to this. Regarding parking, he sees no problem since most of the neighborhood is built out.

With no one else wishing to speak, **MAYOR WOOD** closed the public hearing.

COUNCILMEMBER FELLER moved approval of Item 24 [and adoption of Resolution No. 06-R0575-3, "...approving a Development Plan and Regular Coastal Permit for the addition of a unit to an existing duplex located at 706 North Cleveland Street – Applicant: Darin Hudson".

COUNCILMEMBER CHAVEZ seconded the motion.

COUNCILMEMBER SANCHEZ reiterated that they need to look at parking requirements in the very near future.

DEPUTY MAYOR MACKIN did not see anything about the curb cut.

MR. BABICK said there is a condition in the resolution (Condition 36) for removal of the curb cut. This was a recommendation of the Redevelopment Design Review Committee, and staff honored that recommendation. The curb cut and driveway will be eliminated.

Motion was approved **5-0**.

GENERAL ITEMS

25. **City Council: Approval of the Library Board of Trustees' FY 2006-07 Workplan**

DEBORAH POLICH, Library Director, spoke about the dedicated Board of Trustees and introduced the members.

[Deputy Mayor Mackin left the dais at 6:46 PM.]

ART MANDELBAUM, Library Board of Trustees President, reviewed the workplan, noting this is the end of the first year of their strategic plan under Vision 2020. They are on schedule or ahead of schedule for moving into the next millennium. The library is undergoing a change to take advantage of the technological changes occurring. The library is in the process of: 1) converting to a marketplace model to include self-checkout and renovation of the existing facilities; 2) reviewing and improving the library service hours, which includes opening the Mission Branch library on Sundays; and 3) continue the review of library policies and procedures with a user-friendly atmosphere.

[Deputy Mayor Mackin returned to the dais at 6:48 pm]

Mr. Mandelbaum continued with the library work: they 4) await the inauguration of the new bookmobile in Spring 2007, which is paid for; 5) advise on new information technology projects, with the web site now active; 6) collaborate a partnership with Oceanside educators; 7) continue involvement in program development and expansion of services; 8) monitor the materials budget and priorities for collection; 9) support the development of a new branch library on the El Corazon property; 10) initiate a library needs assessment project; and 11) conduct an annual review of library accomplishments and progress within the Action Plan.

DEPUTY MAYOR MACKIN moved approval of this workplan, and **COUNCILMEMBER CHAVEZ** seconded the motion.

COUNCILMEMBER FELLER did not see the Trivia Bee listed anywhere.

MR. MANDELBAUM reported that the Trivia Bee will not take place this year. The Friends of the Library did not get the response for volunteers they were hoping for, so they decided to make a bigger and better one next year.

Councilmembers thanked the Board for all their good work.

Motion was **approved 5-0**.

[Recess was held from 6:53 pm to 7:06 pm]

26. **City Council: Approval of the Arts Commission FY 2006-08 Workplan**

DEBORAH POLICH, Library Director, stated the dedicated Arts Commission has worked to develop a 2-year workplan. She introduced the Chair.

JOHN McDONALD, Arts Commission Chair, wished to focused on 3 areas since he knows Council has the Workplan. He will focus mostly on the materials that are not contained in the public record. The three aspects are 1) the people; 2) the process; and 3) the plan.

Regarding the people, he introduced the Commissioners (3 are present); the Council liaison, Councilmember Feller; and the staff and thanked them for their efforts.

For the process, the Commission, since the current workplan was ending, decided to step back and look at what they should do. They determined to have a process that involved numerous groups throughout the City, as further highlighted. The result of the input resulted in the strategies as suggested.

Regarding the workplan, the workplan as presented was adopted unanimously. The workplan contains 7 goals and a series of objectives as presented. The process for the first goal is underway. They live by community participation. He further expounded on other goals and public input.

They are not asking for additional resources. There is a \$25,000 allocation in the budget which goes to public art projects. They want to explore the combination of public and private support and local groups to see where they can get with that strategy.

If the Councilmembers feel they are not doing something they should be doing, or are doing something wrong, he asked them to not wait to talk. He encouraged them talk to individual commissioners and make this happen. They offer their workplan and hope for Council approval.

DEPUTY MAYOR MACKIN moved approval of the workplan, and **COUNCILMEMBER CHAVEZ** seconded the motion.

DEPUTY MAYOR MACKIN stated that, at the League of California Cities this week, one of the sessions was for public art and was put on by the City of San Diego. She would like the Arts Commission to look at what the City of San Diego has, which calls for an art component in every project—both residential and commercial. San Diego said they learned a good lesson in their contract, and they are changing it due to the mixed-use projects that slid under the wire without having to do any public art. As Oceanside continues to look at mixed uses, she would like to have consideration on how other cities get that financed.

COUNCILMEMBER SANCHEZ questioned the public/private collaboration and whether they had a session with MiraCosta College.

MR. McDONALD responded they had 2 sessions, one with the Art Department and the other with the President and the head of the Foundation. He has been invited to speak at a cooperation/collaboration session among the Arts Department and the Arts Commission of cities. The challenge they presented is how to collaborate and keep their instructional content. He is very optimistic about this.

COUNCILMEMBER SANCHEZ questioned the status of the art piece at Libby Lake.

MS. POLICH understands from Neighborhood Services that the contract has been issued. The artist is out of town but will be starting the project shortly.

COUNCILMEMBER SANCHEZ also underscored the Deputy Mayor's comments about looking at ways of financing and would also ask the City Attorney's office to look into this.

COUNCILMEMBER FELLER had had a limited art concept and by sitting in on the Arts Commission meetings, he has received a whole new view of what artists look for. Art is another facet of the community that is beginning to define their community culturally.

Following further comments and Council appreciation to the Commissioners, motion was **approved 5-0**.

27. **City Council: Adoption of resolutions supporting the following North County Parkway Projects: El Camino Real and SR 78 Interchange, College Boulevard and SR 78 Interchange, Melrose Drive Extension between Spur Avenue and Oceanside Boulevard, and the Cannon Road connection easterly of Melrose Drive**

PETER WEISS, Public Works Director, stated this item is the adoption of resolutions supporting the North County Parkway plan projects. In response to a perception that the south San Diego County areas were getting a disproportionate share of transportation funding, SANDAG [San Diego Association of Governments] established a North County Parkway Committee that looked at identifying and prioritizing North County projects so they could compete at a better level and receive additional funding, should transportation funds become available.

The project list that was adopted by the North County Parkway Committee is included in Council's packet, and the Committee approved that list in March 2006.

The item this evening is a request to adopt resolutions that would provide bonus points through the rating criteria process that would give specific Oceanside projects a higher rating. The projects on Oceanside's list, regardless of whether or not Council adopts these resolutions, are not going to rate very high because the rating criteria includes project readiness, completed environmental and design, etc. None of the projects before Council tonight are beyond the thought process. There are no concept designs and no preliminary engineering; they are all just preliminary in nature.

The City is in the process of updating its Circulation Element. One of the projects on tonight's list is not even in the Circulation Element, which is the interchange at SR 76 and El Camino Real. These projects were presumably put into the mix as future projects so that, should funding become available at some point in time, there is an opportunity for the City to participate in that funding.

The key issue that staff will be recommending, regardless of what Council does with the resolutions, is provide some direction to the Deputy Mayor, who presently sits on the SANDAG committee. Regardless of what happens with these projects now, transportation projects take a long time to develop, i.e. several to multiple years to develop. It would make sense that the project rating criteria be looked at and projects re-rated on some

regular basis, at least every 2 or 3 years. As projects get through the process where the environmental and design are completed, then those projects could compete more fairly rather than having a one-time rating, where certain projects would sit at the bottom of the rating criteria forever.

What Council has before them tonight will not change the projects on the list; all it does is give those projects on the list bonus points. The time sensitivity issue is that the North County Parkway Committee will be meeting at the end of September to approve the final rating of the projects, and these resolutions would provide bonus points. He noted that most of Oceanside's projects would rate very low anyway. The resolutions do not approve projects. The projects that are on the list still have to come before Council at some point to initiate and appropriate funding to start the environmental process, which is typically the first step, or to develop concept plans. None of these projects have had any of that work done. Again, these projects are just a thought; they are not beyond that. Some of them may change based on the Circulation Element updating.

Public Input

JOAN BRUBAKER, 1606 Hackamore, was wondering if the community meetings they had meant nothing to SANDAG. She asked why, when the subject of Smart Growth came around, Oceanside streets were assigned all the traffic. Vista Way has never been completely developed. SR 76 needs to either be tunneled or elevated to gain another set of lanes. When SR 76 is upgraded to 3 lanes and a freeway, that would be the time to develop the feeder/emptier streets. Freeways 76 and 78 must be the foundation.

DIANE NYGAARD, 5020 Nighthawk Way, was shocked to see this list of projects moving forward. These 6 projects are estimated to cost \$376,000,000, are projects that have been through no community planning process, many are highly controversial, and many have already been eliminated from local plans by this Council. Funding agencies do not allocate money based on a list of projects. At the Transportation Summit years ago, the regional and state representatives made it clear they do not want controversial projects. They wanted agencies to proceed with a list of projects that everyone can support. The City has a plan in place to look at the entire transportation plan for the City that involves the community. She asked Council not to throw out the plan because SANDAG asks them to. She advocated tabling this Parkway plan until the City has gone through its process.

RUTH GANS, 4918 Delos Way, could hardly believe these projects were on the agenda. It appears the same problems are back after all they went through several years ago when Carlsbad attempted to construct a 40-50 foot elevated extension of Cannon Road, descending at the main entrance to Ocean Hills Country Club, etc. Unless they know that Oceanside will insist that it be built at ground level to join the existing Oceanside section, this item should not be approved. There are 8 communities (10,000 residents) in Ocean Hills that formed a group known as the Communities of Ocean Hills. She asked that Council drop this agenda item until Cannon Road can be built without threatening the quality of life in the surrounding communities.

ALEX HOAG, 4610 Cyrus Way, is a Trustee of the Ocean Hills Property Protection Trust, which works to protect the interest of their residents in this retirement community of over 2,500 people. In the past they have been assured that Cannon Road would remain at ground level outside the main gate of their community, and that Cannon would continue past Melrose to connect to Highway 76. They support responsible growth and the need for a road from I-5 to SR 78. He asked Council to not give carte blanche to either Carlsbad or SANDAG with projects that could endanger their community. Council needs to protect their neighborhood.

JOYCE A. MALLOY, 4747 Agora Way, representing many residents at Ocean Hills Country Club, expressed similar concerns as the previous speakers.

DONALD BUCKNER, 1633 Trotting Horse Road, does not trust SANDAG because they do not do what they say. There is a large water park planned and much development

east of I-15, and Oceanside will have much of that traffic. Traffic is increasing, and other alternatives need to be explored, such as a road through Camp Pendleton. Much of the traffic is just driving through the City.

ANN McLEOD, 1517 Del Mar Road, asked why they are talking about extending Melrose. Just because Melrose is extended, there is no guarantee that Oceanside traffic problems will improve. The majority of the traffic that now uses East Vista Way will use Melrose. East Vista Way should have been widened to 4 lanes years ago. This must be done before Melrose is opened, otherwise there will be no incentive to widen East Vista Way. She asks that Council evaluate all of the factors when making a decision about opening Melrose.

JERRY McLEOD, 1517 Del Mar Road, does not support Melrose being extended. His wife hit on all the points. One issue is that East Vista Way is supposed to be regional. If it is regional, Oceanside needs to get together with Vista and the County and get East Vista Way done first.

DOREEN STADTLANDER, 1544 Belmont Park Road, urged Council to not approve the resolutions for these projects. She is particularly interested in the Melrose extension. If Council approves the resolutions, they memorialize the City's commitment to support those projects. It does not seem appropriate to put thoughts, as stated by Mr. Weiss, into resolutions. She hopes Council takes to SANDAG the concept that traffic is a land use issue. They continue to build roads, and, before they are even completed, they are functioning at Level of Service (LOS) F. It is not until they start addressing land use and the density with all communities that they will start resolving the traffic problems.

MARGARET MALIK, 1611 Hackamore Road, felt they should not put the cart before the horse. She is fed up with SANDAG and what they have come up with for Oceanside. She sat with SANDAG planners, and they had 4 high-density projects, 2 of which are on Oceanside's borders. Traffic is horrendous. SANDAG is dumping everything on Oceanside. It is time the Mayor went down there and told them that.

[There was no further public input]

MAYOR WOOD stated an item gets on the agenda, and the Council usually sees it the Thursday before a Council meeting. Before he even read the material, he was receiving emails and phone calls, and he understands the concerns. Trying to fix a traffic issue in Southern California is not easy. They do not have a solution. Most of the City's traffic in the morning and evening is cut-through traffic. Council is not jumping to build the extension of Melrose, etc., because they do not believe that will alleviate the problem.

SANDAG is the governing body that oversees this regional issue. He does not agree with them all the time. It is also North County Transit District (NCTD). He has sent a letter to them on how unimpressed and disappointed he is with some of their Oceanside projects.

He can make traffic in Oceanside move a little easier until Highway 78 or I-5. Then they are getting the Sprinter, with gates on the tracks to stop traffic every 15 minutes when there is already a problem. The City has no control over that. He has voiced his concerns and issues to SANDAG.

This item is on the agenda because of exactly what Mr. Weiss said—he needed to turn it in if the City wanted credit/points. That does not mean it is a good thing; it just means he, as a staff member, is asking Council if they want to send it in to get points for these issues. It does not mean it is the proper time for it. Council understands the citizens' concerns, and public safety and transportation is important. They try to address these issues.

The problem also is that many frustrated people are sitting in that traffic every day going to work. However, he does not believe that opening any street or highway or off-

ramp will help the problem until they fix the main ones: Highway 78, I-5 and I-15. Highway 76 and I-5 are major priorities for SANDAG.

COUNCILMEMBER SANCHEZ was very surprised to see this on the agenda. It is absolutely putting the cart before the horse. She **moved** [main motion] that 1) with respect to Cannon Road, the Council adopt an amended resolution [Resolution No. 06-R0576-1] in opposition as titled "...to oppose the completion of the North County Parkway plan project consisting of the connection of Cannon Road at the City of Oceanside's easterly City limit with the County of San Diego in coordination with the City Council of the City of Vista and County Board of Supervisors"; and 2) that they continue the balance of these items until Council gets the results of the traffic study and the Circulation Element update.

DEPUTY MAYOR MACKIN **seconded** the [main] motion.

CITY ATTORNEY MULLEN stated the balance of items would be continued until after the Circulation Element is prepared. He is not sure if there is clarity with respect to the timing.

MR. WEISS stated that is fine. The resolution in opposition will be making a statement to SANDAG.

DEPUTY MAYOR MACKIN, as the SANDAG representative, stated she and the Mayor have taken turns going to the meetings. There is a feel of "done deal" down there. She was the only representative at the Smart Growth meeting, and she did not want to approve the Smart Growth plan. She begged for more time since Oceanside is working to get Carlsbad to get all their stuff off our borders and find a solution. She had the support of 6 cities that supported giving Oceanside more time; however, the rest of them approved the Smart Growth map. When it came back for approval, she was the only one voting against what was being imposed upon Oceanside by SANDAG. She is listening and is the City's voice there.

Regarding the big picture, she was blown away to see this item on the agenda. They are in the middle of their traffic circulation update and are going through an extensive planning effort. This is not what they want to do. They need to send a united Council voice to SANDAG.

COUNCILMEMBER FELLER asked how these projects got on the list when this Parkway Plan was adopted by SANDAG.

MR. WEISS believed they were submitted by the representative cities that participated in the Parkway Plan.

COUNCILMEMBER FELLER questioned if that would have been Frank Watanabe at that time.

MR. WEISS responded affirmatively.

COUNCILMEMBER FELLER discovered this Parkway Plan back then and believes he brought forward that it was \$376,000,000 even then. The SANDAG Board voted to approve this. He asked whether the City's representative voted to approve it.

DEPUTY MAYOR MACKIN stated they had a meeting for the Parkway Plan. That was when former City Manager Steve Jepsen came forward, and they had some shifting of projects. She did not support this.

COUNCILMEMBER FELLER added that SANDAG does review their 2030 Plan every 3 years, and Carlsbad's need for the bridge to be so high coming across Cannon was because the environmentalists will not let them put it down in the creek. He is against the El Camino Real and SR 76 interchange even as a thought.

There is a lot of talk about not building roads for mobility and he disagrees with the Mayor regarding that. He will always believe that, when 76% of the people surveyed tell him that Rancho del Oro at Highway 78 is needed and 80% say the Melrose extension needs to be completed, those responses tell a lot about what people actually want. He does not support these dollar amounts. The way the Parkway Plan reads comes out of a study, and a lot does not even include property acquisition. So there are some major flaws in this parkway plan that probably should have been brought out back in March.

COUNCILMEMBER CHAVEZ is not supportive of Cannon for all the reasons stated, and is in favor of sending a message to Carlsbad that Oceanside opposes it. He asked how long the process is.

MR. WEISS' understanding is that SANDAG staff will be presenting the project rankings to the Parkway Committee at the end of this month. Regarding a project going through this process as weighted for approval, an example is that with support of environmental agencies, it took the City roughly 5 years to get the Pacific Street bridge through the environmental and design process. That is a project that had general support from all those agencies.

COUNCILMEMBER CHAVEZ wanted the public to understand that this is a lengthy process, which takes 5 to 15 years, and they are competing for money. So this is not a decision being made for today or next week or even a year; this is something that they start and actually reach funding in 5-15 years. He asked how long they were involved in the Rancho del Oro process.

MR. WEISS responded that it has been a lengthy process for Rancho del Oro. At the time Council directed staff to stop work on it, he believed staff had been working on that project for almost 7 years, and the cost was over \$1,000,000.

COUNCILMEMBER CHAVEZ wanted clarification of where the money that these items would be competing for would come from.

MR. WEISS stated that one is an unidentified funding source at this time. For example, he believes the Governor is proposing large bond issues that would have potential transportation funding associated with it. With the adoption of the extension of Transnet, there would be a requirement for the cities to implement a regional impact fee on residential homes by 2007. That money would go into a pot where there will be competition for funding, along other federal funding sources that may become available through SANDAG. SANDAG does have an extensive brochure on various funding sources that are available. As those monies become available, this process [for this agenda item] has been set up so that North County cities will not be competing with each other for that money, so those funds could be allocated to the top-priority projects. Therefore, the North County as a whole would get a higher percentage of transportation funding than what North County would have received in the past.

COUNCILMEMBER CHAVEZ clarified that what they have here is a process to get funding. The citizens are taxed through fuel tax; they are taxed with State taxes; and the Governor's bond proposal would tax the citizens and the businesses in 2007 if this fee goes through. So the citizens of Oceanside will be taxed to send the money to Carlsbad or Vista, if they are together on the projects. It is important to understand that this is a process, a long process they are going through. The City already spent considerable money (over \$1,000,000) on one interchange, and they then removed the project without all the facts needed.

He would support the motion on Cannon but called [**moved**] for a bifurcation of the motion on the second element regarding the valuation of these projects. He thinks it is important that Council put themselves in the process to get the monies that the citizens are being taxed on to solve their problems on the streets.

COUNCILMEMBER FELLER seconded the motion to bifurcation.

COUNCILMEMBER SANCHEZ called the question, and COUNCILMEMBER CHAVEZ seconded the call. Motion was approved 5-0.

The motion on bifurcation of the issues **failed 2-3**, with Mayor Wood, Deputy Mayor Mackin and Councilmember Sanchez voting no.

The vote on the main motion was **approved 4-1**, with Councilmember Feller voting no.

[Recess was held from 8:25 pm to 8:32 pm. Councilmember Feller was absent.]

Mayor Wood called Item 29 forward at this time.

29. **City Council/CDC: Approval of a three-year [2005/06-2007/08] professional services agreement with MainStreet Oceanside in the amount of \$250,000 for services to assist in the commercial revitalization of the downtown area; authorization for the City Manager to execute the agreement; and approval to create a City Council-appointed oversight committee to review the associated work plan on an annual basis**

KATHY BAKER, Redevelopment Manager, reported that this item is a professional services agreement with MainStreet. Back in March 2000, the Council did adopt a resolution supporting the contract for this program for 5-year funding. That commitment period ended in July 2005. In the previous 5-year agreement, the City's contribution was a total of \$420,000, and it was to be reduced as MainStreet matured. However, many factors were not taken into consideration.

Since then, MainStreet has continued to grow and has been managing several special events for the downtown, such as Antiques on Mission, the 4th of July parade, O'Fest, Dia de los Muertos, Phantom Gallery and the weekly Farmers Market. Therefore, over the years the special events have grown. A huge part of their success is the many volunteers who donate their time. In addition, MainStreet distributes information to the merchants and property owners in the downtown.

Unfortunately, many of the activities that MainStreet sponsors do not generate enough funding to fully support their efforts. However, there are many funding opportunities to be created in the future that would allow MainStreet to become more self-sufficient. She further reviewed income generators and mentioned that one of the largest ones is the Farmers Market. There are on-going discussions about the possibility of extending the Market for more revenue and also about an addition of an evening market, possibly on the west side of Coast Highway.

Earlier this year Council also approved an agreement with MainStreet to manage our beach vending program. This was the first summer, and it was fairly successful as a start-up program. It could become a reliable source of income. Other funding opportunities were reviewed.

Also under discussion between MainStreet and the City has been an evaluation of the creation of a business improvement district within the downtown. There was an initial study that went out to the merchants and was fairly well received. She knows the large developers—Citimark, S.D. Malkin, and Oceanside Terraces—have fully embraced the creation of a business improvement district (BID). Most cities in the urban downtown have BIDs and they are a huge money generator for a mainstreet association. Therefore, Mainstreet is prepared to assist in the next phase of establishing some type of BID and possibly even manage that process.

In order for the organization to continue to be successful and accomplish many of the tasks the City and MainStreet have agreed to, additional funding is needed for these

efforts. Most cities with such associations do fund these associations at various funding levels.

Ultimately, there may be sufficient funds through a variety of these programs; however, until these programs are in place, the City needs to continue to financially support MainStreet's efforts. A work plan has been established. The \$50,000 funding for 2005-06 is for work that was already completed by MainStreet last year. The funding for the next 2 years should be divided equally between administration, lease payments, the management of events, and some financial assistance for the 4th of July fireworks.

The Redevelopment Advisory Committee reviewed this at their May 15 meeting and recommended approval. Staff is recommending approval of the professional services agreement for MainStreet for the fiscal years from 2005 through 2008 in the amount of \$250,000.

MARY ANN THIEM, 731 North Tremont Street, Board Chair of MainStreet Oceanside, stated Council has all the backup and material. Their events are growing every year and getting better. Regarding beach services, she reported that it was a lot more complicated than just throwing a couple of vendors on The Strand. It took a lot of hours to coordinate that process. It will get better as the seasons go on. They also have a newsletter and web site, which also promote Oceanside. Their latest project is working with the Arts Commission for the art component of the way-finding signs they hope to start in downtown by spring.

She reviewed the great work of their Board, staff and all the volunteers.

JOHN McDONALD, 5064 Corte Alacante, speaking as an individual and not the Arts Commission, spoke about the Executive Director and the importance of what is going on in the City. The kind of imagination and direction the City wants is there. He hopes the process continues.

KIM HEIM, Executive Director of MainStreet, introduced the Board members and staff present, stating they make a great contribution to this City. They have worked hard on a workplan with the City. MainStreet and the Downtown Association is a work in progress, as is the downtown itself. They have made a serious attempt to address issues of revenue production and enhancement. They have some revenue streams they have developed over the last 5 years. They will enhance those existing revenues and hope to develop 2-3 new ones that can help elevate the finances of the organization to really become a self-sufficient, long-term organization that can host the type of development and investment that will really revitalize downtown.

This is a pivot point for the organization, and they hope Council will renew the contract.

DEPUTY MAYOR MACKIN moved approval [of the three-year professional services agreement, 2005/06 – 2007/08 (**Document No. 06-D0578-1**)] and thanked the MainStreet folks for their work.

COUNCILMEMBER CHAVEZ seconded the motion.

COUNCILMEMBER SANCHEZ is excited about the evening Farmers Market. That will be a tremendous addition to the City. She thanked them for the innovation and volunteer hours.

COUNCILMEMBER FELLER had previously mentioned the fireworks in Japan and how each segment of the fireworks was sponsored by a business, which is an idea. Every one of those segments was like Oceanside's grand finale. He is also excited about the evening Farmers Market.

MAYOR WOOD appreciated all the volunteers and Mr. Heim for speaking with Councilmembers about the issues. He would add that he wants to see the quality of the events.

Motion was **approved 5-0**.

28. **CDC: Approval of a professional services agreement with Wallace Roberts & Todd, LLC, of San Diego in the amount of \$669,111 for completion of a beach area improvement plan, and authorization for the Executive Director to execute the agreement**

KATHY BAKER, Redevelopment Manager, stated this is for a professional services agreement (PSA) for a beach area improvement plan. For background, in August 2005 the CDC approved the issuance of a Request for Proposals (RFP) for the preparation of a study of the public facilities along the beach area, including the restrooms, the pier amphitheater, the police substation, the beach maintenance facility, the lifeguard headquarters, the beach community center, and the overall appearance of the area.

She reported that 7 RFPs were received, and Wallace Roberts & Todd (WRT) was selected based on their work history, references, etc. The scope of their services include a facilities assessment of all existing structures at the beach area, a condition survey of the facilities, community meetings and Council workshops, and ultimately the preparation of a preliminary master plan that would include recommendations, a concept development plan, a phasing plan, possibly an Environmental Impact Report, and final approval from the City and the Coastal Commission. Staff had also included additional tasks regarding further studies related to the pier itself.

Within the last couple of years, Redevelopment has established a capital improvement project fund for the beach area improvements in the amount of \$5,000,000. Allocating \$669,111 for this PSA will leave a balance of roughly \$4,400,000 for construction and the actual improvements. Some of the first improvements would be the restrooms immediately adjacent to the pier area, and then hopefully some improvements to the amphitheater.

The Redevelopment Advisory Committee reviewed this PSA at its July 31 meeting and supported staff's recommendation. Staff recommends that the CDC approve this PSA with WRT. She introduced members from WRT: Cathy Garcia is the Principle with WRT, and Rick Barrett will be the project director.

DEPUTY MAYOR MACKIN moved approval [of this professional services agreement (**Document No. 06-D0577-3**)], and **COUNCILMEMBER SANCHEZ** **seconded** the motion.

COUNCILMEMBER FELLER wanted the restroom project done right away. Also, there are park facilities and restroom facilities listed in the backup material. Please do not consider skate parks at Tyson or Buccaneer Beach.

Following further comments, motion was **approved 5-0**.

MAYOR AND/OR COUNCILMEMBER ITEMS

30. [Request by Deputy Mayor Mackin for the creation of a training session and comprehensive policy for all incoming elected officials to cover individual Councilmember budget topics, including the handling of reimbursements, credit cards, etc., pertinent to the elected officials' duties, and direction to staff]

This item was removed from the agenda by Deputy Mayor Mackin.

- 31. Mayor Wood: Appointments to, or motions to remove from, some or all of the City's Citizen Advisory Groups

MAYOR WOOD moved to appoint the following:

<u>Utilities Commission</u>	<u>Terms to:</u>
Appoint Louis Bales as Regular (replacing Reynold Blunk)	7/1/09
Appoint Frank Merrifield as Regular (replacing Lloyd Prosser)	7/1/09

DEPUTY MAYOR MACKIN seconded the motion.

COUNCILMEMBER FELLER stated that, as last time, he does not support taking 2 seriously involved people off this commission. There is still a lot of work there. Both suggested appointees are great individuals; however, the 2 current members want to continue on. Therefore, he does not support this action.

COUNCILMEMBER SANCHEZ knows all 4 people and admires them. Therefore, she cannot vote against anyone on this and so will just abstain.

Motion failed 2-2, with Councilmembers Feller and Chavez voting no and Councilmember Sanchez abstaining.

CITY COUNCIL REPORTS

- 32. **Mayor Jim Wood** -- Commented that the whole nation was really involved in the September 11 recognition and remembrance, and the City's Police and Fire put on a small, respectful ceremony.

He announced the Oceanside High School Centennial events this Friday and Saturday. Also this weekend is the Harbor Days event.

- 33. **Deputy Mayor Shari Mackin** -- Commented that the City survived the summer months in a grand manner. Parks & Recreation will begin their parks tour tomorrow. This Thursday at 6:00 PM North County Transit District will be presenting information on the downtown transit center redevelopment. Another event is the Airport Sundowner of the Chamber of Commerce on Thursday at 5:30, which is the fundraiser for the education scholarships.

She had attended the League of California Cities Conference Thursday and Friday. She obtained a lot of information from the various sessions and will have a link on the City's website to view some of the backup materials from this and other conferences.

- 34. **Councilmember Rocky Chavez** – Commented on the first distribution of the Angel Food packets, with 132 participants. Last night there was a very spirited Youth Commission meeting with a great group. They will be having their first "Speak Out" in the Fall on issues of concern to the youth for those 18 years and under.

- 35. **Councilmember Jack Feller** – Commented on the Veteran's Day event, November 11 at 10:00 AM and the Airport Sundowner. He also responded to a letter to the editor.

[Deputy Mayor Mackin left the dais at 9:18 PM.]

- 36. **Councilmember Esther Sanchez** – Commented on the Council ad hoc committee for a Solar for Seniors program. They are meeting September 21 at 6:00 PM in the Community Rooms.

INTRODUCTION AND ADOPTION OF ORDINANCES [37 & 38]

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.

37. **City Council: Adoption of an ordinance, "...of the City Council of the City of Oceanside amending Chapter 2 of the Oceanside City Code by the amendment of Section 2.1.64(f) regarding expiration of terms of members of City boards, commissions and committees" (Introduced 7/12/06, 5-0 vote) (continued from August 2 and August 16, 2006)**

[Deputy Mayor Mackin returned to the dais at 9:23 PM.]

MAYOR WOOD moved to adopt the ordinance, and **DEPUTY MAYOR MACKIN seconded** the motion.

COUNCILMEMBER FELLER wanted to reiterate that this action would really put a lot of people in jeopardy, and he does not agree with this.

COUNCILMEMBER SANCHEZ stated that since the last time this was before Council, she put in a request because she was unsure of the history of the legislation. She asked for any ordinances regarding appointments. She learned a lot from this information. There has been a lot of legislation in this area, which dates back to August 23, 1944, which she briefly reviewed. In the 1997 legislation, it says that members of boards and commissions, upon the expiration of regular appointment, the member whose term has expired may continue to serve until the member's successor is appointed. It seems there was a lot of thought put into this. She imagined they were hoping to ensure there was a quorum. These are folks that work very hard for free. Council always asks for their recommendations. When this was first presented, she had no preference at all; however, now having reviewed all this information, she feels they have laws in place that do address this, and that the basis for the legislation has to do with ensuring that there are quorums and that they continue to operate as a City. Therefore, she will oppose this [ordinance].

MAYOR WOOD stated there were concerns about how to handle these when terms expire. Right now when the terms expire, the members continue in that position forever or until the Mayor nominates a name. When their term is up, that is the polite way to say their term is up, and they can reapply. If he continues to present names for these groups, and names of people whose terms have expired, it would behoove Council to turn those people down or put them in. So the burden goes back to Councilmembers on whether to vote for them to stay or go. When their terms were up, that is what it meant, and they could reapply. Council needs to understand that in the future they will be making the decision for people who do not get on and those who do not leave.

COUNCILMEMBER SANCHEZ stated that every legislation, except at the beginning of the City, talked in terms of Mayor's appointments. Then there was a change that was reflective of what was happening at the State level, which embodied the notion that, while the appointments are to be brought forward by the Mayor, that Councilmembers may give input and approval. She seldom gives input (it was twice). This is basically State law. It is difficult to put the Council in the position that they are voting against someone. She reviewed her first 4 years on Council when there were vacancies and she wanted to make sure the positions were filled. She does not know what the answer is, because they want a City where they hear all sides. That is difficult if they have only like-thinking people appointed to these commissions. The challenge is for Council to come together and be as inclusive as possible. They typically agree 85% of the time. She does not like to be in a position to have to vote against people who have worked hard for the City for free. There needs to be a way of looking at this with more objective criteria rather than subjective. This

is becoming a problem. Perhaps staff could look into criteria that are objective and have some balance. She does not want to turn down a volunteer. Council needs to resolve this.

MAYOR WOOD stated the concern he has is that the burden is dropped in his lap as the Mayor. Peoples' terms 'expire'. He has a list of people wanting to be on the commissions just as much as the people want to stay on them. If they go with the procedure currently in operation, Council might as well appoint people for life. They are trying to be fair to all the wonderful volunteers. People are trying to serve on these commissions. Under the circumstances, when a term is up, the City Clerk will send him the notice that terms are up. He then has to deal with those wishing to continue or appoint someone who wants to serve. That then requires Council to vote no on people who are great volunteers. So the system is set up so that if they leave people on, those wanting to be on are not happy. If you try to remove someone, it is a no-win.

COUNCILMEMBER CHAVEZ called for the question, and **COUNCILMEMBER FELLER** seconded the call. Motion was **approved 4-1**, with Deputy Mayor Mackin voting no.

The vote on the **motion failed 2-3**, with Councilmembers Sanchez, Feller and Chavez voting no.

38. **City Council: Adoption of Ordinance No. 06-OR0580-1 "...of the City Council of the City of Oceanside amending Zoning Ordinance Section 1050EE regulating the parking of vehicles on private property"; adoption of Ordinance No. 06-OR0581-1 "... of the City Council of the City of Oceanside amending Oceanside Traffic Code Section 13.25 regulating the parking of vehicles on private property"; and adoption of Ordinance No. 06-OR0582-1 "... of the City Council of the City of Oceanside adding Sections 10.27 through 10.31 to the Oceanside Traffic Code to regulate unattached trailer and oversized vehicle parking on City streets" (Introduced 8/16/06, 4-1 vote, Feller-no)**

COUNCILMEMBER FELLER is voting against these ordinances, feeling they are pitting neighbor against neighbor again and causing snitching and crank calls. It could take another employee just to handle these ordinances. This goes against their Code Enforcement's recommendation.

COUNCILMEMBER SANCHEZ moved for adoption [of these ordinances], and **DEPUTY MAYOR MACKIN** seconded the motion. Motion was **approved 4-1**, with Councilmember Feller 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 9:38 PM on September 13, 2006.

[The next regularly scheduled meeting is at 4:00 p.m. on Wednesday, September 20, 2006]

APPROVED BY COUNCIL/HDB/CDC:

Barbara Riegel Wayne, CMC
City Clerk, City of Oceanside

NOT OFFICIAL
UNTIL APPROVED BY
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

SEPTEMBER 20, 2006

REGULAR MEETING 4:00 PM COUNCIL CHAMBERS

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

Mayor
HDB President
CDC Chair
Jim Wood

Deputy Mayor
HDB Vice President
CDC Vice Chair
Shari Mackin

Councilmembers
HDB Directors
CDC Commissioners
Rocky Chavez
Jack Feller
Esther Sanchez

City Clerk
HDB Secretary
CDC Secretary
Barbara Riegel Wayne

Treasurer
Rosemary Jones

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

City Attorney
HDB General Counsel
CDC General Counsel
John Mullen

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

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB) and Community Development Commission (CDC) was called to order at 4:02 PM, September 20, 2006 by Mayor Wood.

4:00 PM - ROLL CALL

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

COUNCIL, HDB AND CDC CLOSED SESSION ITEMS

CITY ATTORNEY MULLEN titled the following agendized item to be heard in closed session: Items 2A and 2B [Item 1A was not heard.] Closed Session was held from 4:03 to 5:13 PM. [See the report out on these items at 5:00 PM, Item 3.]

5:00 PM

MAYOR WOOD reconvened the meeting at 5:13 PM. All Councilmembers were present. Also present were City Clerk Wayne, Interim City Manager Martin and City Attorney Mullen. Pastor Carl Souza gave the Invocation. Brittany O'Brien led the Pledge of Allegiance.

PROCLAMATIONS AND PRESENTATIONS

- Proclamation – “National Alcohol & Drug Addiction Recovery Month” – September 2006

Rita Callahan, Board Chair for Welcome Home Ministries, accepted the proclamation. This is their 10th year.
- Off agenda – “Yellow Ribbon Suicide Awareness and Prevention Week” – September 17-23

Stan Collins, Youth Coordinator of Yellow Ribbon Suicide Prevention Program, accepted the proclamation.

CLOSED SESSION REPORT

3. Closed Session report by City Attorney

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

1. **[CONFERENCE WITH LABOR NEGOTIATOR ON STATUS OF NEGOTIATIONS PREVIOUSLY AUTHORIZED IN OPEN SESSION (SECTION 54957.6)**
CONFERENCE WITH LABOR NEGOTIATOR – Negotiator: City Manager; employee organizations: Oceanside Police Officers' Association (OPOA), Oceanside Firefighters' Association (OFA), Oceanside Police Management Association (OPMA), Management Employees of the City of Oceanside (MECO), Oceanside City Employees' Association (OCEA), Oceanside Fire Management Association (OFMA), Western Council of Engineers (WCOE), and Unrepresented]

No closed session was held on this item.

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

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (SECTION 54956.9)

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

There was no reportable action under the Brown Act

- B) Initiation of litigation by City pursuant to Subdivision (c) of Section 54956.9: One case

There was no reportable action.

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*

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

JUNE KRISTAPOVICH, P.O. Box 187, spoke of the airport and the constant noise, financial problems, and plane crashes. It is unsafe. She also expressed concern about the Army Corps of Engineers' plan for the forest that clogs the San Luis Rey riverbed. In 1993 their access bridge barely escaped being washed away. She asked why this Council does not stand up for the citizens' rights. They need constructive action for public problems. She also expressed concern for seniors-only subdivisions. Council shows little concern for preserving the seniors' rights. They are more concerned about attracting tourists to their already overcrowded, overbuilt and traffic-snarled city.

KAREN HOLMGREN, 3548 Mira Pacific Drive, Chair for the 2nd annual Earth Charter Community Summit, announced that the Summit would be held at MiraCosta College on Oct. 6-7. She reviewed the events to be held. One of their themes is global warming, which she further explained. AB 32 has also been signed in Sacramento, and the community needs to step up to the challenge. Earth Charter is an international people's treaty.

GEORGE BARRANTE, 5044 Chalet Drive, thanked the Mayor for his leadership in getting the cities together to discuss the Sprinter. As an experienced driver, he knows enough to avoid the rush hours; however, he gave examples of 2 traffic jams in the City and emphasized that the Sprinter is not even there yet. He asked people to imagine what will happen when the Sprinter closes these major roads every 15 minutes. Traffic is all he hears about on the campaign trail. They need to do something about it, rather than turning down \$500,000,000 worth of road improvements, eliminating the Rancho del Oro Interchange before the study is complete, etc. The City is waiting for the Circulation Element, which will show they have too many cars and not enough roads. Council has it within their power to do something right now. They should at least open Old Grove Road. He asked Council to do something about traffic now.

JERRY FARRELL, 3517 Ponderosa Drive, is a member of a group of voters called Pala Watch. About 50 people attended a neighborhood meeting on August 24 to discuss the RFP issued regarding the property generally known as Pala Road west of Los Arbolitos Boulevard (APN 158-301-46). Their objective is to stop the extension of Pala Road through to Foussat and to get this property removed from the surplus list and re-designated as dedicated parkland. Their neighborhood is crowded enough. Since Council is considering rezoning the property called Goat Hill, which would reduce the amount of open space in the City, they ask that Council consider this new designation for the Pala Road property. It could be a dog park and a rest stop for bicyclists and walkers.

JOHN FREANER, 3520 Spruce Court, talked about the Pala land parcel, which he would like to remain undeveloped and as permanent open space. Preserving open space has long-range benefits.

JOAN BRUBAKER, 1606 Hackamore Road, spoke about the recent increase in graffiti. Some time ago there was discussion about the gang effort the City was going to exercise. Until they get a handle on how to control graffiti, it is a problem. On another topic, she was recently in Chicago and noticed the lack of homeless people lying about. She asked them about it. Their response was they do not have the problem since they have a coalition of churches. It might behoove the City to get all the churches together in a coalition. Any funds the City has might spur the effort. If all are working together, it may work.

C.C. SANDERS, 202 South El Camino Real and resident for 42 years, stated he appeared at a political forum recently and had to do research on the airport. He joined a growing number of citizens who are convinced that the City is trying to close the airport. In the coming year there is an \$80,000 shortfall. However, over the last several years the City has turned down approximately \$825,000 in federal money that would go to improve the airport. The airport was here when he arrived in 1963. It is disingenuous for people

to complain when the City has built houses around an airport that was there before they were. He urged the Council to work together to expand and develop the airport so that it is revenue producing and self-sufficient. He urged Council to put aside personal and political considerations and be about the people's business and do what is best for the public.

CONSENT CALENDAR ITEMS [Items 5-19]

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.

CITY CLERK WAYNE removed item 18 from the Consent Calendar for discussion due to receipt of a Request to Speak

DEPUTY MAYOR MACKIN removed item 16 from the Consent Calendar for discussion.

5. City Council: Approval of Minutes of the City Council of August 23, 2006, 4:00 p.m. Adjourned meeting
6. City Council/Harbor/CDC: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)
7. City Council: Approval of plans and specifications for the Libby Lake Pump House and Drainage Pumps project and authorization for the Public Works Director to call for bids
8. City Council: Approval of plans and specifications for the Mission Avenue Widening project located on Mission Avenue 1,500 feet west of Rancho del Oro Drive; and authorization for the Public Works Director to call for bids
9. City Council: Approval of a purchase order in an amount not to exceed \$231,900 to Villa Ford of Orange for the purchase of nine 2007 Ford Crown Victoria patrol sedans for the Police Department; authorization for the Financial Services Director, or designee, to execute the purchase order; approval of a budget appropriation in the amount of \$13,600 from the General Fund Unallocated Fund Balance to the Fleet Replacement Fund to complete the build-out of the vehicles; and approval to adjust the Garage Interfund charges to reflect the changes
10. City Council: Approval of a purchase order in an amount not to exceed \$114,750 to Brown Motor Works of Pomona for five fully equipped BMW motorcycles for the Police Department; approval to adjust the Garage Interfund charges to the Police Department for the changes to its vehicle list; and authorization for the Financial Services Director, or designee, to execute the purchase order
11. City Council: Approval of a purchase order in the amount of \$132,501 to San Diego Gas & Electric Company for the relocation of utilities related to the College Boulevard and Buena Vista Creek project located along College Boulevard between Plaza Drive and Lake Boulevard, and authorization for the Financial Services Director, or designee, to execute the purchase order
12. City Council: Approval of a three-year professional services agreement [**Document No. 06-D0589-1**] with American Capital Enterprises, Inc., of Temecula, in an amount equal to 28 percent of collections received, to perform revenue collection services for the Financial Services Department, and authorization for the City Manager to execute the agreement

13. City Council: Approval of a two-year professional services agreement [**Document No. 06-D0590-1**] with Geopacifica, Inc., of Oceanside in the amount of \$120,000 annually for geotechnical review and plan check services for the Development Engineering Division, and authorization for the City Manager to execute the agreement
14. City Council: Approval of a one-year professional services agreement [**Document No. 06-D0591-1**] with Maryam Babaki of Del Mar in the amount of \$145,600 for project management services for the Public Works Department, and authorization for the City Manager to execute the agreement
15. City Council: Approval of a one-year professional services agreement [**Document No. 06-D0592-1**] with RBF Consulting, Inc., of Irvine in the amount of \$148,000 for project management services for the Public Works Department, and authorization for the City Manager to execute the agreement
16. **Removed from consent calendar for discussion**
17. City Council: Adoption of **Resolution No. 06-R0594-1**, "...approving the application for grant funds from the Recreational Trails Program for the extension of the San Luis Rey River Trail," authorizing application for competitive grant funds in the amount of \$420,000 from the State of California Recreational Trails Program
18. **Removed from the consent calendar for discussion**
19. City Council: Authorization for the advance hiring of one Building Inspector I in FY 2006-07 to be funded through a transfer of funds within the Building Division

DEPUTY MAYOR MACKIN moved approval of the balance of the Consent Calendar [excepting Items 16 and 18]. **COUNCILMEMBER CHAVEZ** seconded the motion, which was **approved 5-0**.

16. **City Council: Adoption of Resolution No. 06-R0583-1, "...authorizing acceptance of California Department of Conservation grant funds," authorizing the acceptance of \$46,981 in grant funds for use in recycling, education, and litter-reduction activities, and approval to budget these funds to the Public Works Department's Beverage Container Grant Program**

DEPUTY MAYOR MACKIN requested a brief report on this item.

ESTER BEATTY, Senior Management Analyst, works with the solid waste program and the City's franchise agreement and recycling programs. Every year they apply for this grant, and this money will go directly towards the recycling education and litter reduction programs. These programs are all part of the City's solid waste plan and are required by the State through AB 939, which calls for a cutback of 50% of the material disposed of in the landfills. A key component of this program is education, reaching the school-age children. She reviewed the poster contest/Earth Day program.

DEPUTY MAYOR MACKIN moved approval [of Item 16], and **COUNCILMEMBER CHAVEZ** seconded the motion. Motion was **approved 5-0**.

18. **City Council: Adoption of Resolution No. 06-R0595-1, "...approving an amendment to the General Plan (GPA-7-05) and the Rancho Del Oro Specific Plan (S-1-84) on certain real property located west of College Boulevard and north of Old Grove Road within the Rancho Del Oro Master Plan Area (GPA-7-05) (Applicant: RPRN Land Company LLC)," to change the land use designation from Office/Professional to Residential on a 28.2-acre site located in the Rancho Del Oro Master Plan area, and adopting the Mitigated Negative Declaration related to the project – Applicant: RPRN Land Co., LLC (approved 8/9/06, 3-2 vote, Chavez and Sanchez – No)**

Request to speak: **JIMMY KNOTT**, 124 Sherri Lane, strongly objects to this action, based on finances, believing it is an error to proceed. Since there is no plan to replace the land for this professional office, tax-generating enterprise land, the future economics of Oceanside is at risk. He would like to know what services are planned to be cut, because the City has whittled away land time after time. The only other options are to increase fees or taxes. Otherwise, they should keep to the plan. Residential is not meant for this location; it is not good for this City. He asked them to think first about Oceanside and not greedy developers.

COUNCILMEMBER SANCHEZ concurred and would vote against this item.

MAYOR WOOD moved for approval [of Item 18]. **COUNCILMEMBER FELLER** seconded the motion. Motion was **approved 3-2**, Councilmembers Sanchez and Chavez voting no.

GENERAL ITEMS -- None

MAYOR AND/OR COUNCILMEMBER ITEMS -- None

CITY COUNCIL REPORTS

22. **Mayor Jim Wood** -- He commented on the busy weekend and the celebrations (the Oceanside High School Centennial celebration, the Harbor Days weekend, etc.) and thanked all the volunteers who made it possible. He then addressed upcoming events: September 23 is the SUN 2006 project in the Libby Lake Community Center area; September 24 is the Family Health Fair at the Crown Heights Resource Center; September 30 is the 6th annual St. Mary's Star of the Sea Luau. There was a ribbon cutting for the OCNA neighborhood association redo of the pocket park at Division Street and I-5.

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.

20. **City Council: Consideration of an appeal of Planning Commission denial of Tentative Map (T-3-04), Development Plans (D-12-04, D-13-04, D-14-04), Conditional Use Permits (C-17-04, C-18-04, C-19-04, C-20-04) and Variance (V-6-04) for a mixed-use development consisting of 106 residential condominiums and 13,684 square feet of commercial uses and a public transit center on a 9.8-acre site located at the southeast corner of North River Road and Vandergrift Boulevard, north of the San Luis Rey River; project site is zoned CN (Neighborhood Commercial) and is situated within the North Valley Neighborhood – North River Village Mixed-Use Development and San Luis Rey Transit Center – Applicants/Appellants: North County Transit District (NCTD) and Loranda Corporation**

MAYOR WOOD opened the public hearing. Regarding disclosure of Councilmember and constituent contacts and correspondence, all Councilmembers reported their contacts. **CITY CLERK WAYNE** reported on the following correspondence, which all Councilmembers have copies of: emails in favor from Mike Mellano Sr., Jackie Camp, Phillip Provencio, and Rob Carley; letters in favor from: Gatlin Development Co. and Dianne Marie Portal, who was in favor of the transit; letters in opposition from: Richard Forton and Tom Duprey.

JERRY HITTLEMAN, Acting City Planner, stated the proposed project consists of 106 residential condominiums; 26 commercial condominiums, which will be mixed with the residential at 13,684 square feet; a bus transit center; a mixed-use development plan; a conditional use permit; and a variance for wall height over 6 feet.

[Deputy Mayor Mackin left the dais at 6:03 PM.]

He displayed and reviewed the location of the site [using computer slides]. The project site is zoned commercial neighborhood, and because of the mixed-use plan, they are allowed to do the bus transit center, commercial and residential uses on this site. Just to the west are some RM-B zoning [allowing 10-15 dwelling units per acre (du/ac)], commercial, restaurants, commercial uses catty-corner from the site, and various apartment/condominium projects in the RM-C zone [allowing 15-20 du/ac]. For the proposed project site, under the mixed-use development plan, it allows up to 29 du/ac. The 106 units on the site come out to 10.8 du/ac, which is about 1/3 less than what is allowed on the site.

He next displayed the site plan showing the bus transit center in the northern part of the project. The buses will enter off North River Road and exit to a new signal on North River Road to head west. There is a right-in, right-out entry off North River Road that brings people into the project. The buildings along the main road will be commercial on the ground floor and residential above [the mixed-use component]. In the southern portion of the site is the remainder of the condominium units.

[Deputy Mayor Mackin returned to the dais at 6:05 PM.]

There is a recreation center and pool and an entry plaza at the intersection of North River Road/Vandergrift Boulevard. There is a 175-foot buffer from the river, 100 feet of which will be reseeded with Coastal Sage Scrub in accordance with the City's sub area plan.

He then displayed a view of the mixed-use building, which is adjacent to the bus transit center. It has small commercial/retail on the ground floor, with parking upfront, and then residential units above. He displayed the view from the transit center looking at the mixed-use buildings. There is a lot of articulation on the architecture to make these buildings look really good. There was a noise study done. These residential units will have windows and air-conditioning and heating units. In case they do not want to hear the buses or smell any pollutants that come from the transit area, they can keep those windows closed. They do have windows on other sides of the residential as well. Staff has studies to show that this is a safe condition for those units.

The stand-alone mixed-use building was displayed with small retail on the ground and residential above. It is 3 stories.

He also displayed just the residential building itself, which has an entry on the ground floor and 2 stories of residential above; these are townhomes. There will be 106 residential units total.

He displayed more detail of the bus transit center and the circulation pattern, pointing out the various parking bays around the facilities. The buses can circle the facility. There will be a ticketing facility, various shelters for use, and a restroom facility. The applicant is proposing to provide 24-hour security at this facility to make sure it is safe. Staff feels it is a well designed facility. He displayed the ticketing booth and restroom facilities, which have nice rock features, stucco and a tile roof.

The Planning Commission reviewed this item and denied it by a 6-1 vote at their May meeting. Their issues were that there should be a potential for park-and-ride facilities for bus users; the pedestrian pathways connecting the commercial with the bus facility needed to be improved; perhaps there should be security gates for the residential portion of the project; they had concerns about some of the wall designs; they had concerns about the residential/commercial mix, the residential density and building design; and they had concerns regarding impacts to the San Luis Rey River.

Regarding the park-and-ride item, there was a study by SANDAG and more recently by NCTD that showed there might be a small need. The applicants, under a revision, will provide an area for a park-and-ride adjacent to the bus facility. For the Commission's issue

regarding pedestrian pathways, the applicant will show a plan with more enhanced pathways from the mixed-use and residential portion of the site to the bus island, with some raised speed bumps to help with pedestrian safety, and better linkages between uses, and improved pathways and safety. Therefore, the applicant is trying to address those Planning Commission issues.

The applicant is planning to add security gates at the entrance to the residential portion of the project and an additional proposed security gate. Regarding the Commission's wall design issue, he noted that a wall is required by the wildlife agencies and will go about 300 feet down North River Road. An agreement was reached with the Fire Department to allow some nice landscaping along that wall and some stucco treatment for looks, which will help protect the environment as well. There is also a wall that will be both a river buffer and a fire buffer, and the wall will receive a nice stucco treatment as well (which was not clear at the Commission meeting).

The Commission was concerned about the residential/commercial mix. With the commercial and bus transit center, they are looking at 22% of the site being commercial, with the remainder residential. Under the City's current guidelines, there are no regulations, but staff feels this is one of the better mixes they have seen on commercial/residential developments. Staff is working to improve the City policy to get a greater percentage of commercial vs. residential uses within these mixed-use developments.

Regarding the Commission's issue about residential density, he reviewed the densities of surrounding projects: to the west are the Valley View Apartments at 21.7 du/ac (and the proposed project has 10.8 du/ac); to the north is the Stonemark project at 17.7 du/ac; next to that is the La Costa Villas project at 17.7 du/ac and the Riverview project at 14.1 du/ac. So the proposed project is one of the lower densities in the immediate vicinity, and it is in conformance with other multi-family projects in the area.

Regarding the Commission's concern about building design, staff believes they have good articulation in the building, and they are able to work with the developer to enhance the entryways and do some enhanced landscaping to further depict entryways.

Addressing the Commission's concern about the impacts to the San Luis Rey River, he stated that this project is adjacent to the river. However, between the river and the project there will be a 100-foot natural buffer planted with coastal sage scrub, which will also include a pedestrian pathway that will double as an access road for the Water Utilities Department to get to their sewer and water lines in that area. This is in conformance with the City's draft subarea plan. Then there will be a 6-foot wall and additional plantings on the project site itself, which will be about 75-100 feet, that will not only protect the river habitat but also the residents from any fires in the river or surrounding areas. He recalled a fire in the river area a couple of years ago.

In conclusion, staff believes the applicant has worked hard to address all the Planning Commission and staff concerns. It is a well designed project and conforms to the surrounding area in terms of density and product type. There is a good buffer between the project and the river. Therefore, staff recommends approval of the tentative map, development plans, conditional use permits and variance.

Applicant

CHRIS OLDHOUM, with Loranda Corp., hoped for Council support and stated they have worked very hard over the last 4 years in conjunction with NCTD to address all the concerns of staff, the community and regional leaders. They believe the project is a superior design and will have a positive effect on the community.

LOU LIGHTFOOT, registered lobbyist and President of the Lightfoot Planning Group, is representing North River Village, which is a joint venture between NCTD and the Loranda Corp. Karen King with NCTD is also present to answer any questions.

This evening is the culmination of 4 years worth of effort to provide a new facility for the San Luis Rey bus transfer station; the existing facility is at the Town Center North Shopping Center. That center is congested and unsafe and has very little facilities for the bus riders. In 2002, NCTD established a 13-member, multi-agency task force, which included members from the City, SANDAG, Camp Pendleton, the Oceanside School District (OUSD), and NCTD to try to find a replacement facility. They looked at 15 sites throughout the San Luis Rey River area and identified 4 finalists. These were in-fill sites that were all grouped around the College Boulevard bridge, where all the bus lines come together to cross the river, and were located in a neighborhood that has the highest per capita bus ridership in North County. This task force held a public workshop, and community members in attendance favored site No. 4. They then went to the City's Transportation Commission, who also endorsed site No. 4. The Task Force ultimately unanimously recommended site No. 4 as the preferred site for the project.

Out of the 4 sites, this site had the best chance of meeting all the project objectives: a safe, secure facility to provide amenities for the bus riders and a strong pedestrian orientation since with the high bus ridership in this neighborhood, they are expecting a lot of walk-ins to this facility. They wanted a mixed-use environment, and this was the only site large enough to accommodate that. This site offered a potentially controlled, safe access for the buses with the new traffic signal, and it was large enough to meet NCTD's need all the way through 2030.

Loranda was approached by both the City and NCTD and asked if they would cooperate and work with NCTD in providing this facility. They had already done a project design that had staff input for 160 units and about 30,000 square feet of retail. The project was close to being ready to submit to the City, and they were convinced that they should work with NCTD. Loranda was told that the transit facility could become part of the mixed-use project and could count against the non-residential component of the mixed-use project, so they agreed to proceed and put together a project that would meet community needs as well as their financial needs.

He displayed the site plan, stating 2 major issues drove this design: access and compatibility with the river and conformance with the City's sub area habitat plan. There was a study done to determine where the traffic signal should be, which showed it should be placed as far away from the intersection as possible. In order to be compatible with the river and to provide security and visibility from the street, it was determined that the facility should line up along North River Road.

He reviewed the 3rd generation site plan and how the plan had changed from what was originally planned due to concerns of habitat, etc. With the setback from the river of 170 feet, they gained approval from the environmental community and Fish and Wildlife Service. They redesigned the entire plan to meet all concerns, which caused the developer to lose 27 units. With NCTD's involvement, they lost more units. So, from a 160-unit project, it is now a 106-unit project, which meets all the site design constraints.

As staff pointed out, this plan is in complete conformance with the City's zoning requirements and the sub area plan. In order to further reduce impacts to the river, they have a retaining wall that has a screening wall on top. The screening wall is necessary as a noise buffer; the retaining wall is necessary to not encroach into the habitat and flood plain. That is one of the variances. The other wall variance is needed in order to control drainage to get the water off the property safely and into the San Luis Rey River. They are also required to provide an 8-foot wall between this project and the property to the south that is zoned commercial. Both walls are justified because of site conditions and zoning requirements.

The mixed-use project has 3 uses: residential, commercial, and a public transit component, with 22% being non-residential. They are providing a lot of public improvements, including another lane and full improvements on this leg of North River Road to a full 4 lanes with a raised median with dual left turn lanes. A right-turn lane will be added, and they will extend the public sidewalk offsite to the bridge for a safe travel

path, plus providing the public trail along the river. There will be ADA access from all streets into the facility and through the bus transit facility. They will add the new traffic signal at the bus exit, and \$42,500 in mitigation fees to provide upgrades to the traffic signal hardware for 5 intersections on College Boulevard between the bridge and Highway 76.

The residential area consists of 106, 3-story townhomes ranging from 1,082 square feet to 1,365 square feet. All are corner units. Only 2 garages face the driveways, instead of 4 like a conventional townhome, so they look more like duplexes. There is almost double the amount of open space required and 28 more parking spaces than required.

The village area consists of 13,684 square feet of retail area with residential on top in 4 buildings. Again, all uses are fully parked with 28 more parking spaces than required.

He stated that Mr. Hittleman has already reviewed the traffic pattern and architecture. NCTD also stepped up and hired an architect to design their building, which has security, ticketing and restrooms. Their other building has more restrooms and shade structures, as well as more shade structures on the island itself with the same stone work and tile roofs. It all comes together in an attractive addition to the community.

They have tried to respond to the issues raised at the Planning Commission. One question had been why it cannot stay in its current location. They asked that question to the Gatlin Company, which owns the shopping center where it currently is. Gatlin wrote Council a letter explained their position, which is that Town Center North does not have room to accommodate an expanded facility and dedicate the 2 acres to meet those future needs.

On the density issue, the section from the City's Zoning Ordinance dealing with mixed-use regulations clearly says any permitted or conditional use authorized by this ordinance may be included in the mixed-use plan, which would include the transit facility. It further says that the density is not to exceed 29 du/ac for the total area of parcels designated for mixed use. So they calculated it per the City's requirement, and it comes out to 10.8 du/ac. They did a lot of work on mixed-use, transit-oriented development (TOD) projects, and they found a publication called *Hidden in Plain Sight*, which was done by the Center for Transit Oriented Development out of Oakland, in a joint venture. They did a nationwide study of 3,391 transit sites and found that by 2025 100% more people will want to live within walking distance of a transit facility. They recommended that, to meet those demands, the appropriate density for a suburban neighborhood that includes the types of uses in this project, should have greater than 12 du/ac, which is the minimum. This proposed project is at 10.8 du/ac, so it is slightly below the minimum density listed in the publication.

As noted by Mr. Hittleman, all the surrounding densities are higher than the density proposed by this project.

The design enhancements discussed at the Planning Commission have all been reviewed to see if they can make them work in the project, and at this time they are willing to agree to all of those issues discussed by the Planning Commission:

- a. the park-and-ride – NCTD hired a consultant to do a demand study that indicated there was absolutely zero demand for a park-and-ride at the existing facility; 69% of those using that facility are already on a bus, since it is a bus transfer facility. NCTD did their own survey and found 2 park-and-ride people, with 86% of people already on a bus. So the consultant did a minimum/maximum-type demand analysis using the SANDAG study, and they found that the minimum demand is zero, but the maximum demand by 2030 could be 4 spaces. So to accommodate that, they were able to find a space in the project to put 8 parking spaces, which is double the demand identified by the survey. They did it without losing any other parking spaces, so these are 8 additional spaces for the park-and-ride.

- b. gated entries – There are 2 entry points into the residential portion of the project. All the surrounding condominium projects are gated, and they can provide swing gates with a call box on the island, and a sliding gate in the other location to open for exit only.
- c. realigned and widened entry to the bus island dealing with the pedestrian access point – They were able to realign that area so that it aligns with the plaza, and they doubled the width of it so that it will be a more inviting entrance.
- d. the traffic calming crosswalks within the village – They are looking at doing those in 2 locations, one at each end of the village. This is similar to South Cedros in Solana Beach where the crosswalks are on top of speed humps. It will slow down the traffic.
- e. enhanced paving in the private parking courtyard – They are looking at those throughout the residential portion of the project. They had planned for asphalt, but the criticism was that it was too much asphalt. So they can put some scored concrete in these areas. However, these are only utilized by 2 people for their garage entries, so they hope it will make it a more inviting walking area, etc.
- f. enhanced wall design to match the project architecture – There are actually 2 wall segments. The first runs along the residential portion of the property and is a fire buffer wall. They cannot plant anything on that, but they can make it look much more attractive and match the Mediterranean architecture with some insets, pilasters, a nice cap, and painting to match the colors of the buildings.
- g. the second wall has the planting on the off-site noise wall – That wall is located along the trail and off-site for almost 325 feet along North River Road. They wall was required by the environmental agencies as a noise buffer between the transit facility and the street for the wildlife that lives in the river. They can make that wall look a lot more attractive and deter graffiti by planting the street side, subject to the City Fire Marshal's approval.
- h. enhanced ground floor entry architecture – As Mr. Hittleman had pointed out, they can work with staff to enhance the corners and entryway on this.
- i. 24-hour on-site security – They have worked on an agreement to provide 24-hour security by NCTD during operating hours and by the master homeowners association during the evening hours.

They have continued to work with the neighborhood. The opposition submitted a petition with names, and they plotted the addresses of those 117 out of 134 with addresses. They continued to work with the neighborhood and also asked for a petition signing. They got 238 signatures and plotted 107 of them with addresses. The support is Citywide from people riding buses, with a big cluster of them in the existing neighborhood. They feel they have good neighborhood support at this time.

Public Input

DAVE DRUKER, Del Mar City Councilmember and a Board Member of NCTD, stated he has served on both for the last 10½ years, and this is the first time he has appeared before another City or agency asking for approval of a project. He reviewed that about 4 years ago the NCTD Board asked staff to come up with a new transfer station in the northeast portion of Oceanside and to figure out where that should be located. They picked this site. It turned out that there was a developer who was going to create a residential project there, and City staff asked NCTD to work with them to create a transit center there. The Board was very skeptical and worried that they would have to come to the Council asking for permission to create this site. They were told by the representatives from Oceanside on NCTD that this would be approved. So they skeptically agreed to go forward with Loranda on this site.

A couple of years into the project it turned out they needed to spend more money for the environmental. Again, the Board was very skeptical on whether to continue on. However, they felt this was a good project, and they needed a transit center there, so they proceeded. To date, NCTD has spent about \$300,000 on the environmental study. They will build a transit center there. If NCTD has to build it, then they will have to spend another \$100,000+ for another environmental study, because the mixed-use study does not work for the transit center. It is totally different. They do not want to waste this type of money. He asked that Council seriously consider not wasting more money for NCTD and approve this project.

JEENI CRISCENZO, 519 South Ditmar Street, Democratic candidate for Congress, is a big champion of public transportation. She thought this project was great until she looked at it further. She would like to see a new transit center there. She takes the bus, and the current transit center leaves a lot to be desired. She recommended separating this from the condominium project, buy the property, build the transit center, and look at the condominium project as a separate project.

CARL SOUZA, 3621 Vista Campana, stated he walked this area yesterday and referenced the bend in North River Road where this project will have its access. The speed limit is never enforced. He reviewed the access from the project. He does not want to see any more traffic accidents in that area, but this is asking for suicide with people coming down that road. They cannot see the stoplights. Another problem area is coming off Stallion and heading to North River Road. He will be stopping at this new stop signal, and he will go a few feet and stop at the next stop light, etc. They are creating a massive bottleneck with these buses going in and out. This is an extremely poorly planned entrance and egress, and someone will get hurt.

ED LOCHMOELLER, 3656 Kieffer Street, has not driven a car for 7 years because he is visually inconvenienced. He had to walk 2 blocks to get on a bus, and he found out that bus connected him with downtown and Walmart, which was fine. Other buses ended up at Walmart, which looks like a bus stop. It does not look anything like a transit center, which is confusing to people. Being visually impaired, he has to ask people. However, when he goes to the transit center, he can find where he gets on the bus and know which one to get on and not have to ask anyone. It is important to have a transit center here. He is pleading with Council to vote for the transit center. It should be a hub and can be. People are afraid to ride the bus, and the easier it is made for them the better.

BARRY S. REDER, 836 Grove View Road, asked why they want to move this transit station at all. The current location is at the intersection of 2 main arteries: Highway 76 and College Boulevard. Walmart and the entire Gatlin center will benefit by the increased foot traffic that an enhanced transit center will bring. However, Gatlin and Walmart cannot and do not wish to lose parking spaces due to contractual obligations. To solve this, NCTD could take the cost of the North River Road land purchase, environmental studies, etc. and apply it to a 3-story parking structure that would yield a net increase in parking spaces. All 3 entities would benefit by this arrangement, and all 3 should share in the cost of the structure. The best thing for the community of North River Road is jobs. The current zoning is commercial, and retail will yield jobs. They were told by the developer and their representative that the Gatlin company ordered NCTD to move, which never happened. He asked that Council not turn their gateway to agriculture into the armpit of Oceanside and for them to refer this project back to the Planning Commission.

BRENDA SOUZA, 3621 Vista Campana, does not live in this area, but they do have a church in the area. All who have been in this area understand there is no park-and-ride, and the parking they have will not help park-and-ride. There are too many houses, congestion and apartments in this area, as well as too much parking that people do not just walk or get dropped off as indicated at the hearings. At their hearings vehicles were going by at 50-60 MPH, and they said it was not their problem, but it is because it is North River Road. This is a much too-cramped area with apartments, buses, businesses, etc. There are many cars parked (by Denny's) where people get on the buses, so they need a

park-and-ride. They know what is best for Oceanside, not NCTD. This is the wrong project for this small location.

DORIS SCHAFFER, 6199 Indian View Drive., has no objection to a well-designed transit center. The objection is to this mixed-use project. She touched on major issues raised by the public at the Planning Commission meeting: distortion of the mixed-use concept to achieve a zone change from commercial to residential, insufficient commercial space, distortion of residential density of 10.8 du/ac that was computed on the entire parcel, noise mitigation, traffic circulation, air quality, environmental impact issues, adequacy of sewer lines, storm water treatment requirements, parking for residential, park-and-ride, security, aesthetics, etc. The City cannot ignore these issues.

JOE DIAZ, 4788 Calle Estrella, believes this is a wonderful project and will improve his neighborhood once developed. Once this site is developed, residents will take more pride in their neighborhood. It will cut down on the negativity that the neighborhood receives. Some portions are rundown, and if something happens in this area, it may spread to the other side and really get rid of the gang activity, the hanging out, the drive-by shootings, etc. This will do a lot for the neighborhood. He understands there were meetings at the Libby Lake Center, but he did not hear about it to get more input from the residents.

ROBERT SCHAFFER, 6199 Indian View Drive, addressed the process itself. During his 12 years on the Planning Commission, he came to realize that that Oceanside was the laughing stock of some of the development community. It was a place where the developer could build high-density, fast buck projects and bail themselves out. That is what he feels the residential component of this project is. Council received a copy of a petition submitted to the Planning Commission and signed by 134 citizens concerned with the quality of the project. The petition addressed important and relevant issues to improve the quality of the project. The property is zoned commercial and should stay that way unless/until converted to another use through the proper rezoning process, and not through the distortion of mixed-use and smart growth concepts.

LILLIAN ATCHLEY, 4872 Cardiff Bay Drive, stated a dangerous situation will be made worse by this project. There is a shortcut between Douglas Drive and Vandegriff that arrives directly at the project. Young children play and live on the narrow streets of Claire, Roja and Redondo. This route goes by Pacifica Elementary School. She proposed a traffic safety study be conducted before this project moves forward.

KAREN COBURN, 777 Aldea Drive, would not like the lot left in this shape for another 5 years. Right now there are sex, drugs, gangs, grocery carts, and many other horrible things in that neighborhood. This project is trying to take care of all issues. It gives places for people to live; it adds a small number of streets; and it will also bring the transit system to the neighborhood with the highest density of riders. If this project goes forward, it will finally enhance that corner, which, will hopefully enhance the 2 shopping centers across the way. She truly votes for this.

HARRIS SCHURMEIER, 6552 Indian Hill Way, discussed examples of inadequate planning, such as where the detailed analysis of the sewer system concludes that, although portions of the City's existing system are almost at capacity, the proposed project will only increase it by a minimal amount. However, the project contribution to the sewer load is based on the assumption of 2.6 persons per 3-bedroom condominium. However, a \$400,000-priced condominium in this neighborhood will be occupied by more than 2.6 persons. Using this unrealistically low assumption, the sewer ratepayers will foot the bill for the improvements necessary to the sewer system. The other example is the stormwater system, where the proposed complex system is to be maintained by the homeowners, which is also unrealistic.

PAUL DUNNE, Oceanside resident, lives in the Stonemark project across from this proposed project, and his only concern is when people come around the bend. They have over 100 people in their community. He comes in and out of their back gate and has to

turn out onto North River Road, which is definitely a safety hazard due to the traffic speed. If a slow-moving bus comes out there, that may need to be reconsidered. Also, there is a new association that has not sold yet with another 23 families in that area. He is concerned because he is close to that road. The road noise travels up, and pollutants will be blowing that way. His long-term concern is for the safety of the homeowners living there regarding air pollution, as well as factoring in all the traffic.

JIMMY KNOTT, 124 Sheri Lane, stated there is no question it can be built at the Walmart. It can be improved on that lot. They have to examine the questions of quality of life and City safeguards. They also need to examine sufficiently that this area is the last of their agricultural lands. Those lands are set aside just in case of national or local disaster. Staff is being questioned about the sewer capacities, etc. SANDAG is being questioned about this. He pointed out the sacred area in Morro Hills, a land of refuge where the Indians went to. This is the area they want to develop. This is not the best location. The best location is Guajome.

KAREN GREEN, 1537 Camino Corto, is an environmental consultant professionally and has concerns with the adequacy of the mitigated negative declaration. There are several things that are not adequately mitigated, i.e. a ventilation system to keep the windows closed vs. a non-opening window. Other issues are odors, the geotechnical disclosure that the on-site soils have been saturated and have a potential for liquefaction and/or settlement during an earthquake. She wrote a letter on May 22 and submitted it to the Planning Commission. She will submit a copy for the record.

ALANE HAYNES, 227 Cottingham Court, stated that public transit is a benefit to the community. A large number of people in every community are low-income, disabled and elderly. These are the people who use public transit. These are the people who may find it difficult to make their voices heard. Their tax dollar should be spent to ensure that those with limited means have equal access to the things that everyone takes for granted, i.e. trips to the store, doctor, work, church, etc. Not everyone can afford cars. She asked if they have become so elitist and high minded that they think only the wealthy have value. It is the just thing to do to build a City where there are opportunities for those with limited means. The existing transit center is difficult to get in and out of; it is confusing to riders and cannot be expanded. The community where the transit center is proposed is in favor of it and needs it. This project will beautify and add value to this section of Oceanside. The project meets all the planning requirements. She questioned whether they are creating a government where they do not follow their own rules but instead are lead by the loudest, most influential voice. Those in public office are to serve all.

MARGARET MALIK, 1611 Hackamore Street, asked who would pay for the upkeep of the buffer and coastal sage area and road access. She spoke with NCTD, and their idea of 24-hour security is cameras. She thought part of the contract with Walmart was that the transit center had to be there. She asked who would keep the transients out. She came from New York where everyone took the bus and wanted to be in walking distance, but many people drive now and need a park-and-ride. This project is partially responsible for traffic. She is really concerned about the security. She asked Council to send this back to the Planning Commission.

KEN HOLLISTER, 4529 Morro Bay, stated they would all like to see something happen to this lot and would like to see a quality project. He believes the zoning should stay commercial. There is a huge amount of homes in this area, and the commercial is almost nonexistent except for the run-down shopping center. There is a little lot adjacent to this project between the College bridge and this development, which would be ideal to increase the size of the transit center. If this project is built, it would isolate this small parcel. He would prefer a state-of-the art transit center, so 20 years from now it is a good thing.

JACK GRIFFITHS, 6412 Lago Grande Drive, noted that the traffic is at the living level in those houses, and the noise will go straight across without any attenuation. Also, with a transit center, there will be starting and stopping of buses and diesel or clean

engines, which is louder than when running. There is also a greater amount of exhaust. With space for a bus stop, that would be all right. With gates installed, it keeps out transients. Transients will end up there with a transit stop, where they will get off and go into the river area. This project is just to get apartments here.

BRIAN SULLIVAN, with the Oceanside Unified School District (OUSD), stated the OUSD was a part of the original studies in trying to locate an area for this transit center development. It is very much in favor of the location selected and supports it. This transit center will serve a number of students in this location. OUSD has well over 1,700 students at the secondary level who live north of the river in this area, and many rely on public transportation to go to and from school. The secondary level transportation was removed several years ago because of budget cuts. Even with the inclusion of Chavez Middle School coming online soon, they will still have a significant number of students who will have to rely on this public transportation, especially the high school students. The ability to have these students go to a safe, sheltered, and centralized destination is very important to OUSD. Many students leave for school while it is very dark, and he stressed that OUSD is very much in support of this transit center.

JAN GARDNER, 989 Glendora Drive, has several concerns about this project. Crime in the area is one. Regarding the environmental checklist, section 1, page 3, states that upgrades would be available for up to 32 units to add a 4th bedroom, which would add to the density. Also on the same page it states that the primary vehicular access would be from North River Road via a right-in/right-out access, which will put traffic in a northerly direction. To go south would be a problem. It is not a safe exit. Also on page 17, it says there is no impact on recreation, but it will impact recreation facilities in the area. There will be at least 6-12 buses every hour in and out of this center. The report says a total of 243 buses per weekday, 202 buses on Saturdays, and 132 buses on Sundays. Residents could not open their windows, and traffic is extremely heavy in the area. They need quality projects.

PATRICIA BULLOCK, retired respiratory therapist, 1515 Sleeping Indian Road, stated air quality is a concern to her, as is air pollution. The risk is to those people most susceptible such as the children and the elderly, as well as to the crops. This high traffic, high pollutant bus transit center is within the wind drift area to the Del Rios School, residential and Recreation Park. She asked Council to look at the particulate matter and chemicals coming from the buses and its effect. The number of bus trips is a tremendous increase regarding traffic issues. Closed windows are also a problem. She asked them to reassess this project and send it back to the Planning Commission.

JERRY McLEOD, 1517 Del Mar Road, stated one comment tonight was about the sewer capacity. There will be a couple of magnet high schools planned for SR 76 and Melrose, and if there is a capacity problem, they need to know that now. The Walmart area transit center causes a headache getting into that center now. Someone mentioned eminent domain to get 2-3 acres, but he could imagine what that would do. He knows public transit is important, but he is not sure about this project.

RON TAYLOR, 1535 Sleeping Indian Road, noted they have several apartment complexes in the City. He is addressing the parking issues, how many people they put into residences, and the number of people who drive. The study said 2.7 people, but they can legally get 10 people in each unit. The parking spaces are insufficient. He further reviewed the parking issue, along with the units without sound protection. He questioned the number of employees who will come to the site to work and where they will park. This does need a park-and-ride. More jobs are needed, and this should be a commercial use.

PETE PENSEYRES, 6535 Indian Trail Way, speaking for Gerald Church, President of the South Morro Hills Association, read his letter, which expressed their concerns, including mitigation of noise, the dead-ending of the multi-use trail, no parking at the bus transfer station, and overcrowding of condominiums 3-stories tall with no accommodation for the handicapped. They are not opposed to the bus transfer station, providing there is provision for sufficient parking and commercial space and that the environmental issues are

adequately addressed. The letter concluded by asking Council to deny the appeal and send the project back through the planning process.

[Recess was held from 7:46 pm to 7:58 pm.]

Applicant Rebuttal

MR. LIGHTFOOT asked the City Clerk to enter their petitions into the public record. People signed it who live in the neighborhood and use the bus. He responded to issues raised as follows:

Pollution: Buses decrease pollution; transit overall decreases pollution by getting people out of their cars and into buses. 70% of the NCTD fleet is compressed of natural gas, not diesel, and they are quieter. NCTD is under a mandate to convert their entire fleet over time. Therefore, there are reduced emissions, etc.

He views his job as implementing the City's General Plan and zoning regulations. He does not get to make up the rules; he must comply with them. Council makes up the rules, and everyone has to comply with them. He cannot calculate density to benefit himself or his projects; he has to calculate it according to the rules. He and the developers must comply with the parking and open space regulations. The City's General Plan allows mixed use in commercial zones, which was a change Council made in 2002 to encourage passed-over, marginal commercial sites like this one to develop and enhance the community, which this project does. This mixed use contains 3 uses, which is unique in that it incorporates a major public component. So it is in total conformance with the zoning and what mixed-use was envisioned to be when it was added to the Zoning Ordinance.

Several suggestions tonight were to bifurcate the project to deal with the transit center and residential. That would be difficult to do since this is a totally integrated project. The transit center depends upon the driveways/access and public improvements of the mixed-use project. There is an integrated environmental document as well.

Security: In response to the neighborhood concerns, Loranda and NCTD have agreed to an arrangement whereby there will be 24-hour on-site security personnel plus the cameras. NCTD will still pay for the person during the operating hours, but then the master homeowners association (HOA), of which NCTD is a member, will contract with the same agency to provide the security during the night hours when the transit center is not operating.

Maintenance: This will be handled by the HOA, which is the way the City deals with it on all projects. There are provisions in the CC&R's which do not allow the HOA to relinquish that responsibility, and they also give the City the ability to enforce it. It is handled like that all over the City. The HOA is responsible for the buffer, the landscaping, walls, and even the off-site wall and the median, etc.

The trail: It is a reinforced DG trail which will support the weight of the City maintenance trucks, and the surface will be acceptable for walking, bicycling, etc. The trail is not being proposed to go all the way to the College bridge and connect. However, on a recent Council agenda, the City received a grant to extend the trail from the College bridge to North Santa Fe Avenue, so that missing link will not be there long.

Employee parking: It is provided for NCTD employees in the island area totally independent from the public parking, and it is not accessible to the public.

Parking: The parking in the Walmart center is carpool and vanpool parking, which Walmart makes available with permission. Those people are not getting on the buses, which the survey confirmed.

Sewer study: The study was done in conformance with City criteria and was reviewed and accepted by the Water Utilities Department.

Floodplain: This property is not within the floodplain. It is naturally outside the floodplain, and the river has never encroached onto this property.

The intersection of North River Road and Vandegrift: It will be fully improved on the east/west leg of North River Road to be a full 4 lanes, with dual left-turn lanes, a raised median, and a newly phased upgraded traffic signal. The buses will have their own turn lane to get out of the traffic. There is a huge radius so that the buses can hug the curb, and then they immediately go into the island area.

Speeding: This project cannot control the speeding, but they will put a new, phased traffic signal in where the bus exit is, which lines up with the cul-de-sac bulb on the other side. Therefore, it will be a 4-way intersection. The red portion of the signal will slow down traffic.

The adequacy of the mitigated Negative Declaration (MND): That issue was dealt with the last time this was before Council on whether to do an EIR or not. He submitted many technical reports for review as part of the MND. He did not have the luxury to determine the adequacy. Staff determined the adequacy following a review of all technical reports and in consultation with the Federal Fish and Wildlife agency, State Fish and Game, and Army Corps of Engineers. These agencies all have permit authority over this project and had to sign off on the environmental document before staff would sign off. He has in writing from Federal Fish and Wildlife their opinion that the MND is not only adequate but is the appropriate environmental document for this project.

Again, this project exceeds the parking and open space requirements.

KAREN KING, Executive Director of NCTD, stated this project has been brought through its paces, and she believes they have met or exceeded a standard of care that is normal for this type of project. In 1999 NCTD undertook a study called "Fast Forward" regarding their bus routes. They had not modified their bus routes since they took over the Oceanside bus line in 1976, and they felt it was important to be responsive to the changes that had occurred in the past 25 years, as well as to stage their service for the changes anticipated in the next 25 years. The Board directed them to pursue siting a transit center somewhere in north Oceanside since it is very evident that this area will continue to be a good transit community. They have also picked up a tremendous increase in ridership from students in that area going to school. They believe this is an excellent project. NCTD was excited to join with Loranda because siting a transit center needs to be done in a people-friendly environment and within walking distance from their homes. This location provides that, and this development supports that use. They have tried to make this the best project it can be. She urged Council's support so they can move forward with this project.

MAYOR WOOD closed the public hearing.

COUNCILMEMBER SANCHEZ stated that, based on the responses from citizens, it pointed to the fact that this project should have gone through the EIR process. This does not seem ready to be before Council. When Council last discussed this, she thought it was clear that it was denied without prejudice to go back and work out things with the Planning Commission to see what they can salvage from this project. She feels Mr. Lightfoot has a conflict in representing both NCTD and the developer since one is public serving and one is for profit. This needs to go back to the Planning Commission. She has problems with the residential. There should be no carports in this project. Too many strangers are coming into this area, and they need to keep the residents and riders safe. She would like less density, better quality residential, although she is not convinced it should be residential. She does not like the strip mall; there is not enough commercial. The City needs the jobs. Any security plan must be subject to approval by the Police Chief.

This is commercial property and is not required to be changed. The guidelines suggest that, if there is something like a transit center, it can be considered in the density.

However, the true density is 30, which is too high and not compatible with the surrounding neighborhood. It is a degradation of the neighborhood.

Regarding the park-and-ride, 8 new parking spaces do not make sense, and the survey was not scientific at all. There is nothing good about that. She knows about poor people and those with limited means, and this is not looking at what is really happening out there. She was thinking at least 25 spaces. If parking is an issue, she asked why they do not have a parking structure at the Walmart shopping center.

The neighborhood was promised an EIR. Up until December 2005, she was assured by the City Manager and former Planning Director Gilbert that there would be an EIR. Then all of a sudden in January, it flipped to a MND. The EIR is about getting the public involved in the process to hammer out a solution, which happens 9 times out of 10. Hooking this to a high-density residential project was a mistake. There is a lot of support for a transit center somewhere, and an EIR would have looked at alternative places.

They deserve high-quality projects. She **moved** that this go back to the Planning Commission, to come up with the best plan with an efficient bus system that is convenient and frequent for the people's needs. There is no guarantee that bus routes will continue.

DEPUTY MAYOR MACKIN seconded the motion. She feels strongly about public transit and that the children have a safe area to wait. She did accept the MND on this, but that did not mean that corners could be cut all the way around. She has big concerns with the commercial aspect of this project. There is security for the residents, but she asked where the security is for the people who live above the commercial and cannot open their windows. They need a quality project and should not be stepping backwards with that. Also, the amount of commercial is a concern. They clearly do not have rules, but they clearly need rules. She would like to see those rules in place.

MR. HITTLEMAN stated there is an ad hoc committee from the Planning Commission that is addressing that very issue now. Hopefully, they will have that addressed by the end of the year.

DEPUTY MAYOR MACKIN really believes this needs more work.

COUNCILMEMBER CHAVEZ lives in the area and drives by this site a couple of times a day, so he really knows this area. He asked staff to respond regarding this project meeting the standards established by the City and if the project required an EIR.

MR. HITTLEMAN responded that it does. The mixed-use regulations are pretty wide-open right now, and the project does meet those regulations as well as others. There is a variance for wall heights as addressed earlier. Under the California Environmental Quality Act, staff believes it does qualify for a MND, simply for the fact that all significant impacts can be mitigated to below a level of significance. As was pointed out, there is a letter from the wildlife agencies pointing that out. Also, other agencies have weighed in on the project, and it is felt that all issues can be mitigated.

COUNCILMEMBER CHAVEZ was intrigued by a 3-story transit center at Walmart and the cost.

MR. HITTLEMAN responded that the parking structure downtown was 450 spaces at a cost of about \$8,000,000.

COUNCILMEMBER CHAVEZ questioned the density due to comments made.

MR. HITTLEMAN responded that the density, including the total 9.8 acres, is 10.8 du/ac. Without the transit center 2 acres, it is about 13.5 du/ac.

COUNCILMEMBER CHAVEZ reiterated that it is 13.5 du/ac and not 30 as mentioned earlier. So the issue about sewage and volumes are not correct. He questioned

Councilmember Sanchez' comment about a conflict for Mr Lightfoot to represent both NCTD and Loranda.

CITY ATTORNEY MULLEN is not entirely up to speed on conflict rules for private planners, but he is not aware of any statutes that would prohibit such representation.

COUNCILMEMBER CHAVEZ has taken the time to look at all aspects of this project for over 4 years and visited transit centers around the area. He questioned how this rates with a transit center in the NCTD area of responsibility.

KAREN KING responded this transit center would qualify as an A+ transit center. Typically, they build things that are functional but not necessarily attractive. By joining with Loranda in this project, they have actually more restrooms than at most bus-only transit centers. Some of their centers have no restrooms. It is architecturally integrated with the development, so it is attractive in that manner and also has space for growth in the future to accommodate the additional anticipated service for riders in this area. So, from the transit agency's perspective, it would be one of their finest, if not the finest center.

COUNCILMEMBER CHAVEZ questioned how many taxpayer dollars NCTD has spent on this project.

MS. KING believed the amount was approaching \$400,000. She reviewed the Board's reluctant support of investing additional funds in this project because it was not looking very positive that it would be successful.

COUNCILMEMBER CHAVEZ had talked with Mike Mellano, who lives and has flower fields in the area, for his perspective. If anyone is concerned about maintaining the agricultural character, it would be his family. He is in strong support of this project and also sent an email.

This comes down to 2 areas. It is a regional leadership that the City plays. Transit only works when the cities work together in the corridors that all tie together. This is where Oceanside was partnering with NCTD to provide a service to the community. This dais needs to understand they have that regional role to play. Regarding the value of public transit, they heard OUSD talking about the children. He sees the children sitting in the dark along with the seniors waiting for buses, along with the laborers from the agricultural uses. That is why it is a heavily used corridor. They need to meet the needs of these people who are walking to the buses; they are not driving. The opportunity to give them a safe, well lit place under cover with restrooms is an asset to that community.

It is disingenuous to look at who attends the meeting because the people who ride the buses do not have the ability to drive here for a public meeting since they are working. They need to recognize those people.

There is a commercial center across the street and also cattycorner. He questioned if there was anyone interesting in buying those parcels once this project goes forward.

MR. HITTLEMAN responded that he has not heard of any interest.

In response, **MR. LIGHTFOOT** indicated he had a couple of clients already inquiring as to whether there is a possibility to rehabilitate that center in the near future; however, they are waiting to see what happens with this project before they do anything.

COUNCILMEMBER CHAVEZ stated this is a quality project at every level, and it should be supported. It is not just about people with means in the richer communities, but it is also about the people and children who need to walk there.

COUNCILMEMBER FELLER heard a comment that there was no disabled access here and asked for clarification.

MR. HITTLEMAN responded that, just as any project in the City, they would definitely have to meet the Americans with Disability Act (ADA) requirements, including the ramps at the corners. The transit center and retail would need to be fully accessible.

COUNCILMEMBER FELLER questioned the ground stability, and **MR. HITTLEMAN** responded that there was a geotechnical report, and there is bedrock underneath this site. Through mitigation and various techniques, that liquefaction can be reduced or eliminated for the buildings.

Further responding to bike path questions, Mr. Hittleman stated that at the present time the bike path exists and is contemplated for the south side of the river, but the Recreational Trails Element of the City's Circulation Element does require an equestrian, bike and pedestrian path on that north side. This will provide a good start for that.

COUNCILMEMBER FELLER felt a parking structure would be a very expensive endeavor. He asked whether they send buses east on North River Road and whether some will still pass through the Walmart center.

MR. LIGHTFOOT responded that there are no bus routes that go east on North River Road, and none are contemplated in the future. There will still be service to the Walmart center, with a bus stop in the current location. The transfers will not be occurring there anymore. Approximately 3 routes will continue to go through and service the Walmart center.

COUNCILMEMBER FELLER questioned if bus rapid transit was still planned for this location.

MR. LIGHTFOOT responded that it is still in the long-term plan, but there is no funding available and may not be any funding for that. Therefore, at some point in time that will have to be addressed and potentially take it out of the plan.

COUNCILMEMBER FELLER stated that OUSD is in support of this. When he first saw this almost 4 years ago, it was at a considerably higher density. He asked whether they have had discussions with the Police Department on this project and if they were involved.

MR. HITTLEMAN responded that all projects that come through the Planning Department are sent to the Police Department (OPD) for comments if they have any issues. If there is a security plan, they would review that plan prior to the project going into operation. There was a full traffic report that was looked at by the transportation section, but there were no comments from OPD on the traffic.

COUNCILMEMBER FELLER noticed that on the east end of the transit center there was a section of parking. **MR. HITTLEMAN** stated that is strictly parking for the employees of NCTD.

COUNCILMEMBER FELLER reviewed that the transit center at the Carlsbad Mall has no bathrooms. CC&R's can be put in place for the number of people living in these units. He wished all apartment owners would put requirements on the number of people who can live in their units. He reviewed the need for ADA access and for the underserved who really need the bus service. He believes this is a strong, unique project, and he supports it.

COUNCILMEMBER SANCHEZ responded to comments at the dais that were bordering on inappropriate. She rode buses for about 8 years and knows what it is to live and depend on an efficient transit system. Unfortunately, Southern California, and especially San Diego, does not have an efficient system. She knows the neighborhood. This is not an all or nothing issue. To suggest that some at the dais do not care about children is nonsense. They all want a quality project. This is not a quality project, and she hopes they do not take it any more.

DEPUTY MAYOR MACKIN questioned if sending this project back to the Planning Commission would result in any added fees to the developer/NCTD.

MR. HITTLEMAN responded it would not if Council denies without prejudice, which allows them one year to bring their project back.

MAYOR WOOD stated this project has been in planning over several years and has received feedback. From the beginning, he thought it would be a good location, considering the neighborhood. His mother lives in that area, and he knows for a fact that a lot of people would use the transit system. Along the way, there was not a lot of neighborhood input. He will never give up the Morro Hills agricultural area. That is not what this project is about. The surrounding community probably needs it, and the military use it. It would take more cars off the roadway, etc. He does not feel it will be disruptive for the community. People want something done with this dirt lot. Traffic needs to be addressed. He believes in quality of life in the area. ADA riders want the center, as does the school. He understands all the concerns.

Honestly, he thought a bus system was needed in that area. Then it turned into a mixed-use issue. He wasn't happy with the MND, but he voted for it. This looks like a nice, beautiful project, which is a lot better than what is there now. Hopefully it will improve some of the surrounding areas. The environmental groups also supported this project. They need to address the priorities and concerns. Staff says this project fits within the City's guidelines. The developer does not set these rules; Council does.

Motion **failed 2-3**, with Mayor Wood and Councilmembers Feller and Chavez voting no.

COUNCILMEMBER CHAVEZ moved approval of staff's recommendation that the City Council reverse the Planning Commission decision and grant the appeal based on the findings contained in the resolution [Resolution No. 06-R0596-1 "...granting the appeal of Planning Commission Resolution No. 2006-P31 and approving Tentative Map (T-3-04), Development Plans (D-12-04, D-13-04, D-14-04), Conditional Use Permits (C-17-04 through C-20-04) and Variance (V-6-04) for a mixed-use development and a bus transit center located at the southeast corner of Vandergrift Boulevard and North River Road [North County Transit District and Loranda Corporation – Applicant/Appellant]."

COUNCILMEMBER FELLER seconded the motion. Motion was **approved 3-2**, with Deputy Mayor Mackin and Councilmember Sanchez voting no.

21. **[City Council/Harbor/CDC: Adoption of resolutions approving the amendment to the Local Conflict of Interest Codes for the City of Oceanside, Oceanside Small Craft Harbor District, and Oceanside Community Development Commission]**

This hearing has been pulled from the agenda and will be re-noticed for a future date

CITY COUNCIL REPORTS (Continued)

22. **Mayor Wood** – [See report prior to the public hearing]
23. **Deputy Mayor Shari Mackin** – Announced: her participation in the Mayor's Cup Regatta at Harbor Days and Mr. Blue's 101st birthday on September 29. She had attended an OCNA neighborhood meeting last night where Peter Norby, Encinitas, gave a presentation on Walkable Community conversion. She invited him to make a presentation to the Council regarding the MainStreet program. She mentioned there is some confusion with NCTD and the Sprinter line and was wondering if Council might have a meeting, or if she should do a better reporting. She worked with SANDAG, and they are receiving the funding for the smart signals, which will help with the 12 intersections impacted by the Sprinter line. They are also working on the landscaping along Oceanside Boulevard. There are items outstanding on the betterments list, and she will work with them to make sure the City comes out on top. She will be attending NCTD tomorrow and SANDAG on Friday.

24. **Councilmember Rocky Chavez -- Reported** that through the efforts of the City Attorney, there was a meeting with a lawyer in San Diego for the Veterans Association of North County.

[Deputy Mayor Mackin left the dais at 9:22 pm]

Chuck Adkinson will now take the lead. They are setting up their nonprofit status, and it is going well. It should be accomplished in 90-120 days.

He displayed pictures of the volunteers at the Angels Depot and the new PacBell reuse building.

25. **Councilmember Jack Feller** – Commented on the graffiti hotline available to all at 435-4200 and encouraged people to call.

[Deputy Mayor Mackin returned to the dais at 9:27 pm]

He enjoyed the Fuji City Tyco Drum presentation at Harbor Days. He reported on the wonderful Oceanside High School [OHS] Centennial events.

26. **Councilmember Esther Sanchez** -- Met with Interim Fire Chief Jeff Bowman, and he was able to answer her questions. She reported on various events: Brother Benno Fashion Show on October 7; St. Mary's Luau on September 30; and OHS Centennial events that were held. She toured the Libby Lake programs and the REACH programs. She also attended a Monday evening meeting with 9 visiting dignitaries from American Samoa who will be making recommendations as to the legal status of American Samoa or some other status. She also attended the OCNA meeting last night, and she invited Peter Norby to speak on October 11 at Council. She also reported on the Dog Park opening on September 24; Oceanside Museum of Art groundbreaking and parade on September 24; retirement of George Lopez of Project SER on September 22; and El Corazon tile fundraiser kick-off on September 29.
22. **Mayor Wood – continued:** He forgot to report that he received a call today from the Commander of Camp Pendleton's assistant regarding the police firing range. He indicated he would be probably be available sometime in October with a generator to start.

INTRODUCTION AND ADOPTION OF ORDINANCES -- None

ADJOURNMENT

Mayor Wood adjourned this meeting to a Mayor/Council Workshop at 4:30 p.m. on Wednesday, September 27, 2006. This joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors was adjourned at 9:43 pm on September 20, 2006.

APPROVED BY COUNCIL/HDB/CDC:

Barbara Riegel Wayne, CMC
City Clerk, City of Oceanside