



California

CITY OF OCEANSIDE

JOINT MINUTES OF THE

CITY COUNCIL AND SMALL CRAFT HARBOR DISTRICT BOARD OF DIRECTORS

January 16, 2002

ADJOURNED MEETING 2:00 PM COUNCIL CHAMBERS

Mayor
Terry Johnson

Deputy Mayor
Jack Feller

Councilmembers
Betty Harding
Carol McCauley
Esther Sanchez

City Clerk
Barbara Riegel Wayne

City Treasurer
Rosemary Jones

The adjourned joint meeting of Oceanside City Council was called to order by Mayor Johnson at 2:00 PM, January 16, 2002, for the purpose of a workshop. Mayor Johnson also convened the Oceanside Small Craft Harbor Board of Directors for the joint Item 1. The Pledge of Allegiance was led by Deputy Mayor Feller.

ROLL CALL

Present were Mayor Johnson, Deputy Mayor Feller and Councilmember Sanchez. Councilmember McCauley arrived at 2:02 PM. Councilmember Harding was absent. Also present were City Clerk Wayne, City Manager Steve Jepsen [arrived at 2:04 PM] and City Attorney Duane Bennett [arrived at 2:04 PM].

WORKSHOP ITEMS

ITEM #1 IS A JOINT CITY COUNCIL/HARBOR DISTRICT BOARD OF DIRECTORS ITEM

1. **Harbor Beach Improvement Project**

DON HADLEY, Director of Harbor and Beaches, reported that the purpose of this item was to discuss and provide the history on the Harbor Beach Improvement Project, present available options to the Board and for staff to receive direction from the Board regarding how to proceed.

[Councilmember McCauley arrived at 2:02 PM.]

The original plan was initiated in 1998, when numerous community workshops resulted in a plan to enhance public recreation, boating and conservation efforts. The plan included a launch ramp expansion from 4 to 9 lanes, a beach boardwalk, new picnic and recreational areas, restrooms, a reconfigured street and expanded parking. Additionally, the plan contained a 69,000 square foot aquarium/marine research and interpretive center proposed by the Pflieger Institute of Environmental Research (PIER). The original plan was approved by Council and the Harbor Board in April 1999 and was submitted to the California Coastal Commission that same year. The Coastal Commission reviewed the original Harbor Beach Improvement Project in October 1999. However, the Coastal Commission could not support the use of the sandy beach due to all of the additional parking demands for the project. The application was not denied, but direction was given to City and Coastal Commission staff to work together to develop a plan that would meet the needs of both parties.

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MEETING BY CITY COUNCIL**

Staff developed a modified plan that reduced the incursion onto the beach by 50% and reduced the size of the Pflieger Institute proposal by 50%. Beach parking was increased by 50 spaces, while still maintaining the California Department of Boating and Waterways (DBW) boat trailer parking standards for the expanded boat ramp. An off-site parking area for 100+ vehicles was to be provided by the Marine Corps just north of the Marina Inn, with a shuttle system provided to transport beach and aquarium users to the site. This modified plan was approved by the Harbor Board in September 2000. Since then, the picture changed dramatically. Because of the downsizing in scope, the Pflieger Institute withdrew their proposal because the reduction in size made the project financially infeasible to proceed. At about the same time the U.S. Marine Corps also withdrew their offer to provide the land north of the Marina Inn, due to future operational requirements.

Due to these changes, the area originally set aside for the down-sized aquarium and marine research center could be utilized for parking, thereby increasing the parking spaces available for beach users by at least 50 spaces. It was determined that the shuttling would not be necessary without the 200,000+ aquarium visitors. Also, without the Marine Corps land, there would be no new parking areas available. In July 2001, Coastal Commission staff completed its review of this modified plan. The review stated that the Commission is very concerned about any new encroachment on the sandy beach, even for public improvements, as beach widths vary over time, and once improvements are in place, it becomes rather unlikely that they would ever be removed or return to sandy beach. The Coastal Commission staff further concluded that even a relatively small encroachment of sandy beach is difficult to justify within the standards of the Coastal Act, and it appears extremely unlikely that the modified plan would gain approval by the Coastal Commission.

Last June the Board held a workshop to discuss these issues and directed staff to return with options, which is what they are doing now. Staff has identified 6 options, one of which staff recommends for Board approval:

Option 1 - Proceed with the modified plan and present it to the Coastal Commission.

Most likely this would be a recommendation of denial from Coastal Commission staff, with the outcome of Commission consideration unknown. This option would require that the EIR (Environmental Impact Report) and Precise Plan Amendment be updated. The estimated construction cost for this option is approximately \$9,000,000. Currently, the project is funded at \$4,500,000; with \$1,000,000 from Harbor District funds and \$3,500,000 in grant funds from the DBW. The balance of \$4,500,000 could be funded from a 30-year, 4% loan through the California Infrastructure Bank Loan Program, with a debt service of approximately \$180,000 per year. It is anticipated that revenues from beach and boat trailer parking would increase proportionately by 50%, increasing from \$229,000 to \$344,000 a year. The increase of approximately \$115,000 would cover the majority of the debt service on the \$4,500,000. Other Harbor revenues would cover the balance of that debt service. However, it is unlikely that the Coastal Commission would approve this project.

Option 2 – Stay with this project but postpone the application for the project to a later date when Coastal Commission sentiment may change regarding coastal access, public access, ocean access use in utilizing sandy beach.

If we opt for this option, the Coastal Commission reaction would still be unknown. Construction costs would be more expensive as time goes by, and the EIR update and Coastal Plan amendment would still be required.

Option 3 – Calls for a 1-2 lane launch ramp expansion from 4 to either 5 or 6 lanes, relocation of the boat wash rack, modest parking improvements and a beach maintenance work area.

The launch ramp lanes and wash rack relocation would be funded by DBW grant funds, at approximately \$350,000. The cost of the parking and beach maintenance area is estimated at \$125,000 and would be funded by the Harbor District.

Option 4 - Provides for a 1-2 lane launch ramp expansion and beach maintenance option described in Option 3, as well as providing for a community use facility to serve a variety of harbor and beach users.

The Junior Lifeguard program currently operates out of a storage garage and a metal storage container on the beach. Additionally, there are a variety of other harbor users that could conduct classes and meetings in the community room. The 2 Oceanside outrigger boating clubs currently have no effective areas to store and rig their outriggers, nor do they have an area for classes and meeting. The projected cost for this improvement is \$975,000. This option would provide the harbor beach area with a maximized, realistic and affordable enhancement. It includes an expanded launch ramp, a youth oriented facility for the Junior Lifeguard program, community rooms with kitchen facilities for use by a variety of City, harbor and beach organizations, a storage and operating area for the growing outrigger boating groups and an expanded area for facility user parking. The funding for this option is within the existing level of funds currently authorized by the Board and would require no additional indebtedness and minimal permitting to proceed.

Option 5 - Contains all the elements of Option 4, but also provides for a small area to be set aside that could be available for development of a retail space through a Request for Proposal (RFP).

A possible use for this space could be beach equipment rentals, trailer boating supplies or other visitor/harbor service uses. The use would be constrained due to parking limitations and seasonal demand. Regardless of what is placed there, it would be difficult to survive the off-season months.

Option 6 - Contains the expansion of the launch ramp from 4 to 5 or 6 lanes and maintains the beach maintenance area and leaves the remaining area of Parcel F available for an RFP for development.

Depending on the Board's desires, the RFP could be for a specific use such as a restaurant, or an open-ended RFP to see what the industry's interest might be. The cost of the launch ramp would be approximately \$350,000, and the cost of the maintenance and parking area would be about \$100,000.

Those are the options. There has been interest in providing a summer season shuttle system in the harbor beach area. Staff looked into providing such a service that would utilize a 28-person coach, Monday through Sunday in 2 weekends in June and Friday through Sunday in the first 2 weekends in September, and then 7 days a week during July and August. This would cost approximately \$41,000 annually. The service would be provided through an outside service and would not bear capitalization costs. The shuttle would provide transportation to Harbor beach from existing Harbor parking areas. Should additional outlying parking areas be desired, it would be necessary to increase the number of shuttles available to provide an effective and reasonable service.

Regarding the fiscal impact, the costs and funding sources were identified in Options 1 and 2. The costs identified in Options 3 through 6 are within the existing funding capacities of the Harbor District now and are currently approved by the Board. They have \$1,000,000 that was approved for development and \$61,800 for consultant fees, which could be used for the design work.

Staff recommends that the Harbor Board of Directors direct staff to proceed with a refined Harbor Beach Improvement Project incorporating the 1-2 lane launch ramp expansion, beach maintenance area, a Junior Lifeguard and community room facility, a support facility for the outrigger boating organizations and an expanded area for facility user parking on Parcel F, which in essence is Option 4. This option is recommended because funds are immediately available, the project is fundable and significant enhancement would be provided to an excellent youth ocean orientation, safety and education program. It provides meeting room capability for boating safety and education organizations such as the U.S. Coast Guard Auxiliary, the Power Squadron and the Yacht Club. The project would bring to the harbor a new facility to provide support to the ever-

growing outrigger canoe activity, which presently has limited training areas and operational rigging areas available to them.

The recommendation does not include the establishment of a shuttle system at this time. During peak use periods in the harbor, the parking lots are already at maximum use and providing a shuttle would not increase public access to the beach area. Should a more comprehensive downtown beach/pier area shuttle be initiated, the Harbor District's participation would be more appropriate at that time.

COUNCILMEMBER McCAULEY questioned if there was a pump station located to the north of the area described.

MR. HADLEY responded that there is no pump station in this area. He referenced the boundary of the project on a display. The pump stations are not affected by the project.

COUNCILMEMBER McCAULEY inquired about the status of the old Coast Guard building.

MR. HADLEY explained that the Junior Lifeguard offices would be shifted to the old Coast Guard building. Should the Board accept this option, it will be an interim office use for them. It will not provide opportunities for meetings or training, and it has limited storage usage. Also, the Coast Guard Auxiliary has been more active since they relocated the cutter out of Oceanside. When the Auxiliary needs an office to conduct any of their operations, they have to go to San Diego. Staff has had initial conversations with the Auxiliary regarding providing a facility for operations, training and administrative support of their flotilla.

DEPUTY MAYOR FELLER questioned the winter hours for McDonald's Restaurant or the prior tenant.

DOUG EDDOW, Senior Property Agent, **responded** that during the winter months McDonald's hours are left to their own discretion after the month of September. Closer to January, they are open longer; it is flexible and left up to them.

DEPUTY MAYOR FELLER does not feel that a restaurant is an appropriate use. Regarding the shuttle, he questioned what 2 weekends in June and September the shuttle would be operational.

MR. HADLEY responded that the shuttle service would be available the third and fourth weekends in June, and the first and second weekends in September.

DEPUTY MAYOR FELLER questioned if the shuttle service would be available for Harbor Days.

MR. HADLEY responded that it could possibility include Harbor Days, depending on how the weeks break out.

DEPUTY MAYOR FELLER moved approval of Option 4 [directing staff to proceed with a refined Harbor Beach Improvement Project incorporating a 1-2 lane launch ramp expansion, beach maintenance area, a Junior Lifeguard and community room facility, a support facility for the outrigger boating organizations and expanded area for facility user parking on Parcel F.]

MAYOR JOHNSON questioned why the shuttle would be available only 2 weekends in those months.

MR. HADLEY responded that not as much beach activity is seen during the week in the months of June and September. If this were to change, there would be the capacity to expand to meet the need.

MAYOR JOHNSON reported that Trendwest is booked solid through January and

most of February. The harbor restaurants have seen a noticeable increase in business since the opening of Trendwest. He has also noticed more people downtown that are probably from the Trendwest facility. A restaurant manager at the harbor indicated to him that a shuttle system from the resort would assist the businesses in the harbor, and probably downtown. A shuttle system has been discussed for several years, and he hopes the City can move in that direction.

Public Input

LLOYD PROSSER, 1618 Kurtz Street, President of the Makana Ke Kai Outrigger Canoe Club, reported that their organization has been operating since their inception through Mr. Hadley accommodating the club with a place to store their canoes and as an operational base over the past 4 years. The canoes are currently at the top of the riprap located north and south of the old Coast Guard building. The drawback to that is that the canoes are subject to vandalism, although they have not experienced a great amount of vandalism. The Junior Lifeguard Program is an excellent program, and a number of the club members had children go through the program. His Club is a racing club with a youth program also, and they would like to expand that program in the coming years. They have discussed this with the Board many times; however, without additional boats and a place to store them, options are limited. The club currently has 5 boats and could possibly accommodate 1 more boat. The vision of the club is to have a facility that would be the keystone for operations and allow the opportunity for outrigger canoeing to be expanded to the youth in the community, partnering with organizations such as the Boys and Girls Club and any other youth organization. They have had school classrooms visit to learn about outrigger canoes and outrigger canoeing. Both canoe clubs [including PaoPao] in Oceanside enthusiastically support Option 4, as presented.

CAROLYN KRAMMER, 904 Leonard Avenue, with Citizens for the Preservation of Parks and Beaches (CPPB), was thankful to the California Coastal Commission for not allowing the paving of the precious resource of sand. She questioned that with the 1-2 lane increase in the boat launch ramps, where the additional boat launch parking would be located, and under Option 4 whether there would be any loss of beach user parking. As long as there is no loss in parking, she would support Option 4 and would like to see the project move forward.

MAYOR JOHNSON noted that when the Coastal Commission met here in October of 1999, they were supportive of the Pflieger proposal. If Pflieger had been agreeable to an off-site shuttle system, that proposal would have passed the Coastal Commission.

MR. HADLEY noted that no additional boat trailer parking was proposed in this project. He is confident that a 1-lane boat ramp expansion would not have any additional boat trailer parking requirement. He is unsure about the requirements with a 2-lane expansion. What they did proceed with was Parking Lot 1, east of the railroad track, which was expanded and improved to include pull-through spaces that could accommodate vehicles with boat trailers. Because of the lot improvements, DBW agreed to bring down the scope of their standard for the original project. He is optimistic that approval could be received for the 2-lane expansion without providing any additional on-site boat trailer parking. There will be no loss of beach parking in this proposal.

MAYOR JOHNSON seconded the motion.

COUNCILMEMBER McCAULEY is excited about this proposal. It is feasible, it doesn't financial bind the City and it will accommodate some positive community organizations and services.

COUNCILMEMBER SANCHEZ was happy to see youth activities planned for the immediate future. Since this is a City on the ocean, it is good to have more activities with youth involvement.

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

2. **Continuing discussion of the City Council Policy Manual**

MICHELLE SKAGGS-LAWRENCE, Assistant to the City Manager, reported that today's workshop is a follow-up to Council's December 12, 2001 session to review the re-constituted policy manual. At that meeting, Council approved the majority of the policies, pulling 13 policies for further discussion. The Council's ad hoc committee, including Councilmembers Harding and McCauley, met after the December 12 workshop, and they are recommending today that Council approve the revised policies as submitted.

COUNCILMEMBER McCAULEY reiterated that the ad-hoc committee created a draft Council Policy Manual. It was brought back to Council for review and to codify the document into a permanent Council manual. The staff report describes the policies that were pulled for further discussion. She suggested going through each policy and addressing the concerns. If the Council so chooses, it can be either adopted or changed item for item.

MAYOR JOHNSON conceded to going through each policy and discussing any concerns. He noted that there are a number of items that he still cannot support. He understands that this document is only a draft in process that can be voted up or down.

Policy No. 100-02 – City Council/CDC/Harbor Board Agenda Items

COUNCILMEMBER McCAULEY reported that Policy No. 100-02 relates to how Councilmembers/Community Development Commissioners/Harbor Board members place items on the agenda. The ad hoc committee recommended that at the end of every meeting, if a Councilmember wants an item on the agenda, that it be brought up at that time and be voted on. Using her dog park as an example, the main intent is that if she were to bring that item back again and the Council had no desire to pursue it, then she would know not to waste staff's time. If the community wanted to pursue it, they could bring it forward. This was the intent of the policy.

MAYOR JOHNSON recognized that this was a good intent. As a case in point, he stated that a number of years ago, he was a proponent for construction of a permanent bridge across the mouth of the San Luis Rey River. At that time about 6 years ago, there was no Council support for that or even pursuing grants for it. However, as an individual Councilmember, he was able to agendize the item for discussion. The project has since moved forward now that the City has \$12,000,000 set aside for the bridge. His concern with this policy is that a majority vote of Council is required to agendize an item. He likes the current policy, with one person having the right to agendize an item.

COUNCILMEMBER SANCHEZ noted this was her first year on the Council and her first time reading through the policy manual. Our current practice has been to look at what is coming up, but it has never been to put it to a vote. Requiring a vote is a dangerous policy and would politicize the process. We are all elected and should have the opportunity to at least bring a subject up. The public cannot do that; it must be agendized through a Councilmember or through a long process with the commissions and committees. It is an opportunity to present an idea, gather a majority and then to direct staff. Nothing is automatic, and she has learned a lot during this year. She feels one of her jobs is to get those issues that members of the public want raised onto the calendar, whether she agrees with it or not. A vote is still required to give direction to staff to do a certain task or to support an issue. Otherwise, it would be limiting the public, not the individual Councilmember. Although she may not agree with everyone who calls her, they still have a right to be heard.

Other things listed under Policy 100-02 is that instead of having two weeks advance notice, sometimes things come up that need to be responded to. She suggested reducing the deadline for submittal of Councilmember items before a proposed meeting date.

Regarding limiting Councilmembers to 1 item per meeting, she is comfortable with the current practice that a Councilmember can place a matter on the agenda, and if another Councilmember wants to put an item on the agenda, then a Councilmember cannot put 2 items on the agenda. Limiting a Councilmember to 1 item per meeting if another Councilmember requests an item has worked. We have used the last part of our

meetings to arrange items. She agrees that each Councilmember should have the opportunity to place an item on the agenda. There has also been discussion regarding if there is enough support for an item, that maybe it is not a Councilmember item but rather a City Manager item. She likes the way it has been working. It provides the best opportunity for the public to be heard.

MAYOR JOHNSON also suggested that this policy not be supported because last week the ad hoc committee for possible consolidation and streamlining of various commissions and committees met, and we will be forwarding recommendations to the full Council for a future workshop. Depending on how consolidation of some of the commissions is considered, it could address many of the concerns that are currently being posed regarding Policy No. 100-02. He is not supportive of the change as presented, and he feels that the policy should remain as it is for now. More input is needed from Council and the public. He suggested that a vote be taken on each policy to get through the 13 items.

COUNCILMEMBER McCAULEY commented that many of the things being discussed are things discussed at the ad-hoc committee meeting as well. The current practice of discussing proposed items at the end of the meeting was the only way that the citizenry can agendaize something that they want to discuss. She likes the idea of the rest of the Council being given a heads-up of what is coming. The other thing discussed is, if we did modify this policy, it would give Councilmembers the opportunity to tell the City Manager that it is an important item. Where Councilmembers have a restriction of 4 hours for staff time, then at that time we could say that we would like to see the item on as either a General Item or as the City Manager's item. In that way we would also be approving the additional staff time it would take for an item. Otherwise, it could go on the agenda as a Councilmember's item.

DEPUTY MAYOR FELLER questioned if the current practice is to allow 6 Councilmember items per month. **CITY MANAGER JEPSEN** responded positively.

DEPUTY MAYOR FELLER agrees that the current process of bringing an item to the Council at the meeting is a good policy. He would not like to see any more than 6 Councilmember items in any month.

MAYOR JOHNSON reiterated that the possible considerations of last week's ad hoc consolidation committee meeting could address many of these concerns.

COUNCILMEMBER McCAULEY commented that the committee also suggested that, if the entire Council strongly supports a particular item suggested by a Councilmember, Council could direct that the item be put on the general agenda, thereby opening up a slot for an additional Councilmember item. She agrees with limiting the Councilmember Items to 6 per month. She suggested that the policy be amended to include the option of giving direction to agendaized items with strong Council support as General Items, which would give Council the authority to direct staff to work on an issue. As a General Item, it would still be explained that a particular Councilmember originally brought the item forward.

Public Input

MARGARET DYER, 1396 Panorama Ridge Road, Co-Chair of the Oceanside League of Women Voters, reported that the League of Women Voters of North Coast San Diego County, stands for citizens having a right to participate in government, over and above voting in elections. In that respect they believe Policy No. 100-02 would seriously limit a Councilmember's ability to place items on the Council agenda. Under the proposed revisions, no individual Councilmember could place an item on the agenda without first obtaining the approval of a majority of the Council. This could mean that only majority items would come forward, and that no new or alternative ideas would ever be aired. The individual Councilmember could effectively be silenced, as well as the constituents who elected this member. Policies regarding Council agenda items should not be driven by current exigencies in the Council, as Council makeup and political climates can change. Rather, policies regarding conduct of Council meetings should be driven by the principle of

representative government in which all viewpoints can be heard. Therefore, the League urges Council to reject the proposed revisions and to continue present policies.

WILLIE LITTLE, 3201 Mesa Drive, noted that under the current policy 100-02, a Councilmember can place an item on the agenda. The new policy would require Council approval and a vote by Council to agendaize an item. This policy is in direct opposition to the letter and spirit of Roberts Rules of Order and parliamentary procedure, which provide for an exchange for discussion. It would also bring up the matter of whether this would be a political issue or not. Everyone should have the opportunity to be heard and express their position, whether for or against an issue. The current policy seems clear and should remain unchanged.

MAYOR JOHNSON commented that this is a new year, and things will be done differently this year that have never been done in the City before. We will agree to disagree. There are 2 or 3 main issues in the City that will be resolved this year. We will be respectful of each other, and we will work together professionally as a team seeking consensus, whether 5-0 or 4-1. If we seek consensus, we are being successful, and the City will move forward. What is before Council today is a draft proposal, and each item will be addressed individually. We all have very serious concerns. No one is trying to do anything that is inappropriate where the citizens' representative voice would not be heard.

ROB HOWARD, P.O. Box 5786, President of the North San Diego County Branch of the NAACP (National Association for the Advancement of Colored People), indicated his opposition to the proposed Policy No. 100-02. He urged Council to run each policy through the litmus test to determine if a policy would hinder the public's ability to be heard. The North S.D. County Branch of the NAACP is trying to bring a voice from people who are normally not represented to the Council and City government. He is proud to say that he lives in Oceanside because this Council more closely represents the residents of this County and this City than any of the other cities. He understands that the policy review is designed to help the City move forward. He extended the assistance of the North County NAACP to help Council hear the voice of the unrepresented.

Mr. Howard invited everyone to the Dr. Martin Luther King, Jr. celebration this Saturday at 4:00 PM. Also, on Monday morning, the United Ministerial Coalition, a group of pastors in the North San Diego County area, will host a prayer breakfast at La Mision Restaurant. He thanked Council and staff for their work to help move Oceanside forward. As Oceanside goes, so goes the County, the State and the rest of the nation.

MAYOR JOHNSON moved not to approve the policy [Policy No. 100-02]. **COUNCILMEMBER SANCHEZ seconded** the motion.

COUNCILMEMBER McCAULEY noted that the ad hoc committee took all of the issues raised today, as well as those that were made at the last meeting, into consideration. Regarding the request to place an item on the agenda, the ad hoc committee is recommending the procedure continues as it has been, which is to have the Councilmembers submit any items to the City Manager. However, the Council will decide if the item would be more appropriately agendaized as a City Manager Item or General Item.

If it is the will of Council, the time limit change can be omitted. The committee worked on this project with the knowledge that adjustments would be made. Many points were presented at the last meeting regarding the inability of the public to be heard. At the last meeting the decision was made to remove the requirement of a Council vote for Councilmember Items to be agendaized, to address the concern of the public's potential inability to be heard.

CITY CLERK WAYNE asked for clarification of the motion.

MAYOR JOHNSON clarified that the motion was to not approve Policy No. 100-02 as presented, but to leave it as is.

DEPUTY MAYOR FELLER suggested there are some possibilities for change that could be brought back with more clarification regarding what the public needs to do to

make this work.

MAYOR JOHNSON noted that some of the recommendations coming forward from the ad hoc consolidating committee may address some of the concerns that have been raised.

COUNCILMEMBER McCAULEY will support the motion if the option remains to re-visit the item at a later time.

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

COUNCILMEMBER McCAULEY suggested that Mrs. Lawrence give a brief description of what the ad hoc committee discussed, and she will add her comments to that.

Policy No. 100-10 – Appointments to Commissions, Boards and Committees

MRS. LAWRENCE reported that the 1983 policy stated that applications [to a Board, Committee, Commission or Task Force] must to be submitted 10 calendar days prior to an appointment. The new policy changes the deadline to 20 days, as was requested by the City Clerk. The fourth paragraph of the new policy was added at the request of the City Attorney and states: "Appointments to Boards, Committees or Commissions shall be made in a manner to avoid actual or perceived conflicts of interest under the Political Reform Act ...". The final paragraph is also a new section, and states: "The Mayor shall review Council liaison appointments to all Boards, Committees and Commissions annually ...".

MAYOR JOHNSON supports the changes except for the last sentence, because of the ad hoc committee discussion last week regarding consolidations. He has serious concerns regarding Council liaisons and their ability to work with the current commission system.

COUNCILMEMBER McCAULEY agreed and understood that recommendations would be coming forward. She questioned if the Council would feel comfortable adopting this policy with the last paragraph omitted. **MAYOR JOHNSON** responded positively.

DEPUTY MAYOR FELLER was not sure the entire paragraph had to be omitted. **MRS. SKAGGS-LAWRENCE** clarified that they could perhaps just eliminate the last sentence only.

COUNCILMEMBER SANCHEZ questioned why the requirement for filing an application was changed from 10 days to 20 days.

CITY CLERK WAYNE responded that it has typically taken longer for the background checks to be conducted at the Police Department, and that the 10-day timeframe is not usually met. This allows more time to process the applications.

CITY ATTORNEY BENNETT added that he recalled a commissioner was appointed and then removed last year because of a problem with the background check. This happened because there was not sufficient time between the application process, the police background check and the appointment process. It was an awkward situation. This change would help to complete the clearance process before commissioners are appointed.

MAYOR JOHNSON moved that Policy No. 100-10 be accepted, with the omission of the last sentence, which reads: "Council Liaisons are expected to attend all assigned meetings."

COUNCILMEMBER McCAULEY seconded the motion.

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

Policy No. 100-14 – City Council Travel Policy

MRS. LAWRENCE reported that this policy was changed substantially from the old policy, which was more like an administrative directive dealing with travel related to staff and Council. The intent of the ad hoc committee was to ensure that the manual contained a travel policy directly related to Council and not to staff. The recommended policy is dedicated to Council only [not staff].

Major changes include:

- Item A-2, regarding the dedication of a fleet vehicle for the sole use of the City Council is a new section.
- Item B, regarding per diem, although Council has been following the same procedure for some time, the policy had not kept up with how Council was handling travel arrangements. This item memorializes current travel procedure.
- Item C, regarding Councilmembers traveling together, the intention was to ensure a Council quorum at home should there be a tragic event or accident. It did not relate to the Brown Act, and that language can be clarified if necessary.

MAYOR JOHNSON does not agree with most of this policy. He does not like the idea of Council approval for travel to a conference, seminar or City-related meeting. He does not feel that item A-2, regarding Councilmembers having a City fleet vehicle is necessary. If a Councilmember has need of an automobile, it could be rented through the City rental program. He has no issue with Councilmembers traveling together as discussed in item C.

COUNCILMEMBER McCAULEY noted that Item A-2 reverts back to the previous procedure, as opposed to the current practice. The reason for that is she drives to most of the conferences. This does not mean it is putting a City car at the disposal of a Councilmember for the everyday workload. She rented a car when she drove to Monterey, and the cost was close to \$700 for that rental. She only used the car for travel to and from the conference because everything was provided at the hotel. When Council had their own car, her travel budget was charged \$49 a day, but there was no cost to the City out-of-pocket to rent a vehicle for travel. The committee felt that this was an additional expense that the City could avoid. For those who chose to drive instead of fly, their travel budget would be charged the same way as an airline ticket would be charged, but would not represent actual dollars paid out by the City.

Item C was to be clarified to mean that 3 Councilmembers cannot travel using the same transportation; in other words, 3 Councilmembers cannot fly on the same plane because of the exposure to not having a quorum if something should happen.

MRS. SKAGGS-LAWRENCE read the new draft language which states: "It is the policy of the City Council that no more than 2 members may travel together to any destination by the same medium of transportation because of the possibility of an accident or a tragic occurrence, thereby losing a quorum necessary to carry on City business."

MAYOR JOHNSON noted that if 3 Councilmembers wanted to travel to Japan or Samoa, it would be difficult to coordinate travel arrangements if different planes were taken. He personally does not have a problem with the current practice.

Regarding Item A-2, taking into considering the cost of insurance, maintenance and purchase cost of an automobile, as well as public perception, it would be better for Council not to have a car. Councilmembers currently receive mileage, and there is a rental program, which is sufficient.

DEPUTY MAYOR FELLER did not think a vehicle dedicated solely for Council use was necessary, but backup transportation would be beneficial.

COUNCILMEMBER SANCHEZ cannot support item A-2, as it would cost the City much more money. Regarding the per diem, there is a potential for the appearance of fraud by not having to document for reimbursements. She does not see a problem with Councilmembers traveling together. She **moved** to not adopt Policy No. 100-14, as

proposed. **MAYOR JOHNSON** seconded the motion.

COUNCILMEMBER McCAULEY clarified that item A-2 referenced a City fleet vehicle, not a separate backup vehicle for Council that would be purchased.

CITY MANAGER JEPSEN noted that if a fleet vehicle were assigned to Council, their budget would have to be modified.

Something to consider that is done for people with a car allowance is, if there is an unusual level of activity or if they choose to drive their own personal car on a trip instead of fly, they are reimbursed the value of the plane fare. Although not implemented, we have also talked about those who must use their personal car on a regular basis. For example, if someone is assigned to SANDAG or the League of Cities and has to make frequent trips to San Diego, that is over and above normal driving as a Councilmember, which is the purpose for the car allowance. It might be something to consider.

DEPUTY MAYOR FELLER does not like the term "fraud" and does not think it is appropriate regarding per diem. If traveling, \$50 per day is not exorbitant and cannot be construed as fraud. **MAYOR JOHNSON** agreed.

COUNCILMEMBER McCAULEY noted that she would not drive her own vehicle for trips to Sacramento or Monterey because the mileage reimbursement does not pay for the wear and tear on the vehicle. If Council wishes to remain with the car rental program, A-2 can be eliminated.

COUNCILMEMBER SANCHEZ clarified that her statement was not regarding the per diem allowance, but rather the statement in the policy that documentation was not necessary. She does not feel that documenting expenses is a hardship. She did not intend to suggest that spending the money constitutes fraud.

DEPUTY MAYOR FELLER explained that itemizing \$50 is unnecessary, but that reimbursement for an entire trip is a different matter. He questioned what the existing policy states.

MAYOR JOHNSON indicated that if a Councilmember chooses not to accept the \$50 per diem in cash, Councilmembers also have a credit card allocated to their respective offices that can be used to take care of any incurred expenses while representing the City.

MRS. SKAGGS-LAWRENCE responded to Deputy Mayor Feller's question that the current policy was established in 1992 and does not even address the per diem issue. Although Council took action to move to the per diem mechanism, the policy was not updated. The policy needs to be updated to reflect current practices related to per diem.

MAYOR JOHNSON responded he could support Item B [per diem] of the policy.

COUNCILMEMBER SANCHEZ understands that the policy manual should reflect the per diem item. So the first sentence of the policy would state: "The City Councilmembers shall receive a per diem established by the City Council."

MAYOR JOHNSON could support that language modification. He questioned why the per diem was necessary if Council also has the flexibility of using the City credit card when needed on trips representing the City.

CITY MANAGER JEPSEN noted that there were many miscellaneous expenses on a trip. Often what happens is you find yourself in a group having a meal and the per diem avoids having to separate individual costs in group meals. Councilmembers will not be able to pay with the City credit card in a situation like that. From a bookkeeping standpoint, many times it is easier, for staff, if Council takes the per diem rather than to record and track all the expenses.

COUNCILMEMBER McCAULEY noted that \$50 per day is a low per diem. The Coastal Commission pays \$100 a day, and most businesses will pay \$100-\$150 a day. Many

times we go to a conference and are away from home over 24 hours a day. Also, there are occasions when they may bring a spouse, and the City is not expected to pay those expenses. \$50 a day does not even cover the meals. When she goes on City trips, the only thing she uses the City credit card for is gasoline. Also, in private business, if a per diem is not accounted for on personal taxes, it is considered straight income and taxed if receipts are not retained and accounted for. The language regarding per diem is appropriate as it reads.

COUNCILMEMBER SANCHEZ moved adoption of only the modified language changed to "City Councilmembers shall receive a per diem established by the City Council," without an amount included. The amount can be decided now or at a later date.

MAYOR JOHNSON feels that the present per diem is adequate and suggested that the amount be included in the policy.

CITY MANAGER JEPSEN recommended adding the language that Council may select the option of a per diem, as opposed to the actual expense.

COUNCILMEMBER McCAULEY suggested that the language could read, "City Councilmembers have the option of receiving a per diem". She questioned if the recommendation was to include the \$50 per day per diem amount or to adopt the verbiage regarding per diem contained in item B, as discussed. She agrees that the \$50 amount should not be included in the policy manual.

MRS. LAWRENCE was under the understanding that the per diem amount was set by resolution. Not including the amount in the policy would prevent the need of updating the policy every time the per diem amount was reviewed.

COUNCILMEMBER SANCHEZ clarified that per diem is actual expenses; up to a certain amount is reimbursed. Also, does that expense come out of the Councilmember's respective account or is the per diem in addition to the regular account.

MRS. LAWRENCE responded that the per diem would come out of the individual Councilmember's travel accounts.

COUNCILMEMBER McCAULEY noted that the prior Council adopted the resolution for the \$50 per diem, but that item B was not included in the policy manual in 1992.

DEPUTY MAYOR FELLER inquired about addressing the section regarding commissions and advisory boards.

MAYOR JOHNSON indicated that he could not support the rest of this recommendation.

DEPUTY MAYOR FELLER questioned if policy 100-14 would then only be Item B.

COUNCILMEMBER SANCHEZ clarified that the motion was regarding the proposed language, not the existing. The existing policy is fine. All she seeks to do is add the language of "City Councilmembers shall receive a per diem established by the City Council." She was going to amend her motion to include the amount, but understands that this is done by separate resolution and is not necessary at this time.

MRS. LAWRENCE noted that the current policy that has been on the books since 1992 addresses both staff and Council travel. A good portion of it does not apply to Council and needs to be updated. If there are sections in the updated policy that are not agreeable, those changes will be made. To revert back to the 1992 policy will not do much good because it is so outdated. It should be updated with whatever actions Council decides to take.

COUNCILMEMBER SANCHEZ then recommended that the references to those other than City Council be removed from the existing policy so that it is only City

Councilmembers, and then to add from the proposed change that sentence: "City Councilmembers shall receive a per diem established by the City Council."

COUNCILMEMBER McCAULEY noted that clarification was needed for staff. What Councilmember Sanchez is recommending is to remove any references to commissioners, and leave only the references to City Council.

COUNCILMEMBER SANCHEZ recommended that the reference to staff in the first sentence be removed. She recommends that the references to staff, commissioners, and Council appointed employees be removed from the existing policy, and that it only apply to City Councilmembers. In the first sentence "It is the policy of the City Council to reimburse City officials for the expenses of travel related to City business according to the policies and procedures outlined below"; i.e. everything in the existing policy except remove all reference to staff and everyone except City Councilmembers.

COUNCILMEMBER McCAULEY then felt that item A.1. should be left in and items A.2 and C should be removed altogether.

COUNCILMEMBER SANCHEZ agreed and so **amended her motion.**

MAYOR JOHNSON, as seconded, concurred.

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

Policy No. 100-15 – Approval of Travel and Other Expenses

MRS. LAWRENCE reported that the primary change in this policy is in the second paragraph, which states: "Any travel outside the country, including but not limited to Sister City travel, must first be approved by the City Council. The Mayor or his/her Councilmember designee or a member selected by the majority of the City Council is authorized to travel at City expense for Sister City travel. All other City Councilmembers are required to pay for any desired Sister City travel."

MAYOR JOHNSON cannot support this policy because of the second paragraph. He does not feel it is necessary to obtain permission from Council to travel to Ensenada or Tijuana.

COUNCILMEMBER McCAULEY indicated that the intent was as an official representative of the City Council and at City expense, any travel outside the country needs to be approved by Council. The purpose was not to preclude any trips to Ensenada if you are paying for your own expenses, even if you are representing the City.

COUNCILMEMBER SANCHEZ could not support the second paragraph either. The policy is fine as is.

MAYOR JOHNSON stated that in light of the discussions at the workshop regarding the Sister City Foundation and the changes that will be occurring with the Foundation, that there is no need to modify this policy. He **moved** not to approve the proposed policy as presented.

COUNCILMEMBER SANCHEZ seconded the motion.

COUNCILMEMBER McCAULEY read the existing policy which states: "It is the policy of the City Council to review all requests for travel expense reimbursement from Councilmembers, City Manager and the City Attorney for non-budgeted out-of-County travel prior to such travel. In those cases where prior approval was not specifically considered, if the travel had been discussed by the City Council, such travel should be considered approved for reimbursement." The intent of the proposed policy was to expand it, because so much of what we all do is often travel out of the County but still close, such as meetings in Los Angeles, Ontario etc., that are day trips. The committee felt that the requirement to obtain approval for any travel outside the County was too confining and expanded the old policy to only require approvals for travel outside of the country instead

of the county.

MAYOR JOHNSON still could not support the second paragraph of the new policy. As it is written, it seems to focus on "Sister City" travel.

COUNCILMEMBER McCAULEY clarified that the policy contains the phrase "including but not limited to the Sister Cities".

DEPUTY MAYOR FELLER would prefer to see this item come back reworded to be expanded without the verbiage regarding "...members selected by the majority of the City Council...". He has a problem with the second paragraph of the new policy and would prefer to expand on the previous policy.

MRS. LAWRENCE noted that the policy could be re-drafted and brought back for consideration.

COUNCILMEMBER McCAULEY recommended that if any of the remaining policies are not approved, that the items be automatically brought back unless so specified.

COUNCILMEMBER SANCHEZ would not like to see Policy No. 100-02 brought back. She would rather indicate which policies Council would like to return. She believes that Council is in agreement that this [100-15] policy could be brought back, but not approved, as proposed.

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

Policy No. 100-16 – Legislative Action Process

MRS. LAWRENCE reported that the new portion of this policy is the last paragraph, stating: "... the Mayor and/or his/her Council designee or a member selected by the majority of the City Council, will represent the City on any necessary legislative visits to Washington, D.C. and/or Sacramento, along with appropriate staff support."

MAYOR JOHNSON expressed concern with the second paragraph, and cannot support the language as it is written because over the past 9 years, the Mayor has traveled with the Deputy Mayor to Sacramento and/or Washington, D.C. As long as he is Mayor, the Deputy Mayor will travel with him to Sacramento and Washington, D.C. to represent the City, and they will go with the voice, direction and support of City Council. Their purpose is to seek the necessary support from Washington D.C. and Sacramento.

COUNCILMEMBER SANCHEZ also expressed concern with the second paragraph. She does not have a problem with the current practice of representation by the Mayor and Deputy Mayor.

COUNCILMEMBER McCAULEY commented that the intent of the second paragraph was to give the Mayor more flexibility to designate the party that will travel with him.

MAYOR JOHNSON appreciated the intention. However, he is confident that all Councilmembers would conduct the business of the City appropriately in Sacramento and Washington, D.C., and they will carry the consensus of the Council to Sacramento and Washington, D.C.

DEPUTY MAYOR FELLER suggested that the second paragraph could be restated to read, "it is the policy of the City Council that the Mayor and Deputy Mayor or his/her designee, if necessary, will represent the City..." It may be more acceptable without the "selected by majority" wording. He suggested that the term "designee" be omitted and reworded to say "Mayor and Deputy Mayor".

COUNCILMEMBER SANCHEZ would agree to the policy if the language "selected by the majority of the City Council" were removed.

MAYOR JOHNSON suggested including language to help Council in case the Deputy Mayor is ill or unable to travel.

MRS. LAWRENCE agreed and added it was part of the intent of the committee to give that flexibility. She is hearing that if the language "at the direction of the majority of City Council" is removed, perhaps everyone will be satisfied.

COUNCILMEMBER McCAULEY questioned if Council wanted to include the language that states that if the Mayor or Deputy Mayor could not attend the event, then the Mayor would appoint someone to take the place of the individual who could not attend.

MAYOR JOHNSON thought that would be a fair way to address the issue.

DEPUTY MAYOR FELLER moved approval [of Policy No. 100-16, as amended].

COUNCILMEMBER SANCHEZ seconded the motion.

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

Policy No. 100-20 – City Councilmembers' Requests for Information

MRS. LAWRENCE reported that this policy had not been updated since 1984. The first paragraph adds reference to requests by Legislative Aides, as well as Councilmembers. She understands the title of Legislative Aides has now been changed to Council Aides. The new policy outlines how requests for information must be handled in that it would need to be forwarded through the City Manager or City Attorney, as appropriate.

The other significant change is that requests for information that would take 4 hours of staff time to research and prepare would have to have the prior concurrence of Council. The old policy identifies 8 hours. Then the last 2 sentences in the first paragraph are also new, outlining that any response to requests for information should be copied and distributed to the entire Council to ensure that everyone has the same information.

COUNCILMEMBER McCAULEY noted that the change from 8 hours to 4 hours was discussed 2 years ago but never formally adopted. The intent of the policy is to require the dissemination of information to all Councilmembers to avoid duplicate requests to staff for the same information and to keep Council informed. This policy also formalizes the current practice of routing requests through the City Manager's Office.

COUNCILMEMBER SANCHEZ noted that the current practice is to submit requests directly to the City Manager's Office and copy the relevant department director; the City Manager then responds to the entire Council. She has not seen a problem with this practice, as it informs Council of what is being worked on. She does not see the necessity of emailing everyone if the City Manager has already responded to everyone. The language is not needed.

She has concerns with the reduction from 8 hours of staff time to 4 hours. If something was to take 5 hours and she did not want to wait until a Council meeting, she could go through the Public Records Act and receive the information even faster. This policy would restrict a Councilmember. What she is requesting usually is information to put things into perspective and for clarification. She has not made research requests but conducts her own research with the assistance of her Council Aide.

She cannot support this policy. Council should have the same access to information that the public has. There is no restriction on a public request, except perhaps the cost per page. To restrict a Councilmember from obtaining information does not seem appropriate.

COUNCILMEMBER McCAULEY noted that this policy would formalize this procedure. It has been practiced for some time, but there has never been an established policy. Regarding the 4 hours, if it is a Council Aide or Councilmember photocopying items, that does not count towards the 4 hours of staff time. Regarding getting a report, or if it is

5 boxes, it will not take staff any longer than the time to retrieve the information and make it available at a central location for Council Aides to make copies. This policy addresses the time that a staff member devotes to a request. 4 hours is a significant amount of time to ask a staff member or director to do something.

The policy states that all responses are to be copied to all Councilmembers, not all requests. The original email is included in the response and is received by Council. If the request is in the form of a memo, the City Manager is asked to inform the rest of Council regarding the request and the response. This is the current practice; the policy is simply to formalize the procedure.

MAYOR JOHNSON will vote in support of the modification.

COUNCILMEMBER SANCHEZ recommended that the last sentence of the first paragraph be removed, which states: "If the other members of the legislative body are not copied on the request, the request will be returned unanswered."

COUNCILMEMBER McCAULEY believed that phrase was a language error. To her recollection, the request would only be returned unanswered if it went directly to a department head and not through the City Manager.

CITY ATTORNEY BENNETT indicated that the discussion was that Council was to be copied on requests to staff also. Since his tenure as City Attorney, it has been Council's practice that if 1 Councilmember sends a request to staff, everyone is copied. Even the email system is set up that if a Councilmember copies one staff member, that the City Manager, City Attorney and City Clerk are automatically routed. This has been the practice for purposes of requests as well as responses.

CITY CLERK WAYNE noted that the policy includes the statement: "... All requests, and all responses, must be copied to the entire City Council ...". The intent of the ad hoc committee was that such procedure advises all Councilmembers that something was already being worked on so that they did not have to submit the same request to staff. This was intended as a cross-referencing system for Council.

COUNCILMEMBER McCAULEY concurred, noting that the important thing is that all Councilmembers are informed. It was also discussed that for staff's benefit, all requests must go through the City Manager; otherwise it would be returned unanswered. She tries to copy the Council on her requests so that they all know who is working on what.

DEPUTY MAYOR FELLER does not see a problem with this policy.

Based on the discussion, **COUNCILMEMBER SANCHEZ** suggested removing the phrase "all requests" from the second sentence, and just say that all responses must be copied to the entire Council, which is the 5th line on the first paragraph. She suggested removing the last sentence of paragraph 1 "...If the other members of the legislative body are not copied on the request, the request will be returned unanswered", because it is already stated that the responses are to be copied to the entire Council.

She has a concern with the reduction from 8 hours to 4 hours. It may be unconstitutional to restrict a City Councilmember from obtaining information that may take longer than 4 hours and to require a Council vote if it does go over 4 hours. If Council decides that a member cannot have the information, how is that legal?

CITY ATTORNEY BENNETT responded that it is not illegal for Council to place that restriction on themselves. The original discussion regarding requests for information being copied to all Councilmembers of Council was related to the Alamin issue. One of the reasons that the full Council was not aware of what was going on was because the requests were not routed to the full Council, but directly to staff. Also, there was an inordinate amount of staff time spent addressing the issue. After Council's debriefing on the issue in public session, Council limited the time frame from 8 hours to 4 hours as a safeguard to ensure that this did not happen again. He is surprised that the limitation was not included in a previous policy revision. He does not believe it is unconstitutional or illegal

for Council to state that if you want to use more time than 4 hours, you need to come back and let the full body know what you are doing.

COUNCILMEMBER McCAULEY now recalls the discussion regarding all requests having to be copied to the entire Council. In the time delay between the request and the response, another Councilmember may request the same information in the interim, which is why the policy specifies to copy the response as well as the request.

MAYOR JOHNSON moved adoption of Policy No. 100-20.

COUNCILMEMBER SANCHEZ requested that the last sentence of the first paragraph be removed, as there is no need to be punitive. This policy will only encourage her to obtain information through the Public Records Act, which has a 10-day time limit. She feels this is horrendous.

CITY MANAGER JEPSEN noted that staff has never had a problem with requests for information, but rather with requests for research and analysis. Anything that is available for public information has always been provided to Council, and always will be. The time it takes to retrieve records from archives in the City Clerk Department is not included in those 4 hours.

To clarify the issue, he suggested that the language of the third sentence of the policy be changed to "...such requests for research and analysis that require more than 4 hours of staff time to prepare, must have prior concurrence of Council". This way it is clear that the request is not referring to a simple request for information. It is important that the information given continue to be shared with all.

MAYOR JOHNSON amended the motion to modify the policy by replacing the word "information" with the phrase "research and analysis".

COUNCILMEMBER McCAULEY questioned if a request for information had ever taken more than 4 hours.

CITY MANAGER JEPSEN responded positively, noting that some requests are for information from archives to research files that would fall under the Freedom of Information Act. In those cases, rather than trying to select what the Councilmember wants, the information has been placed into a room adjacent to the City Manager's Office for Councilmembers and their Aides to peruse.

COUNCILMEMBER McCAULEY questioned if taking it to the central location has ever taken more than 4 hours. **CITY MANAGER JEPSEN** responded positively.

COUNCILMEMBER McCAULEY pointed out that the term "research" and "research files" was used by the City Manager. Maybe that term should remain.

CITY MANAGER JEPSEN stated that such scenarios as he described have only happened infrequently and were related to major issues.

COUNCILMEMBER McCAULEY seconded the motion as amended.

The motion was **approved 3-1**, with Councilmember Sanchez voting no and Councilmember Harding absent.

Policy No. 100-25 – Non-Interference in Administrative Affairs

MRS. LAWRENCE reported that the new policy includes reference to Legislative Aides, City Attorney, City Clerk and City Treasurer. Those positions had not been included in the 1984 version of the policy. Item 4 is new, and states: "Legislative Aides may not participate in City-related meetings/discussions in lieu of the Councilmember for whom they work".

MAYOR JOHNSON corrected that the name had been changed from Legislative

Aides to Council Aides.

COUNCILMEMBER McCAULEY explained that this policy indicates that a Council Aide may not take a Councilmember's place at a meeting by joining in the discussion and representing their opinion as the Councilmember's opinion. However, the policy does not preclude a Council Aide from sitting in on a meeting in lieu of a Councilmember and taking notes on their behalf. The policy only states that the Aides cannot attend a meeting and become the Councilmember by proxy.

MAYOR JOHNSON will support the recommendation.

COUNCILMEMBER SANCHEZ has concerns with the policy. Item 1 states that neither Council nor Legislative Aides can directly deal with staff, including the City Clerk and the City Treasurer. However, this is not appropriate because the City Clerk and City Treasurer are elected officials. Item 2 states: "... Requests for staff attendance at meetings held by Councilmembers shall be coordinated through the City Manager, contingent upon the approval of the City Council." The current policy states "... Requests for staff attendance at meetings held by Councilmembers shall be coordinated through the City Manager." By putting an item up for Council vote, Council is determining which public gets served and which does not get served, or which Councilmember can perform their job and which cannot. This is an unfair restriction that politicizes the job Council is supposed to do. She does not believe Council can restrict someone from dealing directly with an elected official.

COUNCILMEMBER McCAULEY noted that the intent of item 1 was so that no Councilmember could go directly to a department head and give them direction to do something without first going through the City Manager. This is a City Manager/Council form of government, with the City Manager serving as the supervisor of all City staff and the Council managing the City Manager. The policy states that Council shall not give orders to any of the subordinates, which is micromanaging. Therefore, requests are sent through the City Manager, without addressing staff directly, and the City Manager informs the rest of Council. This does not preclude Council from doing their job. The City Clerk and City Treasurer were included because they are both department heads, as well as elected officials.

MAYOR JOHNSON moved approval of Policy No. 100-25.

COUNCILMEMBER SANCHEZ has not heard a reason for requiring a Council vote regarding whether or not a staff member can assist a City Councilmember. Recently, the Mayor attended a meeting with members of the community at Ocean Hills, and a staff member was present. Sometimes Councilmembers do not have all the information that is needed, and it simplifies the task if a staff member can be involved to answer questions. She believes that it is sufficient to coordinate such requests through the City Manager. This policy politicizes the Councilmember's responsibility to serve the public, and it should not be politicized.

MAYOR JOHNSON responded that Councilmember Sanchez is correct about the Ocean Hills meeting. He believed Frank Watanabe was in attendance at the meeting at the direction of the City Manager, and the Mayor asked to go with Mr. Watanabe to participate. He did not ask Mr. Watanabe to attend.

COUNCILMEMBER McCAULEY reiterated that this policy does not preclude Council from representing any part of the community. On the contrary, the purpose of a policy such as this is to help staff work more efficiently.

For example, when there were issues in her neighborhood where information was needed on traffic, she contacted the City Manager, gave him the name of those with the question, and asked him to arrange to help. At that point he either contacted the people or forwarded it on to the proper staff. The purpose of this policy is to ensure that individual Councilmembers are not directing staff to attend meetings. Requests for staff time would come to the Council meeting, making Council aware of what each Councilmember is working on so that they are not all working on the same project.

COUNCILMEMBER SANCHEZ inquired if there had been a problem, and why this is being proposed.

DEPUTY MAYOR FELLER asked if this would preclude him from attending community functions where staff members are present.

COUNCILMEMBER McCAULEY responded negatively, because the Councilmember would not be requesting the staff member to be there.

She would like Council to further consider under section 2, "...to be coordinated through the City Manager, contingent upon the approval of the City Council." In a previously adopted policy, we talked about requests being forwarded to the City Manager and copies to the rest of the Council. Perhaps it would be adequate to at least inform all that these things are happening. If we did see a problem and if it was being abused, then the issue could be addressed. So "...contingent upon the approval of the City Council..." could be removed.

MAYOR JOHNSON reviewed a past issue and noted that if all Council had known that the meetings with Alamin were taking place, it could have been dealt with before it became such a large problem. He **amended** his **motion** to remove the phrase "contingent upon the approval of the City Council."

COUNCILMEMBER McCAULEY **seconded** the motion.

The **motion** was **approved 3-1**, with Councilmember Sanchez voting no and Councilmember Harding absent.

Policy No. 100-34 – Procedures for Reports Requested by Councilmembers at City Council Meetings

MRS. LAWRENCE reported that the last sentence of item 1 is new, which states: "This information will be tracked by the City Clerk; updates will be given to the City Council, City Manager and City Attorney." Also new is the last sentence of item 2, stating notification via a "pass-through memorandum".

MAYOR JOHNSON will support the policy, with those additions. It is important that Council remain updated. With so much activity, Council has the tendency to overlook some things.

COUNCILMEMBER McCAULEY commented that the City Clerk was doing this for awhile, and it was very helpful. Basically it is to provide a diary of items that were requested to be returned to City Council. She **moved** approval [of Policy No. 100-34].

MAYOR JOHNSON **seconded** the motion.

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

Policy No. 100-35 – Legislative Aides

MRS. LAWRENCE reported that the first change to this policy is in the background section;, the last paragraph has been rewritten regarding their duties.

In the second paragraph under the Policy section, the probationary review was included. Also included was that Council Aides are expected to represent their Councilmembers during normal City hours, which is why they are afforded Executive Leave. The final sentence in paragraph 2 of the Policy section is new, and states: " ... Furthermore, Council Aides are precluded from offering an opinion on behalf of their Councilmembers."

The second to the last paragraph, at the request of the City Attorney, was added that, "...the Council Aides will refrain from any participation in political activities while on

City work time so as not to be in conflict with the provisions of the Oceanside City Code Chapter 35." The final paragraph is also added at the request of the City Attorney. This policy has not been updated since 1991.

MAYOR JOHNSON will support the policy with the changes.

COUNCILMEMBER McCAULEY noted that this policy provides more definition to what is expected of Council Aides.

COUNCILMEMBER SANCHEZ does not understand why the description of duties was changed from "... shall include gathering and analysis of information, responding to requests for assistance from constituents, and carrying out special projects." The Council Aide assists their Councilmember in doing exactly those things. It does not make sense to say that they can only answer phones or assemble the agenda books. She would like the current description of responsibilities to remain in the policy, as the Aide and Councilmember are usually partners in getting things done. She does her own analysis, but if she felt comfortable with her Aide doing it in a partnership, she would do that. However, she would not delegate anything to her Aide that she thought she should be doing herself. Councilmembers need the help of their Aides in areas more than answering phones and putting books together. Her recommendation is to remove the last sentence of the proposed policy and leave in the current policy, which states the "...responsibilities of the Council Aides shall include gathering and analysis of information, responding to requests for assistance from constituents, and carrying out special projects."

MAYOR JOHNSON felt that was important because we have our Council Aides assist in special projects within the City. To restrict the Aides to only secretarial duties may restrict the Councilmembers' ability to serve better as elected officials.

COUNCILMEMBER McCAULEY clarified that it is in the policy. What was changed and added in the Background was some of the duties of basic administrative support. Noting the second paragraph under Policy, it states: "The Legislative Aides shall have the authority to request information on behalf of their individual Councilmember from the City Manager's Office..." They added "...and/or City Attorney's Office..." because that was not in the original policy. She continued reading, "...and enlist, through the City Manger's Office, assistance in resolving citizens concerns. However, the Legislative Aides may not direct City employees to take specific actions. The Legislative Aides may also attend meetings to gather information in a Councilmember's absence, but may not vote, deliberate or participate on behalf of their Councilmember..."

COUNCILMEMBER SANCHEZ felt the language was vague and confusing, and she would like the original description of "...gathering and analysis of information" included. The term "special projects" is not included in the new policy, and she would like that replaced.

DEPUTY MAYOR FELLER has concerns because the citizens elected the Councilmembers, not the Aides.

MAYOR JOHNSON commented that the Aides are to help Councilmembers and should not be restricted too much, as it would restrict Council.

MRS. LAWRENCE noted that her understanding was that Council wanted to add to the description of duties the phrase "gathering information and analysis".

COUNCILMEMBER McCAULEY agreed that would work.

COUNCILMEMBER SANCHEZ clarified that she also wanted the words "...carrying out special projects" added as well.

MAYOR JOHNSON moved approval [of Policy No. 100-35], with the language as proposed/amended.

To clarify the changes, **COUNCILMEMBER McCAULEY** stated that the

Background section will remain as is on the proposed policy. Under the Policy section, they will add: "...responsibilities of the legislative aides shall include: gathering and analysis of information, responding to requests for assistance from constituents and carrying out special projects". She **seconded** the motion.

MAYOR JOHNSON asked City Attorney Bennett if Council could legally require the last sentence of the policy which states, "Legislative Aides shall also be bound by any privileges or requirements related to confidentiality of City documents ..."

CITY ATTORNEY BENNETT responded that this obligation could be imposed on any City staff member as agents of the City. Council Aides sit in a high position and represent the Councilmembers. Information that comes to Council through Confidential cover should also inure to your Legislative Aides.

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

Policy No. 100-43 – Funding Requests from an Oceanside Sister City

MRS. LAWRENCE reported that the only change to this policy was a typographical change in the first sentence, with the word "for" changed to "from".

MAYOR JOHNSON noted that the first paragraph contains the phrase "... and reviewed by the Sister Cities Foundation." The third paragraph, second sentence reads "... shall be the responsibility of the Sister Cities Foundation ...". In light of the recent workshop regarding a better and more open relationship with the Sister Cities Foundation, he suggested changing the language to "... and reviewed by the Sister Cities Foundation and the City Council ...", and "... responsibility for the Sister Cities Foundation and the City Council for management and oversight ...". There seems to be a lack in accountability that needs to be addressed.

MRS. LAWRENCE suggested Council may want to wait to develop the policy until after the follow-up workshop on Sister Cities. **MAYOR JOHNSON** agreed.

COUNCILMEMBER McCAULEY reported that the committee had intended to request that this policy not be addressed until after the Sister Cities policy was addressed.

MAYOR JOHNSON noted that consideration of this item would be delayed.

Policy No. 100-44 – City E-mail Usage and Electronic Records Retention

MRS. LAWRENCE reported that the committee had not recommended changes to this policy. **MAYOR JOHNSON moved** adoption [of Policy No. 100-44].

CITY CLERK WAYNE pointed out that on page 2, Council had changed the time that email communications will be retained from 3 years to 2 years. This correction needs to be reflected in the policy.

COUNCILMEMBER SANCHEZ moved adoption [of Policy No. 100-44], to include the change from 3 years to 2 years.

COUNCILMEMBER McCAULEY seconded the motion.

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

Policy No. 100-46 – Access to Public Buildings

MRS. LAWRENCE reported that this was a new policy recommended by the ad hoc committee, identifying that all City buildings and offices are to remain unlocked during normal business hours.

MAYOR JOHNSON does not feel that this policy is necessary, as all the rooms and buildings are owned by the public and are accessible during normal operating hours.

COUNCILMEMBER McCAULEY moved not to approve [Policy No. 100-46].

MAYOR JOHNSON seconded the motion.

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

Policy No. 100-48 – Staff Support to City Commissions, Boards and Committees

MRS. LAWRENCE reported that this is also a new policy recommended by the committee and discusses identifying staff support to City advisory groups. The policy memorializes what staff should already be doing when assigned to an advisory group.

COUNCILMEMBER McCAULEY noted that this policy discusses minutes and reports from staff on different commission meetings. The ad hoc committee was surprised to learn that not all of the commission meetings were being audio taped. The policy states that the meetings should be taped and minutes compiled. Although the ad hoc committee is still studying the commissions, this policy could be adopted and be in place until such revisions are defined. This will let staff know that it is a Council policy to tape the meetings, compile the minutes and return the information to Council. She **moved** approval of Policy No. 100-48.

DEPUTY MAYOR FELLER seconded the motion.

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

ADJOURNMENT

MAYOR JOHNSON adjourned this meeting of the Oceanside City Council at 4:30 PM, January 16, 2002.

ACCEPTED BY COUNCIL:

Barbara Riegel Wayne, CMC
City Clerk, City of Oceanside



California

CITY OF OCEANSIDE

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

DECEMBER 6, 2006

ADJOURNED AND REGULAR MEETING 3:00 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
--

Councilmembers
HDB Directors
CDC Commissioners
Rocky Chavez
Jack Feller
Esther Sanchez
Jerome M. Kern

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 adjourned and regular 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 3:00 PM, December 6, 2006 by Mayor Wood. The regular meeting began at 4:00 PM. The special meeting of the City Council was also convened at 3:00 PM on this date [See minutes of December 6, 2006 Special meeting.]

3:00 PM - ROLL CALL

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

COUNCIL, HDB AND CDC CLOSED SESSION ITEMS

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

CITY ATTORNEY MULLEN titled the following agenda items to be heard in closed session: Item 2 and the Special Meeting Closed Session Item. [Council did not hear

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

Items 1, 3, 4A and 4B on the regular agenda.] See the report out on these items at 5:00 PM, Item 6.

Closed Session and recess were held from 4:02 PM – 5:03 PM.

5:00 PM

MAYOR WOOD reconvened the joint and special meetings at 5:03 PM. All Councilmembers were present. Also present were Assistant City Clerk Trobaugh, City Treasurer Jones, Interim City Manager Martin and City Attorney Mullen. Pastor Carl Souza gave the Invocation. Julie Bank, Executive Director of the North County Humane Society & SPCA, led the Pledge of Allegiance.

PROCLAMATIONS AND PRESENTATIONS

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

MS. BANK presented Ginger, a 2-year-old dog available for adoption.

CLOSED SESSION REPORT

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

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

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

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

No closed session was held on this item.

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

PUBLIC EMPLOYEE APPOINTMENT

Title: City Manager

There was no reportable action on this item.

3. **[CONFERENCE WITH REAL ESTATE NEGOTIATOR (SECTION 54956.8)**

A) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: Ivey Ranch Park (bounded by Rancho del Oro Drive, Mission Avenue and Highway 76); Negotiating Parties: City of Oceanside and Ivey Ranch Park Association, Inc.; Negotiator for the City: Douglas E. Eddow, Real Property Manager; Under Negotiations: Price and terms of a lease amendment regarding the use of the subject property]

No closed session was held on this item.

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

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

December 6, 2006

Joint Meeting Minutes
Council, HDB and CDC

Mission Vista Condominium Association v. Earth Systems Engineering Group, etc., et al., Superior Court Case No. GIC849929]

No closed session was held on this item.

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

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

No closed session was held on this item.

Special Meeting Closed Session Item [See Special Meeting Minutes

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

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

Hi Hope Ranch Ventures et al. v. Vista Unified School District, GIN036809 (Consolidated) (County of San Diego et al. v. Vista Unified School District, GIN037457

There was no reportable action under the Brown Act.

SPECIAL MEETING ADJOURNMENT

MAYOR WOOD adjourned the Special Meeting of the City Council at 5:09 PM. Council continued with the joint meeting agenda items.

The Mayor congratulated Councilmember Chavez on his recent re-election and welcomed new Councilmember Kern.

COUNCILMEMBER KERN indicated that he had a lot of support in getting elected, and Council was here to do the City's business.

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

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

CATHY NYKIEL, 214 North Coast Highway, representing MainStreet Oceanside, invited everyone to the 'Saturday for Giving' event on December 9 from 2:00 – 5:30 PM at the Regal Entertainment Plaza. It is a combined holiday event and donation drive. They need new toys for the City toy drive, new or gently used clothing and cold weather blankets for Brother Benno's, and food for the North County Food Bank.

NADINE SCOTT, 550 Hoover Street, addressed the Loma Alta Creek/Industry Street corridor. She has spoken to City staff, wanting this most northern watershed in the Carlsbad Watershed hydrologic area to get cleaned up. This interested her due to Robertson Concrete's application for a concrete plant on Industry Street, right on the creek. She investigated the area, looked at the watershed plan the City has done, etc. She became very concerned about the health of this area and the lack of code enforcement.

She found businesses there that are polluting, a lack of City staff to enforce the rules, and a lack of will or understanding. She noted that Buccaneer Beach is the terminus for Loma Alta Creek, where the concrete plant wants to discharge. This beach has been closed over 100 days this year; that is more than any other beach in San Diego County. She then displayed through computer graphics, pictures of dust going into the creek and nearby businesses. NCTD is working on the Sprinter line, but they are leaving trash everywhere and are going through the creek unabated and uncorrected. There was a fuel spill that workers were sweeping into a storm drain 4 weeks ago. Dust and trash are everywhere. Stored vehicles are in the easement and public right-of-way. There is sediment downstream. She challenged Council to clean up this area.

JIMMY KNOTT, 124 Sherri Lane, requested that Oceanside develop a campaign reform ordinance. He has talked to numerous individuals, and the number one idea is spending limits. Because of the tremendous amount of spending that all of the Councilmembers are doing, some that go beyond the cost of the office, the idea is to either equal one year's salary or to limit every candidate to \$0.50 per registered voter and outlaw independent expenditures. Another item is that there should be factual documentation of any allegations made by any candidate. Those allegations should be filed with the City Clerk prior to any publication or mailing.

One common complaint that a number of seniors had is the late night telephone calls from candidate groups, and they wanted that to cease. Additionally, there was a blockage in certain communities of the candidates, preventing them from campaigning in certain gated communities. The candidates should have full open access within this city because this is a democratic republic. The candidates should be able to go door to door to share the ideas of their candidacy.

CONSENT CALENDAR ITEMS [Items 8-15]

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.

ASSISTANT CITY CLERK TROBAUGH reported there was a request to speak submitted for Item 13. **COUNCILMEMBER KERN** pulled Item 10 for discussion. The following Consent Calendar was submitted for approval:

8. City Council/Harbor/CDC: Acceptance of Joint Minutes of the Small Craft Harbor District Board of Directors, Community Development Commission and City Council of the following meetings:
 - October 31, 2001, 10:00 a.m., Adjourned Meeting
 - October 31, 2001, 2:00 p.m., Adjourned Meeting
 - September 13, 2006, 4:00 p.m., Regular Meeting
 - September 20, 2006, 4:00 p.m., Regular Meeting
9. 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)
10. **Removed from Consent Calendar for discussion**

11. City Council: Approval of Change Order 3 [**Document No. 06-D0673-1**] in the amount of \$97,159.60 and Change Order 4 [**Document No. 06-D0674-1**] in the amount of \$105,588.62 to Sierra Pacific West, Inc., for additional water installation work, removal of debris at the site, and additional earthwork for the Mance Buchanon Park (formerly River Park) Grading, Drainage and Utilities project located along the southeasterly side of the San Luis Rey River and southerly of College Boulevard; approval of a budget transfer in the amount of \$589,891 from the drainage account to the construction account for the completed drainage improvements; and authorization for the Public Works Director to execute the change orders

12. City Council: Acceptance of the Treasurer's Report for the quarter ended September 30, 2006

13. **Removed from Consent Calendar for discussion**

14. City Council/CDC/Harbor: Adoption of [the following] resolutions approving the 2007 regular meeting schedule of dates and times for the Joint Meetings of the City Council, Small Craft Harbor District Board of Directors, and the Community Development Commission:

Council Resolution No. 06-R0676-1, ". . . establishing the dates and times of regular meetings and establishing the regular meeting schedule for calendar year 2007";

Harbor Resolution No. 06-R0677-2, ". . . establishing the dates and times of regular meetings and establishing the regular meeting schedule for calendar year 2007"; and

CDC Resolution No. 06-R0678-3, ". . . establishing the dates and times of regular meetings and establishing the regular meeting schedule for calendar year 2007"

15. City Council: Authorization to award a contract in the amount of \$132,968 to Koch-Armstrong General Engineering, Inc., of Lakeside for the Mission Avenue Sidewalk west of RDO project, and authorization for the City Manager to execute the agreement upon receipt of all supporting documents [**Document No. 06-D0679-1**]

COUNCILMEMBER CHAVEZ moved approval of the balance of the Consent Calendar [Items 8, 9, 11, 12, 14, and 15]. **COUNCILMEMBER SANCHEZ seconded** the motion, which was **approved 5-0**.

10. **City Council: Approval of Change Order 1 in the amount of \$14,760 to Southwest Growers and Landscaping, Inc., for additional earthwork and sod for the Tee Box Rehabilitation project located at the Oceanside Municipal Golf Course, 825 Douglas Drive, and authorization for the Public Works Director to execute the change order [Document No. 06-D0672-1]**

COUNCILMEMBER KERN reported that he lives within 500 feet of the golf course, although it is just within the dogleg on the 4th hole. The City Attorney is researching this to determine whether he can vote on future golf course issues. However, at this time he would recuse himself from this item, even though he would not receive any benefit from this action.

COUNCILMEMBER SANCHEZ moved approval [of Item 10]. **COUNCILMEMBER CHAVEZ seconded** the motion. Motion was **approved 4-0**, with Councilmember Kern abstaining.

13. **City Council/CDC: Adoption of a resolution declaring the City's intention to vacate a portion of Pacific Street located north of Sportfisher Drive and east of Pacific Street adjacent to 504 No. Pacific Street, and setting a public hearing on the proposed vacation for January 10, 2007, at 6:00 p.m. in the City Council Chambers**

NADINE SCOTT, 550 Hoover Street, lives in the Loma Alta Neighborhood. She does not object to the item; however, the City's intention to vacate any property should always be read into the record in front of the public. Not everyone receives an agenda, but many watch television. Whenever the City is dealing with vacation of property, selling of surplus property, etc., she would prefer that these be public items rather than on the consent calendar.

COUNCILMEMBER SANCHEZ moved approval [including adoption of **Resolution No. 06-0675-1**, ". . . declaring intention to vacate a portion of a public street right-of-way and setting a public hearing thereon (Pacific Street)."

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

GENERAL ITEMS

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

The General items [Items 20-23] were trailed pending arrival of staff.

CITY COUNCIL REPORTS

24. **Mayor Jim Wood**

MAYOR WOOD noted that tomorrow, December 7, is the 65th anniversary of Pearl Harbor. There will be a special dedication in memory at the Oceanside Harbor. He invited the public to attend. He wished everyone happy holidays.

25. **Councilmember Rocky Chavez**

COUNCILMEMBER CHAVEZ presented a computer slide show on Bonsall West Elementary School, where the librarian organized a reading train. They bring people in from all over to add interest to books.

The Oceanside library will be hosting a home tour on Sunday, December 10.

Cub Scout Pack 789 toured City Hall and learned about local government.

26. **Councilmember Jack Feller**

COUNCILMEMBER FELLER reported on the Turkey Trot that was held on Thanksgiving Day. He and Councilmembers Chavez and Sanchez attended. There were 2,500 participants.

At the next Council meeting, he would ask that Council draw straws or numbers for seating assignments. Then staff could make the technical adjustments over the holidays. He had also suggested to the City Manager that they hold a Council retreat, and that is on next week's agenda for discussion. That way, they could set goals and priorities to start the year off right. Also, Council will hear an update on the Circulation Element in January. At that time, they will be able to voice their concerns and issues.

27. **Councilmember Jerome Kern**

COUNCILMEMBER KERN thanked staff and Council for making him feel welcome. It will take him about a month to catch up on all of the reading material provided to him, and then he will be out in the community.

28. **Councilmember Esther Sanchez** – trailed until the end of the meeting

With the arrival of staff, the Mayor determined to hear Item 22.

GENERAL ITEMS

22. **City Council/CDC: Introduction of an ordinance of the City Council of the City of Oceanside extending the time limit for the effectiveness of the Oceanside Downtown Redevelopment Plan and the time limit to pay indebtedness and receive property taxes pursuant to Health and Safety Code Section 33670 under the Oceanside Downtown Redevelopment Plan pursuant to Health and Safety Code Section 33333.6(e)(2)(C)**

JANE McVEY, Economic Development and Redevelopment Director, stated that items 22 and 23 are closely related. They both deal with the Redevelopment Agency and the time frame in which the Redevelopment Agency can incur debt. Redevelopment agencies may only do what state law allows them to do; they are completely controlled by state law, which is periodically changed. The bottom line is that this agency's ability to incur debt ended on December 31, 2003. They will continue to receive income until 2025, but they cannot incur debt any longer. At one point, when the State did not have enough money to fund the schools, they created a fund called the Educational Relief Augmentation Fund (ERAF). They basically snatched money out of cities and redevelopment agencies to put in this fund, which then was passed to school districts. Subsequently, they passed a law that said if a redevelopment agency had paid into ERAF, they were allowed to extend their ability to incur debt for every year in which they paid into the ERAF. Oceanside has paid about \$1,260,000 for 3 years.

The laws that the State enacted allowing for these extensions were different each year. The governing rules and processes are different for each different year. Therefore, tonight's item is for the very first year. Staff would bring the second 2 years back to Council in January since they must give a 30-day notice to the effected agencies. Staff has not yet given the 30-day notice.

Basically, this is the State giving something back to the City for paying into the ERAF. It allows the City to extend for one year.

For Item 22, staff is asking Council to introduce the ordinance to extend the agency's ability to receive property tax increment and incur debt, due to payments made to the ERAF fund for fiscal year 2003-04.

JIMMY KNOTT, 124 Sherri Lane, is unclear about these items, especially in light of recent court cases. He sits on the Integrated Utilities Master Plan Citizen Advisory Committee. They have been told there are a number of areas that they cannot even consider regarding future allocations or applications. He feared that there will be a challenge in court due to some cross applications. He would like the City Attorney to clarify this.

MS. McVEY stated that Delmar Williams, the City's outside counsel in this issue, is in attendance. Both he and City Attorney Mullen are versed in this.

CITY ATTORNEY MULLEN explained that all Item 22 is doing is extending the City's ability to receive tax increment by one year and extending the Redevelopment Plan by one year. They have a statutory right to take the action pursuant to the Health and Safety Code Section. He saw no controversial aspects related to Item 22.

DELMAR WILLIAMS, with Best Best and Krieger, stated this is a statutorily authorized extension of Oceanside's Redevelopment Plan and ability to receive tax increment. It is expressly authorized by law.

COUNCILMEMBER SANCHEZ moved to introduce the ordinance, ". . .extending the time limit for the effectiveness of the Oceanside Downtown Redevelopment Plan and the time limit to pay indebtedness and receive property taxes pursuant to Health and Safety Code Section 33670 under the Oceanside Downtown Redevelopment Plan pursuant

to Health and Safety Code Section 33333.6(e)(2)(C)."

COUNCILMEMBER CHAVEZ seconded the amended motion.

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

23. **City Council/CDC: Introduction of an ordinance of the City Council of the City of Oceanside eliminating the time limit for establishing loans, advances and other indebtedness to be repaid with tax increment revenues under the Oceanside Downtown Redevelopment Plan pursuant to Health and Safety Code Section 33333.6(e)(2)(B), and adoption of a resolution electing to receive tax increment under the Oceanside Downtown Redevelopment Plan pursuant to California Health and Safety Code Section 33607.5(b)**

JANE McVEY, Economic Development and Redevelopment Director, stated this related item expands the Redevelopment Agency's ability to incur debt for 10 years, in addition to the one-year extension passed in Item 22. Staff would bring back 2 years in January. The ability to incur debt impacts the Agency's ability to enter into development agreements, as well as to incur other debts such as bonds. However, the distinction with this item is that, with the ability to extend the ability to incur debt for this additional 10 years, they have the responsibility to also pass through tax increment, or property taxes, to other taxing organizations. When the Agency was established in 1975, all of the additional property tax (tax increment) after that point came to the Redevelopment Agency. That is the money that prior Councils used to do such things as moving the railroad switching yards out of the downtown and remediating the ground, along with all of the infrastructure projects that were done over the years.

Under the current state law, to extend this for 10 years, we have to share the tax increment with other taxing authorities. Because our authority ended December 31, 2003, we would be required under current law to pay back to those taxing jurisdictions over a 3-year period a total of about \$1,100,000. For example, the City is a taxing authority. The City would receive about \$287,000; the school district would receive \$425,000; etc. So going forward, each of the effected jurisdictions would receive on an annual basis some property tax increment or growth that comes out of the Redevelopment Agency.

As has always been the case, when the tax increment of the property tax revenue comes in, 20% gets set aside into the affordable housing fund. That is the fund that the Neighborhood Services Department uses to do their affordable housing projects, along with other revenue they receive.

With the action on the previous item and this item, it would add a total of 11 years. Adding the 2 years that staff will bring forward in January, after the 30-day required notification to the taxing authorities, they will be extending for 13 years, taking this to a total of 28 years.

Staff recommends that Council introduce this proposed ordinance, unless they choose not to receive their increment and leave it in the Agency.

COUNCILMEMBER SANCHEZ moved to introduce the ordinance, ". . . eliminating the time limit for establishing loans, advances and other indebtedness to be repaid with tax increment revenues under the Oceanside Downtown Redevelopment Plan pursuant to Health and Safety Code Section 33333.6(e)(2)(B)" and adopt **Resolution 06-R0683-1**, ". . . electing to receive tax increment under the Oceanside Downtown Redevelopment Plan pursuant to California Health and Safety Code Section 33607.5(b)."

COUNCILMEMBER CHAVEZ seconded the motion.

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

20. **Approval of the Community Relations Commission's FY 2006-07 Workplan**

JOHN LUNDBLAD, Management Analyst, Neighborhood Services Department,

stated this department provides the staff support for the Community Relations Commission (CRC).

JOHN DISE, Chairman of the CRC, asked that Council ratify their workplan. The CRC would continue working with the Martin Luther King (MLK) scholarship program, the MLK civic award, and the Community Development Block Grant (CDBG) program, where grants are provided for the needy people in the community. All of these programs have been very helpful to the community. They also work as a public relations instrument for the City.

COUNCILMEMBER FELLER noted that this commission works very hard for about 6-7 straight months each year with the Martin Luther King award, the CDBG program and then the MLK scholarship at the end of the year. He **moved** approval [of the workplan].

COUNCILMEMBER SANCHEZ seconded the motion.

COUNCILMEMBER CHAVEZ asked how much money has been awarded.

MR. DISE thought it was \$50,000 last year.

TIM LEUNG, Commissioner, believed they have given over \$600,000 over the last 17 years. This is all community funded; they do not take any money from the City.

MR. DISE added that they also have applications available for the civic award for someone who is doing outstanding work in the community.

Motion was **approved 5-0**.

21. **City Council: Endorsement of the "Garfield Art Project" presented by the Helen Woodward Animal Center and approval of the placement of statues, as necessary, to implement the project**

DEBORAH POLICH, Library Director, stated this is an exciting proposal for a public art project in Oceanside that is scheduled for the summer of 2007. The Arts Commission was approached by the Helen Woodward Animal Center to explore the possibility of Oceanside joining with other North County cities in a project to place statues of the famous cartoon cat Garfield in the coastal area along Highway 101. The commission was very interested and supportive of the project. They established an ad hoc committee to work out the project details. The vice chairman of the commission, James Horvath, prepared a power point presentation to explain what this project is about. The Arts Commission recommends that Council endorse the project and approve the placement of the statues. The library is also excited about this. Garfield is a very popular character for children and adults alike. In 2007, Garfield turns 30. They have purchased a lot of books about Garfield to meet the demand they know will be there. Therefore, they also highly recommend this project.

JOHN McDONALD, Chairman of the Arts Commission, stated the Garfield project is the first of a series of private and public partnerships, which was promised in the commission's workplan. One of the reasons the commission chose it was because of its impact on bringing in people. In some parts of the country, this project has brought in 40,000-50,000 people. It is an economic development and arts coordinated project. It involves the cities all the way up and down the coast. Next, it complies with the commission's promise to Council to make a broad and eclectic approach to the arts. This is an appeal to the child in all of us and a lighthearted approach to the arts. This project is coming forward with a unanimous vote from the commission.

JAMES HORVATH, Vice Chair of the Arts Commission, stated that the goal of the project is to place approximately 40 of the 5-foot tall Garfield statues along the coast from Oceanside to La Jolla. The program is modeled after successful programs that have taken

place in St. Paul; Washington, D.C.; and other places. Oceanside is looking to get about 10 of the statues, depending on the number of sponsors that will take part in the program. We could get more statues, but so far the commission has chosen 10 sites. All of the statues are designed by predominantly local artists. The work for those will begin in the next few months. Right now they are accepting design ideas and will put together a book of designs and samples that can be chosen by sponsors. This is a free event for the public. It promotes tourism and is an economic development opportunity. It also showcases the different artists in the area. Ultimately, it benefits the Helen Woodward Animal Foundation.

They are looking for Council to adopt this program and become part of the community-wide event. The cost to the City associated with the program is nothing. All of the insurance and liability for the program is handled by the Helen Woodward Center, as well as all of the maintenance and care costs for the statues while they are in place for a period of 3 months next summer.

Sites that have been selected include 4 statues at the Civic Center Plaza, 3 statues at the Regal Cinema Plaza, 2 statues at the Pedestrian Underpass, and 1 statue at the 101 Café. John Daley [owner of 101 Café] is a big supporter of the program and is looking to have one of the statues on his property. Additional locations for the statues would be on private property. Some people have expressed interest and others are being approached about hosting a statue.

MAYOR WOOD asked whether anything from the City can be put on the statues, such as "Oceanside" on the base, or a welcome or directional sign to the downtown/beach area.

MR. HORVATH indicated there are options for sponsorship. If the City wanted to sponsor one of the statues, they would be able to select their own artist and design and have more input. Each of the statues has a plaque at the base that identifies the sponsor and artist and provides brief information about the statue and the sponsor.

COUNCILMEMBER FELLER asked if there was a reason that 4 statues were selected for the Civic Center site and none for the north end of town to greet people coming in.

MR. HORVATH replied that one of the reasons they were putting the statues in clusters is that, through the statue programs in other cities, they found that clustering works really well for tourism. If there are 3 or 4 statues in one location, there is a greater chance that someone will actually drive there, park their car, take pictures, etc. In the selection for the downtown area, there is a triangle effect. Maps and brochures will be produced by the Helen Woodward center to identify where the statues are. People can use the map and park in the downtown area, from where the statues are all within walking distance. That way, they can have a nice tour of the downtown area and maybe shop or eat dinner here.

COUNCILMEMBER FELLER felt this was a good idea and **moved** approval [of staff's recommendation to endorse the "Garfield Art Project" and approve the placement of the statues as necessary].

COUNCILMEMBER SANCHEZ **seconded** the motion. She asked if they would have a friar Garfield, a surfer Garfield, or have the statues reflect some of the sites in Oceanside.

MR. HORVATH reported that the Arts Commission has expressed their interest to the Helen Woodward Animal Center to have the statues have cultural identity and enhancements. Some of the past statues they have seen have been fun and entertaining. They were clear when they talked about Oceanside being part of this that they wanted a lot more cultural diversity in the statues. They get what they get; however, through the steering committee that the commission is part of, they will review the design submissions and will select ones they feel are appropriate. Ultimately, it is a project for Helen

Woodward so they have the final say. Where the statues go is a function of the sponsors and their selection of locations.

COUNCILMEMBER SANCHEZ asked if there was an effort to try to have it relevant to the City. La Jolla, Del Mar, Solana Beach and Encinitas have already signed on. She asked if their statues were already designed and if they have something to do with these cities. She acknowledged that the program does not start until June.

MR. McDONALD said it was important to understand that they do not have control over the selection. They are a voting member of a large group that represents those cities. If there is any concern about that, it should be taken into consideration in Council's vote. This is a process that they can influence. They asked particularly for the multiple heritages and for an artistic emphasis and quality. The point is that ultimately this is just a message; the City will get whatever the group votes for.

MR. HORVATH stated that the more Oceanside businesses that sponsor the statues, the more say they will have. That again comes down to individual businesses; they will make their top choices on where the statues will be located.

COUNCILMEMBER SANCHEZ asked how much it would cost to sponsor a statue.

MR. HORVATH replied that the sponsorship cost is \$4,500. The artist receives \$1,000 once selected, for their labor and supplies. At the end of the program, the Helen Woodward Center auctions off all of the statues, and that is how they get their money. The other option is that a sponsor can spend \$6,500, and they can design the statue, decide where it goes, and keep the statue at the end of the program. It would not go to auction. They could buy it and place it where they want.

COUNCILMEMBER SANCHEZ thought a friar Garfield would be cute, as well as a surfer, 101 cruiser, etc.

MR. HORVATH reiterated that the nice thing about the program is that it has a limited time span of 3 months only. Then the statues go away. They are a voting member of the steering committee so they will obviously try to vote for statue designs that show some skill and have a nice quality to them.

COUNCILMEMBER SANCHEZ asked if there were sponsors who had already voiced an interest.

MR. HORVATH was not sure; the Helen Woodward Center is handling that portion. The kick-off was just 2 weeks ago so it is just starting to take wing.

COUNCILMEMBER KERN noted that the statues are 1,000 pounds. He asked if they deliver the statues.

MR. HORVATH responded that the Helen Woodward Center is fully responsible for picking up and delivering, moving and maintaining, and removing the statues. Because they weigh so much and are difficult to maneuver, they will all be painted at the same location. He was not sure if that location has been determined yet. Once they have all of the sponsors and have selected the designs, they will be in a large warehouse. The public will be invited to watch the artists. There will be public viewing hours and then private hours for the artists to work unencumbered.

COUNCILMEMBER KERN asked about the maintenance of the statues, feeling they would be attractive targets for graffiti. He asked if someone would go around to make sure they are maintained.

MR. HORVATH did not know how frequently they will be viewed by the sponsor organizers. Since Oceanside's statues are close by in the downtown, they are hopeful that it would be reported to either the Arts Commission or the Helen Woodward Center if any damage or graffiti is done. They would then get someone out to repair the statues. He felt

that part of the Arts Commission's responsibility is to make sure the statues are appropriate, maintained and attractive.

Further responding to Councilmember Kern, he stated the statues are polyurethane with a metal armature structure inside. The base is concrete, which is where most of the weight comes from.

COUNCILMEMBER CHAVEZ clarified that the program is for the statues to be along Highway 101.

MR. HORVATH confirmed that all of the statues will be placed in close proximity to the 101. It is a Highway 101/coastal program.

COUNCILMEMBER CHAVEZ asked if they could take this to the harbor.

MR. HORVATH indicated they could. The sites the commission selected were basic sites that created walking traffic in downtown and were areas of large access, with plenty of sidewalk area to avoid impeding the public right-of-way. If the program takes off and they decide to do more statues, they could identify a lot more sites.

COUNCILMEMBER CHAVEZ asked if the Arts Commission has talked to the Chamber of Commerce and Welcome Center, since they get a lot of people there. The City just redid the gateway enhancement at Highway 76 and Highway 101, with all of the landscaping.

MR. HORVATH explained that, in identifying locations, they tried to keep to safe locations. There is a lot of great drive-by locations, but the public likes to get out of their cars and get next to the statues to take their pictures. Children hang on the statues, etc. Therefore, they tried to place the statues in areas that are safe for pedestrians. They have discussed the harbor, which has a great area. The shops would benefit from having more traffic. The only problem is that the harbor bridge improvement will occur about at the same time as this program. They did not feel right sending new tourists and residents into an area where they will have a lot of traffic congestion.

MR. McDONALD stated that the Helen Woodward people came to the Arts Commission and MainStreet. MainStreet felt it was too narrow of a focus for them. They want to participate but could not sponsor. The Arts Commission then took it over since they are a Citywide organization. Therefore, they are taking the lead to get the program started. The Woodward Center would be talking to Chamber people, etc..

COUNCILMEMBER CHAVEZ felt that, for the Chamber representatives, this would be a good opportunity to get involved regarding the Welcome Center. The gateway enhancement has sidewalks, paving, lights and places to walk through in a safe area. He thought it was a great project and looked forward to seeing it.

COUNCILMEMBER FELLER pointed out the statues are only going to be up for 3 months.

MR. HORVATH believed there would be quite a bit of press and public relations for the event. The auction will be held at the Del Mar Fairgrounds. The cities that participate get a piece in the papers. The Helen Woodward Center does wonderful things and is an asset to the entire North County. It is nice to do something in conjunction with them to further their work.

Motion was **approved 5-0**.

[Recess was held from 6:23 to 6:31 PM.]

6:00 P.M. – PUBLIC HEARING ITEMS

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

16. **[City Council: Adoption of a resolution approving the issuance of Multifamily Housing Revenue Bonds by the California Statewide Communities Development Authority in a not-to-exceed amount of \$4,000,000 to finance the acquisition and rehabilitation of Cape Code Villas, a 36-unit senior housing complex at 1710 Maxson Street to be owned and operated by Oceanside Housing Partners, LP, a California limited partnership – Cape Cod Villas – Applicant: Oceanside Housing Partners, LP]**

Due to a noticing error, this item will be re-noticed and heard on December 13, 2006.

17. **City Council: Introduction of an ordinance for Zone Amendment (ZA-4-06) and adoption of a resolution for Local Coastal Program Amendment (LCPA-3-06) to designate a senior overlay district to encompass eight mobile home parks and establishment of new senior mobile home parks within the City of Oceanside – Senior Mobile Home Parks Overlay District Ordinance – Applicant: City of Oceanside**

The Mayor opened the public hearing and requested disclosure of constituent contacts. Councilmember Kern reported contact with staff. All others reported contact with staff and the public. The Assistant City Clerk reported that no correspondence or petitions were received.

JERRY HITTLEMAN, Acting City Planner, stated that approximately 20% of the Oceanside population is 55 years or older. Senior housing that is restricted to seniors is important to this population. In 2005 the Council put a moratorium on the conversion of senior mobile home parks to family parks. This moratorium was continued once for another year in December 2005. It will actually end on January 2, 2007. At that time, there was a fear that some of the parks, especially the Trico Park, might convert from a senior-only park to a family park. Staff has been working on an ordinance for a senior overlay district for the past 2 years to ensure the maintenance of 8 mobile home parks as senior-only parks. For these parks, at least one occupant of each unit must be 55 years of age. At the 8 parks chosen, they have residents of 55 years or older in more than 80% of the units. California law allows parks with 80% or more seniors to be restricted to this standard. Staff checked that out very carefully.

The 8 mobile home parks that staff is looking to apply this overlay on are: Laguna Vista Mobile Estates, Rancho San Luis Rey, Mission View Manor East, Mission View Manor West, Trico Mobile Estates, Mira Mar Mobile Community, La Salina Mobile Village and Rancho Calavera. Two of the parks are in the coastal zone, so Council will need to approve the Local Coastal Plan (LCP) amendment. Mira Mar is in the coastal zone and Redevelopment Area. Clustered around the Douglas Drive/El Camino Real area are Rancho San Luis Rey, Trico, Laguna Vista, and Mission View Manor East and West. La Salina Mobile Home Park is at Coast Highway near Loma Alta Creek. Rancho Calavera is in South Oceanside north of Lake Boulevard.

These are the 8 parks out of 19 mobile home parks in Oceanside that are predominately senior. The existing underlying zoning is medium-density and high-density housing for these areas. Currently they are only protected by private covenants and restrictions and the City's current moratorium. They are looking for a more permanent solution with this overlay district. The City's General Plan Land Use Element and Housing Element state that the City shall strive to maintain a balance between senior housing and family housing. That is what they are trying to achieve with this ordinance.

The Planning Commission reviewed the proposed ordinance on November 13 and unanimously recommended that Council approve it. Staff recommends that Council approve the Senior Mobile Home Parks Overlay District, along with the Negative Declaration, and the LCP amendment since there are 2 parks in the coastal zone.

Public Input

FRANK MERRIFIELD, 300 North El Camino Real, Rancho San Luis Rey park resident, hoped Council would establish this overlay district. Members of the Oceanside Mobile Home Alliance (OMHA) in attendance stood to show their support of this item.

JIMMY KNOTT, 124 Sherri Lane, La Salina park resident, stated he is a director of OMHA and the residents' representative for La Salina. He is the only non-senior representing a senior community. He would be grandfathered in under this ordinance. He thanked many who supported senior mobile home park zoning. State and federal law support this zoning. By their rental agreements, the residents have entered into covenants and contracts. However, some park owners decided independently to abrogate those agreements. Therefore, the residents' only recourse was to appeal to Council. Council has the power to give them what is needed.

PETE SCHRUPS, La Salina park resident, stated that seniors cannot handle stress as they could when younger, and yet it seems they are under constant attack. He came here in 2000, and it has been one thing after another. These are supposed to be their golden, retirement years. Month after another they hear they are going to have to move out. Now they will also have the train [Sprinter] coming through with all of that noise. He asked Council to give them a break on this issue.

With no one else wishing to speak, **MAYOR WOOD** closed the public hearing. He stated the Council supports the seniors completely. There are many people who worked to support this issue for the City and the seniors. He has been pleased with staff's input on the issues. It is scary when there is a contract for a senior park, and there are some nasty people on the other side of this issue. They were rude to the Council when they met with them and to the seniors who have given so much.

COUNCILMEMBER CHAVEZ reiterated that Council has supported this since its inception. The message he would like to give everyone is that this Council has listened to all of the different elements within the community. He **moved** to introduce the ordinance and adopt the resolution [**Resolution No. 06-R0680-1**, ". . . to amend the Local Coastal Program with certain zoning amendments amending the official zoning map to designate certain properties in the coastal zone to be within the Senior Mobile Home Park Overlay District and to request California Coastal Commission certification of said amendment (City of Oceanside – Applicant) (LCPA-3-06)"], place [the listed] 8 existing mobile home parks within the overlay district and approve the Negative Declaration.

COUNCILMEMBER SANCHEZ **seconded** the motion. She thanked the seniors for being so diligent. Oceanside, as other cities, has a critical situation regarding senior affordable housing. This senior population is in its golden years, and the seniors have contributed so much to this City. They have been bombarded over and over. It is Council's duty to do this. Most, if not all, mobile home parks started out as senior mobile home parks. Most, if not all, of the residents signed contracts. They expected to be living comfortably in a place that they chose and not have to worry about providing shelter. They should be able to enjoy their years. Most of the mobile home parks support this item. State law fully supports this move. The City is pioneering in a sense by making this bold statement, but Council must act. They are responsible for ensuring the public safety and welfare, especially of our seniors. She felt they would be continuing with some legal issues, but it was proper for them to do this now.

COUNCILMEMBER FELLER asked if all of the parks going into this overlay district comply with all of the regulations, specifically regarding common usable open space, the building height, etc. The ordinance states that the maximum height of any structure within the mobile home park, excluding the mobile home unit, is limited to 30 feet. Later it says 18 feet. He had a brother-in-law who lived in a mobile home park in a 2-story mobile home. He was not sure that would fall within 18 feet. He asked if that would be allowable. The space of the lot size is listed at 3,500 square feet. He asked if that was the typical lot size in these parks.

MR. HITTLEMAN stated that was correct for all of these parks.

COUNCILMEMBER FELLER asked if guest parking was already in place or grandfathered in.

MR. HITTLEMAN indicated that it is definitely in place for these parks.

COUNCILMEMBER FELLER noted that Exhibit A lists 1550 South Hill Street for La Salina [Coast Highway] and asked if Calavera was spelled correctly.

MR. HITTLEMAN responded that, for the most part, all of the mobile home parks do meet the regulations. For the small areas that may not meet them, they are grandfathered in or considered nonconforming uses at this time. If they were to expand or do new construction on the mobile home park site, they would have to comply with these regulations. He believed that all of the mobile homes are one-story. It is very difficult to add a second story to a mobile home, if not impossible. It would be restricted to one-story, or 18 feet, for each mobile home. The actual recreation or community buildings would be restricted to the 30-foot height limit.

Following the reading of the title of the ordinance, ". . . establishing a Senior Mobile Home Park Overlay District, amending the official zoning map to designate certain properties to be within the Senior Mobile Home Parks Overlay District, and amending the Oceanside Zoning Ordinance," motion was **approved 5-0**.

18. **CDC: Consideration of a resolution approving Tentative Parcel Map (P-201-06), Development Plan (D-202-06) and Regular Coastal Permit (RC-202-06) for the construction of a two-unit residential condominium project located at 416 South Myers Street – Chapman Condominiums – Applicant: Dwayne Chapman**

MAYOR WOOD opened the public hearing and asked for Council disclosures of constituent contacts. Councilmembers Kern and Sanchez reported no contact. Mayor Wood and Councilmembers Chavez and Feller had staff contact.

SHAN BABICK, Associate Planner, stated this is a parcel map, development plan and regular coastal permit for a 3-story, 2-unit residential condominium project. There is an existing residence at this location. The proposed units are 2,964 square feet and 4,162 square feet to be situated on a lot less than 4,000 square feet. The proposed design is modern. Quite a few of these types of projects are coming into the South Myers Street area. A regular coastal permit is required since this project is located in the coastal zone; however, it is not located in the appealable area. Staff's review of this project centered on its compatibility with the surrounding area regarding product type, design, etc. The project meets or exceeds all of the development standards per the Zoning Ordinance. Staff found that the project size and type is consistent with the newer development in the South Myers Street area.

The Design Review Committee and Redevelopment Advisory Committee both unanimously recommended approval of the project.

Applicant

JENNIFER BOLYN, project architect and applicant's representative, stated the applicant and his family will be living in the larger of the 2 units. They wanted to create a unique duplex condominium that maximized the outdoor space. They determined there are substantial views on the 3rd floor so they located all of the living spaces (kitchen, dining room, great room) on the 3rd floor, with access via individual private elevators from the garage. The project has a modern design, using high quality materials such as 2-tone stucco, glass rails and the shaped stucco rail on the front and rear facades. They were sensitive to the idea of aesthetics along the railroad passage. They are using interior glass floors and skylights, and the interior units have 9- and 10-foot ceilings. They angled the project's floor plans to create prominent individual entries to the units. All of the parking is underground. They provided for the required parking and additional storage units in the garage. There are rooftop decks at the rear, which offer the opportunity for the residents to have their own gardens and barbecues. They will use non-reflective roof coverings. They are using drought tolerant landscaping for water conservation.

DWAYNE CHAPMAN, applicant, 33289 East Ridge, Temecula, has been a southern California resident his whole life. This is an opportunity for him and his family to live in Oceanside. They lived here for many years but were never able to own a place. This was a chance to own a wonderful place to raise his 4 children.

Public Input

LOU TASCHNER, 128 South Pacific Street, stated this is a 4-story project, with the garage underground. The project meets all of the requirements, and he supports it. However, this is a 4,000 square-foot lot, which means it is 50 feet wide and 80 feet deep. The only thing that can be built on there is a duplex. The City owns the property immediately to the rear of this site, having purchased it in 1978. They purchased a 60-foot strip for beach parking in the future. This is the 1st project on Myers Street since 1975 when they started redevelopment. If Council wants to see incentive for this area, they should consider what could have happened with this project if the City gave the applicant the 60 feet for his underground parking garage. He would have been able to get 8 cars instead of 4 in there. He would be able to get more units on the property if he so desired. Therefore, he asked that, in the future, Council direct staff to consider opening the possibility of using the City property for an encroachment for parking underground. They could get density next to the railroad tracks and could preserve beach parking.

He had asked a year ago to consider completing the undergrounding downtown. Tonight staff indicated that the tax increment would be going down, so they will not get the full amount to use in redevelopment. Working with the people who want to develop in this community and being more proactive, Council could probably help development occur at a much quicker pace. This is the last area that has not been addressed.

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

COUNCILMEMBER SANCHEZ reviewed the architect's comment on the roof having a potential garden. She asked for further details on the roof.

MS. BOLYN stated there are roof gardens located at the rear of the property toward the railroad tracks. There are parapet rails, and then there is a roof that causes it to be set back from the property line. That cannot be occupied. They cannot have over 500 square feet total that is occupied, or they would have to have a second means of egress.

Further responding to Councilmember Sanchez, she noted that the garden would not contain anything high. Structurally they could not support trees or bamboo.

COUNCILMEMBER SANCHEZ congratulated Ms. Bolyne on coming up with a unique design. She **moved** approval [of staff's recommendation and adoption of **Resolution No. 06-R0681-3**, ". . . approving a tentative parcel map, development plan and regular coastal permit for the construction of a 2-unit residential condominium project located at 416 South Myers Street – Applicant: Dwayne Chapman"].

COUNCILMEMBER FELLER seconded the motion; motion was **approved 5-0**.

19. **CDC: Consideration of a resolution approving Tentative Map (T-202-06), Development Plan (D-207-06) and Regular Coastal Permit (RC-209-06) for the construction of a nine-unit residential condominium project located at 502 North Myers Street – Crystal Sands – Applicant: 502 N. Myers Street, LLC**

MAYOR WOOD opened the public hearing. Regarding disclosure of constituent contacts, Councilmembers Kern and Sanchez had no contact. Mayor Wood and Councilmember Chavez visited the site and talked to staff. Councilmember Feller talked to staff.

SHAN BABICK, Associate Planner, stated this is a 9-unit residential condominium project at 502 North Myers. He reviewed the nearby project that had been controversial when a street vacation was being done, etc. This project is located behind that one and is adjacent to Sea Village. The design is similar to Item 18's project since the same architect worked on this project. The project proposes 3 stories. The units range in size from 1,870 to 2,751 square feet. The project is situated on a 13,500 square-foot lot. There is underground parking for the majority of the spaces; however, there are 2 spaces located in a garage. That totals 19 parking spaces for 9 units and is one space above the requirement. The applicant is requesting a street vacation [portion of Sportfisher Drive]. There have been questions regarding whether they would need the street being vacated for access. A portion of that street is an emergency access, so they do not need it. The Sea Village entrance point is in an L shape, and they have an exit off Myers Street and a nexus off Surf Rider. The Fire Department did not have an issue. The emergency access is really only for pedestrians. Sea Village has already vacated half of the street, and this is to vacate the other half.

The regular coastal permit is required for this project, and the site is within the appealable area. Staff's review focused on the product type and design. The design is consistent with other products within this area. It is moving away from the Mediterranean design seen at San Miguel. It is a nice product with a modern design. They also reviewed the project regarding the Local Coastal Program. The project is set far enough back that there is no issue regarding view blockage along the South Myers Street corridor. The project is set back with landscaping along the street vacation portion.

The Redevelopment Advisory Committee and the Design Review Committee both approved the project unanimously.

The developer has met with the surrounding neighbors, and they have support from Sea Village and the other condominium owners within the area.

Applicant

MATT SUMEK, 4916 Everett Street, San Diego, applicant, stated they initially began neighborhood talks about 3-4 months ago. The first meeting was literally held on the street corner. They had an amazing turnout, with about 40 people attending. He and his general contractor and architect broke into teams and walked the people through the project layout and how the street vacation would work. They also held two separate meetings with the Sea Village Homeowners Association to work out a mutual agreement on how the street vacation would be handled since half was vacated in 1984. They are staying approximately 20 feet away from the current property line that they will be sharing with Sea Village to the nearest point of the building and extending to approximately 35 feet as the building staggers. Beyond the neighborhood meetings and community outreach, they

feel they have assembled a great team. He was excited about the project, feeling that projects like these will support the larger projects happening in the downtown core.

Addressing the street vacation, **COUNCILMEMBER SANCHEZ** stated that Mr. Sumek had referred to the fact that half of the street had previously been vacated, and this is the other half. She asked if this has been used at all for vehicular traffic or pedestrians.

MR. BABICK responded it is not used for any vehicular traffic. It is typically locked, so he did not believe it was used for pedestrian traffic.

MR. SUMEK indicated there are 'no parking' signs on only one side of the street; however, it says "no parking both sides". They have worked closely with Sea Village to establish where they are going to maintain a walkway and an easement for them to access that gate. It has a rusty lock on it currently.

COUNCILMEMBER SANCHEZ clarified that it had been used by pedestrians, and it was one of the concerns that Mr. Sumek addressed with respect to the pedestrians' ability to get through there.

MR. SUMEK stated that was one of the 6 items they agreed upon, providing Sea Village with a 5-foot easement and access through this project's gate to their gate. Further responding, he stated only Sea Village people used it, no one from the public. Sea Village extends to the east and to the north of his project. That is where they have a lot of their garages and their access drive.

JENNIFER BOLYN, project architect, stated they approached the design of this project from the point of view of creating an outdoor, park-like space for both visual interest coming from the ocean and for the residents. In lieu of going to the 10-foot setback, which is what Sea Village did, they stepped the project back. By doing so, they achieved the goal of getting ocean views to each of the units from most of the master bedrooms and all of the living spaces. They are using high quality materials and a smooth finish stucco. All of the parking is underground except for a 2-car garage that will be set back from visibility of Sportfisher. That is provided to an individual unit that would be located in the back and is a little larger. There is a private gym for the residents to use, which is accessed from the interior courtyard.

Public input

JIMMY KNOTT, 124 Sherri Lane, stated this is a beautiful development. He hoped it came out like the rendering. He had one concern that has been raised with a lot of developments that have a lot of glass. If it is south facing, sometimes the glare off the glass seems to affect people in traffic and needs to be addressed.

With no one else wishing to speak, **MAYOR WOOD** closed the public hearing. He asked how much off-site parking there is.

MR. BABICK responded that there are 9 units, and the requirement is for 2 parking spaces per unit. The development project is providing 19 parking spaces, which is one more than the requirement. Right now there are 6 units existing on site. They are required to provide 9 parking spaces, and today they are providing 4. So that is a bad situation. With 5 parking spaces short, the residents are parking on the street. This project will make it better with more parking availability. There will be underground parking and security, which will eliminate parking on the street by the current tenants.

MAYOR WOOD stated his concern is that they will have visitors, and this is a tough area to find parking.

COUNCILMEMBER SANCHEZ felt that, now that they are going to the larger buildings, they need to look to a visitor parking addition to the plans. While Council wants the higher density, they also want to maintain tourism, making sure people continue to have access to the beach area, which includes parking access. Meeting current standards may have a higher future impact as there are more and more buildings. Therefore, she asked staff to review this issue and bring it back at some point. This looks to be a great project. She asked where the trash containers are.

MS. BOLYN stated there is a dual trash enclosure, one for recycling and one for regular trash, that is adjacent to the drive by the 2-car garage. It is in conformance with the building setback, as opposed to the dumpsters that are located in the alley currently. It is not visible from the street.

COUNCILMEMBER SANCHEZ moved approval [of staff's recommendation and adoption of **Resolution No. 06-R0682-3**, ". . . approving a tentative map, development plan and regular coastal permit for the construction of a 9-unit residential condominium project located at 502 North Myers Street – Applicant: 502 North Myers Street, LLC"].

COUNCILMEMBER CHAVEZ seconded the motion. He had visited the area and counted 10 vehicles in the no parking area. This project is going to be a significant upgrade for the City. A couple of weeks ago Council approved a wonderful project right in front of this one. One block up will be the Fairfield project, with nice restaurants and access to the beach. They will be bringing in \$140,000 in property taxes to the City every year for this project. They are definitely moving forward.

COUNCILMEMBER KERN questioned the material being used that looks like metal on the building.

MS. BOLYN replied that this is a compressed product that is more durable and resistant to corrosion than metal would be. It will be used for the panels underneath the balconies. Another option would have been copper, but she did not feel it suited this type of architecture.

COUNCILMEMBER KERN noted the fence. He understood that currently there is a locked gate, with a rusted lock. He asked if that would be changed or would remain.

MS. BOLYN stated they would work with Sea Village to see what type of material they want the fence to be. However, there will be dual gates. Sea Village will be given access to the front gate. In lieu of keeping the direct sidewalk at that area, which would not be as nice from a landscaping aspect, the sidewalk meanders through the landscaped area. It continues back to Sea Village. They will be granted an easement. They set the fence back to present more of a park or plaza feel. Addressing the concerns about the glass, she stated they will be using a low reflective glass

COUNCILMEMBER FELLER thanked the applicant for bringing forward a quality project for the area. He believed there will be a lot of parking in the area, and he had no concerns about future parking.

MAYOR WOOD clarified his concern, stating that parking is always important in a beach community. The City is building more parking, and so is NCTD. This is a great location, and the residents will have a hard time keeping their friends away, which will impact parking spaces.

Motion was **approved 5-0**.

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CITY COUNCIL REPORTS – continued

28. **Councilmember Esther Sanchez**

COUNCILMEMBER SANCHEZ had attended the Eastside Neighborhood Association meeting held at the Chavez Resource Center. There was a neighborhood concern regarding lighting. It was a public safety issue because of the darkness and closeness of Lawrence Canyon. There were critical issues presented. Staff was present and has prepared a solution.

For the last few months staff has been working with the community in the back gate area to provide basketball at Melba Bishop Park Recreation Center, especially for the Samoan community. This has been an open door project, and so far staffing is by volunteers. It has been a great success. Even staff members volunteer on a Sunday to be there with the kids, providing an alternative to the gang lifestyle and being on the streets. They are now at the stage where staff will be assigned to be present. This has been through the efforts of Wayne Godinet to provide alternatives to youth.

She also attended the MAAC Project Headstart Policy Council ceremony. This is a council of parents. The Headstart program has been in Oceanside for over 20 years.

She attended a Vista Unified School District (VUSD) Board emergency meeting last night. The concerns she brought forward included the fact that the school district had to stop grading when there were no grading permits. The City had residents report that grading was happening at the end of last week. She was surprised that the Board members did not know that this happened. When asked, the contractor denied doing any grading. The City needs to work at better communications with VUSD. Also, pulling emergency meetings and making the City jump through hoops is something they do not need to do. There was very little notice to the community on the emergency meeting so about 6 people were there. There would have been a lot more people present if this had been heard during their regular meeting.

INTRODUCTION AND ADOPTION OF ORDINANCES

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

29. City Council: Adoption of **Ordinance No. 06-OR0684-1**, “. . . amending Chapter 29 of the Oceanside City Code by adding Article IX, Regulation of Commercial Kitchen Grease Disposal” (introduced 11/15/06, 5-0 vote)

Following the reading of the title, **COUNCILMEMBER SANCHEZ moved** approval [to adopt the ordinance], and **COUNCILMEMBER KERN seconded** the motion. Motion was **approved 5-0**.

[Note: This ordinance was superseded by Ordinance No. 07-OR0021-1, January 17, 2007 due to publishing issues.]

29. City Council: Adoption of **Ordinance No. 06-OR0685-1**, “. . . amending Chapter 16B of the Oceanside City Code by the repeal of Subsection 16B.16(e) regarding notice requirements for proposed long-term rental agreements in mobilehome parks (introduced 11/15/06, 5-0 vote)

Following the reading of the title, **COUNCILMEMBER SANCHEZ moved** approval [to adopt the ordinance], and **COUNCILMEMBER CHAVEZ seconded** the motion. Motion was **approved 5-0**.

December 6, 2006

Joint Meeting Minutes
Council, HDB and CDC

ADJOURNMENT

MAYOR WOOD adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 7:39 PM, December 6, 2006.

ACCEPTED BY COUNCIL/HDB/CDC:

Barbara Riegel Wayne, CMC
City Clerk, City of Oceanside

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



California

CITY OF OCEANSIDE

JOINT MINUTES OF THE:

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

APRIL 11, 2007

REGULAR MEETING 4:00 PM COUNCIL CHAMBERS

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

- REGULAR BUSINESS

**Mayor
HDB President
CDC Chair**

Jim Wood

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

Rocky Chavez

**Councilmembers
HDB Directors
CDC Commissioners**

Jerome Kern
Jack Feller
Esther Sanchez

**City Clerk
HDB Secretary
CDC Secretary**

Barbara Riegel Wayne

Treasurer

Rosemary Jones

Interim:

**City Manager
HDB Chief Executive Officer
CDC Executive Director**

Peter Weiss

**City Attorney
HDB General Counsel
CDC General Counsel**

John Mullen

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

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB) and Community Development Commission (CDC) was called to order at 4:00 PM, April 11, 2007 by Mayor Wood.

ROLL CALL

Present were Mayor Wood, Deputy Mayor Chavez and Councilmembers Kern, Feller and Sanchez. Also present were Interim City Manager Weiss, City Clerk Wayne 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: 2B and 3 [Items 1 and 2A were not heard.]. Closed Session and recess

April 11, 2007

Joint Meeting Minutes
Council, HDB and CDC

were held from 4:00 – 5:04 PM [See the report out on these items at 5:00 PM, Item 4.]

5:00 PM - INVOCATION

MAYOR WOOD reconvened the meeting at 5:04 PM. Councilmember Sanchez was absent [arrived at 5:08 PM]. Also present were Interim City Manager Weiss, City Clerk Wayne, City Treasurer Jones and City Attorney Mullen.

The Invocation was given by Pastor Carl Souza. The Pledge of Allegiance was led by Christian Vargas, Noah Marcinkowski, Brittany Woolsey, Yulisa Frausto, Jacinda Rios and Zanny Vujnovich.

PROCLAMATIONS AND PRESENTATIONS

Proclamation – Protected Child Month – April 2007_ - Presented to Sharon Delphenivch, Executive Director of Casa de Amparo

The month of April 2007 was proclaimed as "Protected Child Month" in Oceanside. April is recognized as "National Child Abuse Prevention Month."

Proclamation – National Library Week - April 15-21, 2007 – Presented to Deborah Polich, Library Director and Board members

[Presentation of the Library's new mascot] – continued to April 18, 2007

CLOSED SESSION REPORT

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

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

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

CONFERENCE WITH LABOR NEGOTIATOR – Negotiator: City Manager; employee organizations: Oceanside Police Officers' Association (OPOA), Oceanside Firefighters' Association (OFA), Oceanside Police Management Association (OPMA), Management Employees of the City of Oceanside (MECO), Oceanside City Employees' Association (OCEA), Oceanside Fire Management Association (OFMA), Western Council of Engineers (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: Center City Golf Course (approximately 95 acres) bounded by Interstate 5 to the west, Division Street and Greenbrier Drive to the north and east, and Oceanside Boulevard to the south (APN 151-011-11); Negotiating Parties: City of Oceanside and the San Diego Chargers; Negotiators for the City: John Mullen, City Attorney, and Peter A. Weiss, Interim City Manager; Negotiators for the San Diego Chargers: to be determined; Under Negotiations: Potential terms for the sale, lease, exchange, or other disposition of the property]

No closed session was held on this item.

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

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

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

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

City Manager

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

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

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

Advance written request to reserve time to speak: None

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

DONNA MCGINTY, 2405 Mesa Drive, wants to make people who receive water bills aware that they are going to be getting a document soon that will have to do with the code requirements and the updated information necessary for the installation of water heaters in their homes. It is an important item to keep them from spending too much money.

She would like to support Jean Doktor's presentation this evening for the residents of Peacock Hills regarding that issue. She has witnessed the disruption, the annoying issue that seniors are having to face when they are dealing with cellular phone tower installations. The seniors are special people and require advance notice. The advance notice is only 100 feet from the site in this neighborhood. She thinks they deserve a neighborhood association notice. They have a new president, Jerry Kerry, who would be great to work with. The City should send these notices to him at least 30 days in advance for the seniors, because of their special needs.

JEAN DOKTOR, 1376 Temple Heights Drive, speaking on behalf of the Peacock Hills Senior Community, especially those on Temple Heights Drive, questioned why [the City] would inflict upon any neighborhood, especially a senior community, such a dastardly action of this scope in order to have a cell phone transmitter. She questioned why the City, including the initial planning team, did not have sufficient foresight to notify elderly residents of the nature of this operation and why they excluded a meeting of seniors. It has affected them physically and psychologically. There has been noise, dust, and general havoc day after day for months. She noted the workers were courteous and conducted the traffic pretty well. She underlined the inadequate notification, poor choice of location, and a very busy street against senior homes. She questioned their home values. She begged Council to have a better analysis of where they are putting this situation.

THOMAS DEMPSEY, 3641 Esplanade Street, referenced the Oceanside Comprehensive Citizen's Advisory Committee (CAC) materials 2006 binder for water utilities pending. Regarding the expected monthly water and sewer billing increases, on May 9,

2006 the CAC started meetings twice a month, and they are still in session.

He then referenced a copy of the *City of Oceanside Water and Sewer Rate Structure Study, CAC, July 19, 1995*, which did not provide true equity for all rate payers. The committee could not be held accountable. The chairman was Lloyd Prosser, and Councilman Kern was also a member of the CAC. He would not recommend either to represent the City at the County Water Authority. Please nominate Mr. Tate.

Referring to *the Proposed Estimated Total Sewer and Water Rate increases for 2002*, he stated the spreadsheets show a glaring inequity of proposed billing rates. Oceana is a large exclusively senior community under a master meter, along with large populated manufactured home park dwelling units that have reduced rates. All households that can turn on water and flush a toilet should be charged the same fixed cost to operate the Oceanside water and sewage system, with no subsidy allowed. In 1995 there was a failure to ensure the budget for future utilities, and the City failed to enforce developer fees, causing the current shortfall from water and sewer. Council may not raise taxes, but they will increase fees to collect more revenue.

In 2007, he put in a request during CAC meetings. He, like others, had asked to check for equity. His questions on interfund charges went unanswered from staff, and his request for billing history records was denied by a Deputy City Attorney. It appears that water and sewer may need an outside audit to explain and justify interfund use. He has past billing history from 2002-08 on file.

He noted the October 18th senior citizens low-income rate recommendations, where staff and the budget committee reported that the Utilities Commission does not recommend that the City Council approve a senior citizens low rate. Seniors in Oceana, mobile home parks and multi-family units receive a lower rate and are currently billed that way due the 1995 rate structure study. There should be equity for all senior rate payers.

On August 2002, water consumption was listed as zero for his billing. He visited the Water Utilities Director, and he was billed correctly and appropriately. He questioned how many rate payers get free water. He suggested an audit of the billing accounts.

NADINE SCOTT, 550 Hoover Street, has been before Council previously talking about the Industry Street corridor by Loma Alta Creek and what a mess it is. She has been working closely with City staff and Code Enforcement, and they have made some great strides down there. However, for the last 5 months she has documented runoff going into Loma Alta Creek by North County Transit District (NCTD). Finally, complaints were made to the Regional Water Quality Control Board (RWQCB), and they have issued a notice of violation. She questioned why they are being allowed to rise to the level of a notice of violation at a RWQCB, and yet City staff is not fining them and/or giving them a notice of violation. Council should not continuously rely on the RWQCB to enforce the rules that the City is responsible for. The City has signed on to the storm water agreement; they are the agents to enforce that for the regional board; and yet NCTD keeps getting a pass. She is hoping that Council will find it more important down the road, especially since they have a new storm water permit.

MAYOR WOOD asked that the residents in Peacock Hills call the City Attorney or City Manager regarding their issues and concerns.

CONSENT CALENDAR ITEMS [Items 6-7]

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

The following Consent Calendar items were submitted for approval:

6. City Council/Harbor/CDC: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)

7. City Council: Approval of Change Orders 2 [**Document No. 07-D0218-1**], 3 [**Document No. 07-D0219-1**], and 4 [**Document No. 07-D0220-1**] in the total amount of \$148,766 to Erreca's, Inc., for the College Boulevard Median Storm Drain project [from Waring to Roselle], for additional work and erosion control, plus outside consultants and overhead in the amount of \$111,234; authorization for the City Engineer to execute the change orders; approval of a budget appropriation in the amount of \$260,000 from the Unallocated Thoroughfare Fee account to fund the change orders and outside consultants/overhead in the amount of \$111,234; acceptance of the improvements constructed by Erreca's, Inc. for the project; and authorization for the City Clerk to file the Notice of Completion [**Document No. 07-D0221-1**] with the County Recorder

DEPUTY MAYOR CHAVEZ moved approval of the Consent Calendar [Items 6-7], and **COUNCILMEMBER KERN** seconded the motion. Motion was **approved 5-0**.

At this time the Mayor determined to hear item 12.

MAYOR AND/OR COUNCILMEMBER ITEMS

12. **Request by Councilmember Kern to provide direction to the City Attorney to prepare an ordinance to repeal Ordinance No. 06-OR0287-1 (Chapter 16C of the Oceanside City Code, "Municipal Lobbyist Registration and Reporting Requirements")**

COUNCILMEMBER KERN reported that this item was supposed to come back for review in June. He moved it up for review because he no longer thinks this is necessary. He wants to review the ordinance, what it does and does not do.

CITY CLERK WAYNE stated they are using this opportunity to give Council an early, partial annual update report on the City's Municipal Lobbying Ordinance. In reviewing the history of this ordinance, Council's discussions date back to September 2005. At the Council's meetings of February 8 and April 6, 2006, Council understood that with the implementation of the ordinance, it may need modifications, changes in fees and possible ordinance amendments. As a result of those discussions, language is in this ordinance under Section 16C.16B, which states that the City Clerk shall provide yearly reports to the Mayor and Council on lobbyist activities, pending complaints and enforcement procedures and provide any recommendations for amendments. Since this is a requirement of the ordinance, they wish to give Council some of that information at this time to let them know how it is and is not working. In their presentation they hope to address some of the misunderstandings about the functions of the ordinance.

Assistant City Clerk Holly Trobaugh has been the lead on developing all of the forms, fact sheets and information and has been the lead on administering the program. She will be providing Council with the facts on how the ordinance is actually working. Also, as required by the ordinance, she will be explaining complaints and issues of what they have heard along the way in the processing of the ordinance. Likewise, as required by the ordinance, she will provide suggestions on ordinance amendments based on these issues and language problems with the ordinance. It is clear there is misunderstanding about what this ordinance does and does not do.

ASSISTANT CITY CLERK HOLLY TROBAUGH reviewed that the municipal lobbyist ordinance was adopted May 3, 2006. The effective date was June 2, 2006. Section 16C.16B tasks the City Clerk with providing yearly reports on lobbyist activities, complaints and recommendations. The ordinance requires that any person or firm that is retained for compensation to lobby, by direct communication, elected or appointed City officials and Commissions on behalf of another person to register with the City Clerk's office. Quarterly

reporting is due in January, April, July and October of each year. Supplemental reports are due to disclose any new or terminated clients or lobbyists. An annual registration renewal is due each January. Along with the reporting requirements, each lobbyist is required to complete a Lobbyist Ethics training course within 180 days of registration.

The ordinance does not address businesses and vendors or suppliers doing business with the City; these are exempt under Section 16C.6. Under the same section, collective bargaining units and their representatives are also exempt for those communications relating solely to the negotiation of a Memorandum of Understanding or agreement between the City and the bargaining unit. The ordinance does not affect campaign contributions and gifts. While the ordinance requires reporting of contributions to elected office holders and their controlled committees, she pointed out that this overlaps the reporting that is already required under the Political Reform Act. Under the Fair Political Practices Commission's regulations, all political action committees (PACs), including those of elected officials, candidates running for elected office, ballot measure committees, etc. must file semi-annually, listing all contributions and gifts received with the value of \$100 or more. During an election year, there are additional reporting requirements. The State-mandated forms contain this information in a more fully defined manner, along with expenditures made.

Also, the ordinance does not address fundraising activities, which has caused some confusion on whether fundraising firms are considered lobbyists.

The ordinance does not seek out lobbyists. Lobbyists are required to register with the City Clerk's Office; however, it is based on an honor system. There is no feasible method to identify lobbyists operating in the city for notification and enforcement of the registration requirements, nor is the City Clerk's staff tasked with the attempt to identify possible lobbyists. Therefore, it is unknown how many lobbyists actually work in this city who may not have registered. This is most likely to occur with 1-project lobbyists; those that have a 1-time small project in the city, do the project and leave without registering.

She next addressed some of the issues that have been raised with the current ordinance. Regarding the filing requirements, she noted that the final quarterly report and the annual registration renewal are both due on the same January date. This has confused some of the lobbyists. They will turn in one report or the other and forget that they have to do both. The information submitted is basically the same, and it overlaps on these two reports. Therefore, the necessity of the 4th quarterly report has been questioned.

The issue of attorney-client privilege, which applies in some cases and not in others, has been raised. This results in questions to the City Clerk staff from attorneys who may be vague and ambiguous since they are the ones who actually fill out the reports for the lobbyist firms that they are representing; they desire filing determinations without disclosing client information. Staff has also received questions from organizations such as the Building Industry Association (BIA). In this case, BIA lobbys on behalf of an entire industry. They have dues-paying members. Therefore, they are receiving compensation for their lobbying efforts, however, they do not represent 1 or 2 clients; they act on behalf of multiple clients who may or may not be doing business in this city. Because of the nature of their association, they have questioned the applicability of the ordinance to their organization.

There has been a lot of discussion and questions regarding the ordinance language of "direct communication with City elected or appointed officials" as it relates to question and answer sessions with staff and officials and when the general information gathering crosses the line into lobbying efforts to get a project approved. For example, the lobbyist representing their client may meet with staff to determine what type of project may be more acceptable, what staff would like to see in the project or what exceptions may have been made in the past. Closely related to this issue is that the ones most affected by the ordinance are the planning and design firms, architects and environmental planners. In order to avoid penalties, many have registered as lobbyists, although they have expressed that they do not feel they fall under this definition as provided in the ordinance. Most of

the questions we have received have been from these groups. They feel they are simply performing the duties of their licensed profession, rather than participating in lobbying activities.

Further, there is no fine attached to late reporting. Enforcement falls under the administrative citation section of the City Code. This provides for multiple notifications and defined time periods, which results in forms being filed late without any consequences as long as they meet that final deadline for the administrative citation. Most lobbyists do file on time, but there are some that are late.

With no history available, Council set initial estimated fees for the lobbyist program through the adoption of a resolution on May 3, 2006: the registration fee is \$150. That amount is paid by an individual lobbyist or a lobbying firm. The fee is paid at the time of the registration and again in January of each year for the annual registration renewal. Additionally, there is a \$15 fee assessed per client. This fee is paid upon initial representation and during the annual registration renewal. Each lobbyist is ~~required to~~ complete an ethics training course within 180 days of registering, a 1-time only attendance. The fee was set at \$25 per attendee. The City entered into a contract with Best, Best and Krieger to provide that training and continues to pay for their services at \$535 per training session.

She next addressed the actual revenue received in the initial 9-month period. Regarding the lobbyist ethics training class registration fees, this amount did include the majority of the lobbyists who were included within the first 2 or 3 sessions. Therefore, ongoing class registration fee revenue will be much lower from here on. The total overall lobbyist program revenue received is \$19,335. The estimated program costs/expenditures to date are based on approximate staff hours and various costs. She pointed out that the labor shows times logged by management staff but not all staff time. They had to pull staff from other duties to help in administering the ordinance. The total labor estimated cost for this period is \$31,336. This does not include 290 hours of City Clerk staff time spent on the initial implementation or the City Attorney's time spent during that same period. These figures are only including ongoing costs.

In order to fully accomplish the tasks assigned to the City Clerk department as listed under ordinance Section 16C.16, an additional position is needed to allow current staff to return to their assigned duties to meet the department's goals, objectives and workload. The duties as outlined by the ordinance would include tracking the filings, inspecting the filings for completion, tracking fee payments and lobbyist ethics training completion, tracking and analyzing expenditures and revenues, updating web page information and providing the annual reports to Council. Since the tasks are analytical in nature, it is recommended that the position be an Administrative Analyst I. Using the estimated cost from the 9-month period as a starting point, staff has projected continuing annual costs. Labor includes the costs for the City Clerk, City Attorney, and Information Technology staff. Again, these figures do not include the initial start-up costs. They are projected costs only. At this point, labor does not include Code Enforcement staff time should an administrative citation be required. The cost of providing the lobbyist ethics training classes are projected for quarterly sessions. The registration fees received so far are much higher than anticipated in the future. Future classes will have fewer attendees; only 2-3 new lobbyists at a time. The \$25 registration fee for future lobbyist ethics training classes will not come close to covering the \$535 per session. Since the training is mandated by the ordinance, they must continue to provide the classes.

The projected costs show that the revenue received during the initial period falls short. The revenue is going to fluctuate depending on the number of active registered lobbyists. Some lobbyists will complete a project, then terminate. They will then re-register if and when they have another project.

MAYOR JIM WOOD stated that they have an item registered for the agenda for repeal of an ordinance and he is not sure if all of the facts being given are part of the repeal, other than the cost factor.

CITY ATTORNEY MULLEN responded that the item is agendaized to discuss the repeal of the ordinance. To the extent that this information is utilized in deciding whether to repeal, it may be appropriate.

COUNCILMEMBER KERN clarified that the only reason these numbers are being given is because he had asked the total cost to date and in the future.

MS. TROBAUGH continued her presentation, stressing that at the start [of the implementation of the ordinance], there was no budget appropriation. Should Council determine to continue with the lobbyist ordinance, a budget appropriation would need to be set.

As required by the ordinance, they were to list clarifying amendments. One of those is a further clarification on the definition of a lobbyist, particularly to address the expressed confusion from architects and environmentalists. Further clarification is recommended regarding fundraising organizations and gift limits. The ordinance currently contains a lengthy definition of a consultant, which is not referenced anywhere else in the ordinance. That should be deleted or shortened to address any applicability in the reporting requirements. She recommended that the quarterly report due in January be deleted due to the overlapping of the reporting. In searching other cities' ordinances, most of them include a section prohibiting City officials from suggesting a particular lobbyist and we believe that should also be included in the ordinance. She recommended that a late filing fee be included to promote timely submittal of reports. Should Council determine to continue administration of the lobbyist ordinance, they would need to determine what level the program is to be self-supporting and make the appropriate fee adjustments, identify a funding source and assign a budget appropriation, and the City Clerk's Office would request the addition of a position.

CITY CLERK WAYNE reiterated that this is a partial early annual report to provide Council with some factual information about how the ordinance is working and what changes would be needed. They have tried to respond to some of the complaints and issues they have heard. Since the implementation of the ordinance last June, they have had only 1 citizen request a review of the information. However, since the agenda information came out they have had 2 additional requests. They have had only a couple of requests by Council to review the updates since the initial distribution. That leads them to believe that the ordinance is not working as a valuable tool for the Council or the citizens as it presently exists.

To clarify misunderstandings of what this ordinance was to accomplish, she reiterated the following facts:

- This ordinance does not require developers acting on their own behalf to file as lobbyists.
- This ordinance does not require filing as a lobbyist if you are representing your own project.
- This ordinance does not require the reporting of gifts.
- This ordinance only affects those individuals and firms retained for compensation by another source.
- This ordinance has only affected planners, design firms, architects, environmentalists and companies working on projects for others.
- This ordinance does not affect people working on campaigns or giving money to political action committees.
- This ordinance does not affect anyone working on a ballot measure.

In fact, political action committees must file semi-annual reports, showing by name and address, everyone who gave them \$100 or more. That information is already available on an ongoing basis.

These are some of the facts for Council to consider. In the end, it is Council's

decision on whether this ordinance is meeting the desired end product for the cost and time involved. If it does, then funding needs to be provided. This has been a labor intensive effort. Some of the implementing costs have lessened, but there will continue to be a lot of ongoing administrative issues with every quarterly report, supplemental report, annual report, software for tracking, etc. This ordinance is only based on a self-checking, honor type system of the companies filing. Although the ordinance has criminal penalties for violation of the ordinance, enforcement appears to be a possible issue.

To emphasize a point for clear understanding by all, whether this ordinance exists or not, there will continue to be the required filings of semi-annual campaign statements by political action committees. Those filings show who they received money from and who they gave money to. There will continue to be the yearly filings of statements of economic interests, also known as Conflict of Interest filings, which Council members and other designated City officials, commissioners and consultants must file. The City by its own resolutions designates which City employees, commissioners and consultants must file these forms showing various items, including who they received gifts from. Many may have already seen the *Union Tribune* newspaper where it lists who received gifts from whom. That came out of the Conflict of Interest filings. This information does not come from the Lobbyist Ordinance filings. It comes from the ongoing and existing required Conflict of Interest filings. Council was given a copy of the annual updated filing of the January registration renewals. She commented on the volume of this one filing.

MAYOR WOOD inquired about whether there are a lot of costs involved in this. He understands the startup costs, but future costs may or may not be there. They copied this ordinance from a very prominent city and other major cities in the State of California. Our City Attorney put it all together. He is concerned that there seems to be a lot of flaws coming out of the City Attorney's office and/or all the other cities in California that use a similar ordinance. They have not had any problems with theirs. These are major Cities like San Francisco, San Diego, etc. Either we did this poorly or the other cities did this poorly. They try to save time and staff by using other cities' ordinances and regulations. That is exactly what was done by the City Attorney's office.

CITY CLERK WAYNE cannot address other cities; however, this is how they have developed the processing of the City's ordinance. This is the language of the ordinance, and, in conjunction with the City Attorney, they have worked to develop the forms and various information. This is what they have come up with to try and abide by the actual language in the ordinance. That has been a joint effort between their [City Clerk's] office and the City Attorney's office to develop this. Council has heard their presentation and suggested changes. If Council wishes to continue on, there are suggested changes for the ordinance.

COUNCILMEMBER SANCHEZ stated that, since the City Attorney's office developed this ordinance, she questioned if these issues should have been resolved by the City Attorney's office as they were brought up. If there were issues, she assumed the City Attorney's office would have come back to Council for proposed language to clarify issues. She is concerned that these things came up and were never brought to the Council. They should have been resolved immediately by the City Attorney's office. If the City Attorney needed a vote by the Council to be able to act, they should have brought this forward. She was concerned that the City Clerk's office did this presentation. It should have been by the City Attorney. The City Clerk's office should have been under the City Attorney's office on this presentation. She made that clarification when they passed this [ordinance].

CITY ATTORNEY MULLEN responded that the City Clerk made the presentation through Section 16C.16, which provides that the Clerk shall provide yearly reports to the Council on lobbyist activities. Council is correct that his office has jurisdiction to enforce the statute. The City Clerk has no other role in that other than providing information to his office. It is the City Attorney's decision as to what cases will be prosecuted, if any, or if they will pursue civil remedies. Ultimately, this is a policy decision for the City Council to make. The City Attorney drafted a law, largely which was written before he came here, that the office believes is constitutional and would be upheld if there were a legal

challenge. The City Clerk is pointing out changes that could be made on a policy level to make its administration more efficient. That is something Council could consider as part of her yearly report.

MS. TROBAUGH said that when they did have questions that seemed more than the normal operational questions, they did contact the City Attorney's Office. They have referred a couple of people directly to the City Attorney's office for a response.

COUNCILMEMBER SANCHEZ clarified that the \$9,000 that was contracted out would not be reoccurring, because this would be done in-house.

CITY ATTORNEY MULLEN could not confirm a \$9,000 figure. He does not anticipate any significant outside counsel expenses as they move forward. If there are any prosecutions, it would be through his office. The same would be true if there were any civil enforcement actions.

The Assistant City Clerk is right. When issues have come up, they are referred to his office. On occasion he has had to contact lobbyists by letter to remind them to register or to work through interpretation questions. He has not felt the need to bring forward amendments to the ordinance because he thinks this is a policy decision for the City Council to provide direction on. It has not been to the point where they felt they had to bring forward amendments at this stage. That is something that the Council could direct.

Public Input

CARL SOUZA, 3621 Vista Campana South #66, has been on both sides of the fence - both as a lobbyist and as an elected official. When a new law is passed and goes into affect, there will be some glitches, defects or something that has to be taken off. The Constitution of the United States of America was brought back to add the Bill of Rights. It was not perfect in the original way it was put out there. That is the same way he looks at this lobbyist issue. Lobbyists have been registering for years. The last lobbyist registration he filled out was almost 20 years ago. This is nothing new. This is something that is put before the people to open up government. It is not to hide. The minute you take away registration, nobody knows who is pushing this or that, how much money is being spent, where the money is coming from, where the money is going. We went through this in the last election on a different note. There was a lot of money out there, but we did not know where it came from as the ordinary voter. This is the same thing he looks for in lobbyist registration. He believes that Oceanside should have a lobbyist registration for the good of the people.

BRENDA SOUZA, 3621 Vista Campana South #66, has been a registered lobbyist on a City and State level. She has seen what good it has done, because it has raised government to an open level. It has raised people's confidence in the government. She thinks it is a good start to a City's honest politics. She would like to see a more open government where they could talk to people and have people talk to them on a legal level and not be one of those under the table. She thinks we need more open government with registered lobbyists.

DONNA MCGINTY, 2405 Mesa Drive, has been in the construction industry working with developers, architects, and designers in the City. Lobbyists come here to do business. They represent individuals, and they do it for a fee. They show up here because they are being paid to come here for their clients. As part of doing business in this community, it should be wide open disclosure. They need to make themselves known to the public who are watching the television, not in the City Clerk's office looking at registration forms. We are waiting for them to come to Council or present them in a Planning Commission meeting for that purpose Let them represent themselves or pay the fee as part of doing business.

CHUCK LOWERY, 812 Alberta, noted that right now when a lobbyist comes to City Council or Planning Commission meetings, they have to say up front that a hired gun is

working for a developer. Someone must be intimidated, so they want to get rid of a law that helps the citizens, not the developers. Oceanside residents benefit from the lobbyist disclosure regulations. If a Councilmember has nothing to hide, this law supports them. He believes Council should support the regulation as it now stands. The residents want Council to be ethical at all times, and this is one of those times. It does not matter how many citizens want to keep this ordinance. What matters is how Council votes.

NADINE SCOTT, 550 Hoover Street, is opposed to repealing the lobbyist ordinance. It is a sunshine ordinance that shines the light of day on the goings on behind the scenes in our City. For instance, she would have never known Bernie Reiner's son was a lobbyist for Southwest Strategies, who is pushing a concrete plant in her neighborhood. She then learns that he has given Councilmember Feller some Holiday Bowl or Padres tickets. If she had not had that opportunity to see who is lobbying our city, she would have never put 2 and 2 together. The form 700s [Conflict of Interest forms] are filed once a year. That is not enough disclosure. She wants to know the minute someone comes into her town who is lobbying and getting paid for it. She is entitled to know that. If she is the only person who uses those books, so be it. Let us get intelligent, make them submit them on disk and put it on the internet. She may be the only person who physically showed up, but they have no idea where those copies went. There are a lot of people in town who want to know what is going on, not just her. She happens to be retired and has time to come down and stand at the Clerk's counter.

There is no need to use Best, Best and Krieger (BB&K). They can easily take the Attorney General's approved ethics training online for free. Late fines are a terrific idea. If they do not file on time, give them a fine. They should not have anything to hide. The issues that were discussed about environmentalists being confused about the rule, she finds that to be an issue that was raised, but a stupid one. She is an environmentalist, and they lobby their City up front for free as volunteers.

She is an attorney, and if she is in front of Council on her clients behalf, she does not have to tell them who her client is. She has a right to attorney-client privileges. Attorneys know it. It is a good ordinance. She thinks they can make it more manageable. She thinks the start up costs were a little high, but now that we have it they should keep it. She wants to know who the people are out there trying to influence Council. She does not have that access unless she reads it or sees them standing at this podium stating they are a lobbyist and the project they are working on. We are entitled to that transparency in government.

JEENI CRISCENZO, 519 South Ditmar Street, has no objection to working to repair a law that needs a little bit of fixing. Her objection is to the repeal. Council was elected to protect and work for the best interest of the people of Oceanside, not for special interests. That is why this law was created.

WILLIAM BOND, 320 Calle Osuna, is concerned about repealing an ordinance that they have had just a short time. It is vital that this law remain in place. Give it a chance to work. If there are problems, streamline the mechanics of the process but do not get rid of it. Any startup issue having to do with any organization that goes anywhere costs some bucks to do it. That is how we learn. Double the registration fees and get the clients to go along. More importantly, give it a chance. Council would be remiss if they repeal this. Keep the law.

CAROLYN KRAMMER, 904 Leonard Avenue, is totally against the repeal of this ordinance. She thinks the City has spent a lot of time, energy and money. It cannot be that bad because other cities are following similar ordinances. As with any new business or any start up, there are always start-up costs and ways to work out the bugs. In a lot of businesses, people are required to take ethics classes. That is required in a lot of state licenses. The fees are a normal cost of doing business.

JOAN BROWN, 511 Rockledge Street, believes we should keep this ordinance. If

it needs a little repair, so be it. Before this came out, she used to wonder who the people were that tried to push projects through that needed variances and conditions, etc. When she saw the lobbying group list, she knew why they were there. It might not help the City Council but it helps the people who are here for the Planning Commission meetings.

PAMELA MYERS, 910 North Pacific Street, #35, is in favor of keeping this lobbyist law. What better thing for Oceanside to have than honest Councilmembers who walk in the light and are accountable for the things that they do. We hear of people losing their faith in Council people and the politics. The reason is because of the things that go on behind the scenes and the lobbyists. She would like to keep this law. Have everything be in the light. She urged Council to keep this law and let the people know what is going on behind the scenes.

MARGARET MALIK, 1611 Hackamore Road, has found this law useful for a lot of people. She has been shocked at people she sees around that she did not know are lobbyists. She has known for 23 years that Mr. Lightfoot is a lobbyist; however, a lot of people she has not known. For some reason people do not want other people to know who is being paid to do a job. They think these people are all concerned citizens who come here, but they are not. She thinks it is important that people know who are here because it is their job. It is money in their pocket, not because they really want to do it. She thinks this is one of the best things Council has passed in a long time. She does not know if it needs work, but if it needs work, fix it. However, do not get rid of it totally. It is important for people to know who is being paid to speak before them.

LOU LIGHTFOOT, 5750 Fleet Street, Carlsbad, President of the Lightfoot Planning Group, stated it has been widely reported that he has the largest lobbyist firm operating in Oceanside. He actually has a firm of land use planners and landscape architects. They are a design firm, and they are required by City ordinances and regulations to talk to City officials in the normal course of doing their business. They try hard to make all of their projects comply with all of the City's rules and regulations, but for this process to work there has to be public trust that laws are being complied with, that you [Council] are acting in the best interest of the City and the developers have to feel that they are being treated fairly. If it requires full disclosure to achieve that public trust, then by all means, we have to have full disclosure. He is an advocate of full disclosure. He does not mind disclosing his own activities, and he thinks everybody else who represents anybody else in front of the City Council, whether they are being paid or not, should disclose whether or not they have contributed to campaigns or whether or not they have business interests with any members of the City staff or city officials. Whether they are being paid or not, full disclosure is important.

However, the current ordinance is cumbersome. He does not think it is working to accomplish what you [Council] want to accomplish. He asked how many people before his last public hearing went over to the City Clerk's office, looked through all of those binders to try to find out who he was representing and whether or not they had made contributions on that persons behalf to Council. He does not think anybody did. It is too much information to plow through. If they did, they would not find out whether or not his client, the engineer or the architect on the project, who are not registered lobbyists because they are not required to be, had made any campaign contributions. The only campaign contributions or financial disclosures listed are his, and he does not have any at this time or for the whole time that the ordinance has been in effect. It is really not disclosing everything that needs to be disclosed. There are a lot of reports, 5 reports a year. Every time he gets a new client, which is monthly; every time he changes employees in his firm, which is quarterly; he has to file amended reports. It is a lot of work. He has spent \$3,045 out of pocket. In lost staff time, the total jumps up to \$7,600 that it has cost his firm to comply with this ordinance.

He has a suggestion. The City of Chula Vista has a simple process for full disclosure. It gets filled out and attached to every application that gets filed in the planning department. It is posted on the website, gets attached to the staff reports, and goes forward with the projects. That way, the people who pick up the staff reports, all the

planning commissioners and city councilmembers have a copy of the form, and it discloses everything: all of the consultants, applicant, property owner, all of their contributions and financial interests with members of the City staff or City officials. He submitted the form and suggested that Council take a look at it because it may accomplish better what Council is trying to accomplish.

JIMMY KNOTT, 124 Sherri Lane, reiterated Deputy Mayor Chavez's statement "you cannot legislate ethics." He pointed out that they could because the State of California did in a number of places, namely AB1234 where all of the Councilmembers, Planning Commissioners or any person that sits within the City that receives a stipend in any way possible has to go through ethics training. The ethics that we have on the State level and the laws that we have in this lobbyist ordinance balances the State law. If Council removes this, it sets out of kilter 1 side of it. He requested that Council look at what other jurisdictions have done. Examine and ask what their councils have done and the reason why they have retained it or set it aside.

DEPUTY MAYOR CHAVEZ clarified his statement "you cannot legislate ethics." It speaks to a discussion in core values and what we believe in. He believes that people are law abiding when there is an understanding of respected love between people. It comes down to a philosophical point of view of whether man is basically good or bad. I believe that he is good." He believes that the innate ability of an individual is far stronger than what will come out of Sacramento with a bunch of assembly people.

CYNTHIA CHANEY, 1212 Pacific Street #1, works as a realtor. She has always been told that transparency is a good thing, and when in doubt, disclose.

Public input was concluded.

In response to Mr. Sousa, **COUNCILMEMBER KERN** stated that the idea of the Constitution was a good idea, and it brought a little history. The Constitution was brought about to replace the Articles of Confederation. We have the Articles of Confederation right here [lobbyist ordinance]. We need to through this out. We need to come up with a better system. Last week we went a long way with replacing this system with a system that will be useful for everybody involved.

In response to Mr. Lowrey, last week Council brought forward a lot of information that they want to keep the public involved. He has found out that most people do not have a problem with developers, but they have a problem with development. They need to know what is going on, on particular sites. They spoke regarding the Robertson's Concrete Plant and the idea of putting up a sign on the property and setting out a notice wide enough so that it involved everybody. The lobbyist ordinance would not have addressed that. It did not address that. It came in anyway. The lobbyist ordinance did not help with Robertson's.

He wants to get information out there that people can use. He is for full disclosure. He wants everybody to know what is going on. He wants to get information that is useful for everybody. This is not the way to do it, which is why he brought this forward.

We complain about unfunded mandates. This is what we have done to the City Clerk's office. We have given them an unfunded mandate. We mandated that they follow and do this lobbyist ordinance no matter what the cost. It has cost us a tremendous amount. There has to be a better use for our money. Some say we spent all of this money, it is okay now, and it will be less in the future. His dad had a saying for that, which is throwing good money after bad. Just because you have wasted money up to this point, do not keep wasting it. There is a time to say stop, let us back up and look at this. This is not the way to do things. He is willing to go forward with something with a full disclosure. He would rather have the Chula Vista form than the large packet of materials from the City Clerk's office. It is much simpler to have a disclosure form put with the application so that everybody knows what is going on, and it is useful. He does not think anybody uses the City's information because it is too daunting. This is not something that is useful. He does

not think anybody in the room thinks this is useful. The idea of having something where anybody can go online and look who is doing what means then they have information that they can use and bring forward.

The other thing that came up under items not on the agenda is Ms. Doktor's complaint about the cell tower and that the notice is only 100 feet. There was nothing there about the lobbyist ordinance. That did not help her. The Chula Vista form would have helped her. This would be a disclosure form that we are going forward with a project in your neighborhood, it is on the web, and you know who to contact and who is doing what.

A couple of weeks ago the Mayor wrote a piece in the local paper. He said that the lobbyist ordinance is for vendors who sell anything from computer systems to protective vests and fire equipment to the City. However, it does not do that. He does not think anybody on the Council would purposely mislead the public, but it illustrates a good point - that some do not understand what the ordinance does and does not do. If we do not understand it, how do we expect anyone to understand it? We need to go forward and come up with a much better system. He **moved** to do away with this ordinance. If we need to get with the City Attorney, City Clerk or him or staff to come up with a better way, that is what he is for.

CITY ATTORNEY MULLEN clarified that the motion is to direct the City Attorney to prepare an ordinance to come back to repeal the existing lobbying ordinance.

COUNCILMEMBER KERN agreed.

COUNCILMEMBER FELLER **seconded** the motion for discussion.

MAYOR WOOD felt this was an important issue and ordinance. He saw a lot of things that took place on the 3rd floor, which is where they have the City Council. There were people who contacted them regarding issues. What bothered him is that a lot of these people were paid lobbyists. He really wanted to know as a Councilmember or as Mayor that the person sitting across from him and talking to him about a particular issue was being paid to do that. He might already know that the person is a lobbyist and does this all of the time, so it is not that he does not know who he [the lobbyist] is. He wants to know who is paying him to lobby the Mayor, and the mayor represents the public. That is what this ordinance is about.

There must be some reason that every major city in California and most states have a lobbying ordinance. He is assuming that major cities have them because they get a lot of lobbyists coming in and trying to address them on issues. The other reason is probably that the larger cities have the ability to have larger staff, which is the Clerk's Office, to handle some of this. He thought from his experience as a law enforcement officer for 30 years that it was not right that we had this type of action going on. He felt uncomfortable about people who were representing a project, not knowing who the person behind the scenes was, what connection he had with any other property in the City, any contacts with any of our staff, any other lobbyists, any other businessmen or any other Councilmembers.

This is basically what this ordinance was for. There is certainly a better way of putting it on the internet or on a CD as mentioned earlier. We are starting a new ordinance, and it probably can be improved. This originally came up with our City Attorney's office looking at all of the other cities that did this and coming up with what they thought was the best solution or ordinance. In other words, we copied somebody else, and we did it from a couple of big cities. He assumes they have been doing it for a couple of years, and this would stand the true test in court and probably stand true to being an ordinance that we could stand behind. When he heard that this was being brought up to be repealed, rather than reviewed, he had his concerns. He put it out to the local media for the public to try to get his point across.

This is a very important ordinance for the public and transparency in government,

which means open government. It is very important to have the public know. That does not mean they look at it. It may not mean that they ever pull up one of these items online. It is a sunshine ordinance.

People do not necessarily follow government. They come in here when it personally concerns them, and maybe they never come in here. Still, the information is available to them in case they want to find out. That is what this ordinance is all about. This ordinance allows the citizens to easily access information about who is lobbying their elected officials. It lets the citizens know who is lobbying whom and about what.

Apparently, some Councilmembers think this is information the public does not deserve or need to know. We should try to give them all of the information and let them disseminate what they may or may not want. People in our City should be able to count on their Council to make every effort to have transparency in the City approval process.

Some Councilmembers think that you cannot legislate ethics. That is probably true, and he has to agree with him. You cannot stop burglaries, somebody breaking into your house, by passing a law against it. There is a law that says you cannot break into people's houses, but that does not mean we should not lock our doors and have a law that says you cannot burglarize my house. We try to tell people they cannot do that, but we still prosecute burglars. The laws are on the books for a reason, and this information is for the public for a reason. They deserve to know if a lobbyist is working as a fundraiser for 1 or more of their Councilmembers. He feels this is important behind the scenes. There is the Fair Political Practices Commission, but some of this information comes out sporadically.

Some people have urged Council to include City employees, who are represented by bargaining units regarding working conditions and compensation. He would be the first to include paid lobbyists for these groups, but we do not get contacted by paid lobbyists from employee groups. He wants the person behind the scenes who is paying for somebody to represent someone. City employees do not come by a representative unless it is their attorney or representative, and that is standard procedure in Memorandums of Understanding (MOU) or meet and confer. These groups are really members of the City themselves. We hear about them all of the time. It is collective bargaining that allows these employees to negotiate with the City. If we want to change our collective bargaining rules, we would have to break our own longstanding agreements with our employees. They usually contact us themselves. They are not paying somebody to contact us until they sit down to meet and confer, and that is usually an attorney that represents them.

We need to be open and above board on all issues in the City and let the people know who, if anybody, has influenced our decision. Councilmembers disclose when they have met with neighborhoods or groups or members before they vote on a public hearing. Surely the public has the same right to know that information about lobbyists.

Campaign contribution reports are already on file as the City Clerk said. Anybody can check those. Reporting that you got a contribution from a developer is only half of the story, unless you want to require that you have to disclose everything else, or money received. Did the developer or lobbyist disclose that they gave money? In turn, do we ask their lawyers who represent them, their engineers, their construction people, the contractors, their wives and children? If they really wanted this to be accurate, we would have to say did everybody else you know contribute money to this person under somebody else's name. He understands that is tough, but he still thinks it is transparent government and that the public would like to know some of that. He thinks this was a start.

They have seen an awful lot of corruption in politics in southern California in the last few years. They see it in Washington, D.C. He thinks there is a reason why cities have lobbying ordinances. He is sure that the City and all of the citizens would rather not have the experience that some people had in the City of San Marcos. You will remember when WalMart stores were trying to come to San Marcos. The neighborhoods and WalMart lobbyists were there, as well as the political consultant and fundraisers for 3 of the councilmembers. Somebody represented WalMart who also represented 3 of the

councilmembers. That would be important for the rest of Council to know when they are sitting down talking to somebody. That is the sort of thing he wants. If the person sitting across the table is talking to him about a project, he would like to know if that person represents other Councilmembers or represents a firm that they do not know about and that is the money behind the scenes.

The citizens of Oceanside, particularly the people on Barnwell Street, would have liked to have known who the lobbyists were behind the scenes on that whole issue, who they were talking to and for whom when the decisions were made about their street, the contaminated soil, and the trucks in the neighborhood. We probably would not have had that problem if there had been a lot more open government. That is what they were trying to strive for.

That is what this is all about, even if Councilmembers voluntarily disclose their contacts with lobbyists, when we say that they have contacted somebody or have received money from somebody. He had put in the paper about vendors, people selling things to Oceanside. They do not have that in the ordinance. Maybe, in the sense that things need to be changed, we need to put in there those people who come to the City to sell projects in the millions; maybe we need to know more about them. It is information that maybe they do not require as much, but it is certainly a possibility.

He clarified that this is about the right of the people Council represents to know what is going on in Oceanside, where the money comes from and what the money trail is.

He does not think they can legislate lobbyist ethics, but if they cannot, that is why they have a criminal penalty regarding this. The individual can go to jail and be prosecuted under criminal acts if they do not comply. That makes a difference. As for the cost of this, that is the cost of doing business. The cost of this lobby ordinance to the citizens in the long run is minimal. This law is a sunshine ordinance for all to see what is going on.

COUNCILMEMBER SANCHEZ first became a Councilmember in 2000. She wanted to believe that everything was what it appeared to be. She wanted to believe that everyone had the best reasons for doing what they were doing. She still is a very optimistic person, and she still believes in government. She especially believes, even having been a public defender for almost 20 years, in the rule of law. It is as basic as that. She believes that if you do not have rules, there will be chaos. Philosophy looked at what would happen in a society of minimum rules and what would happen in a society of over extended rules. You always want to strike a balance.

Council heard from 13 people this evening and they all said, including a lobbyist, it does seem that we need this law. We need it because everyone acts in their best self interest.

Council has heard a lot of recommendations and suggestions as to how things have not worked. She asked if the City Attorney is able to come up with ways to address the problems or the concerns that have been raised.

CITY ATTORNEY MULLEN responded that if he were directed by the Council, he could come up with some proposed changes to the ordinance that may address many of the concerns. Some of the concerns are policy based that some Councilmembers will continue to have regardless of any amendments that he comes up with. There may be minor changes that could be incorporated into this ordinance and make it more effective. There are times when he is called on to make interpretations of language, which could go either way, so it would be helpful to have more definitive language in certain sections. If Council directs him to do that, he could come up with suggested modifications to make the ordinance more enforceable.

COUNCILMEMBER SANCHEZ agreed that there are two questions: whether they should have a lobbyist ordinance and hat transparency sunshine law, or whether they should leave it up to individuals to let others know in the course of doing their business

that they are being paid to represent someone. If she knows that someone is a lobbyist and is being paid to give her that statement, she would probably look a little further. She feels this ordinance is needed.

She is hearing from the City Attorney's office that, if there is a sense that we need a lobbyist ordinance, he could come up with some changes to make it more effective. That would be her recommendation and something that she could support. If there are issues and problems, they are to be addressed. Regarding the policy issues, she believes the public has spoken and that they do want to have this transparency in government.

She **moved** to have the City Attorney review the ordinance and come up with recommendations to make it more effective and address some of the procedural issues that have arisen.

CITY ATTORNEY MULLEN noted that the motion by Councilmember Sanchez would materially change the main motion, so it would probably be best to move forward with a vote after Council discussion on the main motion, and then, if necessary, take up the subsequent motion.

COUNCILMEMBER FELLER said that they are not trying to spend money like they are going out of business. This is a City that should be very prudent about how they spend their money. He is not in favor of killing the ordinance. He is in favor of an ordinance, but much along the lines of more sunshine. He wished Council had received the Chula Vista lobbyist ordinance earlier. He thinks it has great merit that starts a project out right when [applicants] first come in for pre-development conferences. When someone comes into a Council office and if a Councilmember does not know who is sitting across the table from them and who they represent, then shame on them for not asking. It is very important. Every time he asks who is sitting across from him and who they represent.

Ethics training is not much more than reading the lobbyist ethics to the group of people assembled. He agreed with the speaker who said that they can take the course online.

When this lobbyist ordinance did come out, one lobbyist got a letter supporting him from our Mayor and former Councilmember encouraging people to do business with him as he will get projects done. That lobbyist in turn went to every client that was on the lobbyist list and mailed the letter out, saying that he was the chosen lobbyist.

Exempting bargaining units is pretty unfair. Most of the public will not know who Jerry Butkiewicz is. Mr. Butkiewicz was in the Mayor's office last week and is a lobbyist. He is not registered as a lobbyist in our City. He was probably telling the Mayor that Wal-Mart superstores are not a good thing to support or bring into this City, or he could have been talking about project labor agreements, or he could have been talking about friendly labor agreements with our hotel project. All in the name of labor unions. He is very much somebody that should be in the sunlight.

Councilmember Kern had a meeting with Chester Mordasini from the Oceanside City Employees' Association (OCEA). He is sure it had something to do with the labor units. It is full disclosure in the middle of a restaurant, but that is part of disclosing. They are lobbying for what the unions are interested in. When the unions and the people they represent stand for 70-80% of the budget amount of \$109,000,000 per year, that is a big chunk of change. Those unions need to be disclosing who they are talking to, when and why. The fire unions wanted him to meet them in Carlsbad, earlier in his career. He is for letting people know that he met with them.

He thinks they need to make this easier. The form we received from Mr. Lightfoot [Chula Vista form] is probably simpler. We have duplication of political contributions everywhere. If it means the City has to put everything, i.e., all of our 700 forms or Form 410s, online so the public can see where every single person that gives \$100 or more is listed, he thinks it is important to know who those people are. We, as a City, need to shed

light on anybody who is helping us get elected or re-elected, or is lobbying for any kind of project anytime/anywhere. If you are ashamed of contributing to us, then do not contribute. If you are ashamed of being part of the progress in this City and in supporting people who support progress, then do not participate. There are people who are interested in the future of this City, have a lot of money and are interested in doing great things in this city.

There are creative ideas and creative minds that we will not always have with every single issue, but they are sure going to come up with things like our hotel project that we are going to discuss for hours on end. We have all kinds of things to be thankful for in this City, and the more we can shine the light on us, the better. He would ask Councilmember Kern if he would not repeal this ordinance, but if he could instead amend his motion to have it go back to the City Attorney, City Clerk and City Manager to come up with something that exposes all of these things. People meet with Council everyday. Some people just come in to say how are you doing, or the mobile home people are talking about their issues, etc. All of these things take the City's time and effort. The citizens deserve to know who Council is seeing and why they are seeing them. Everybody deserves to know everything that they do. He hopes that Councilmember Kern could get to that and that they could come back with some sort of happy medium so that they are not killing this ordinance.

COUNCILMEMBER KERN clarified that he wants to do away with this ordinance for the reason that he would rather start with the Chula Vista process. He does not want to try to amend the current ordinance to the point that it looks worse than it is. He knows how government works; we will never be efficient, but we can be effective. He wants to do away with the ordinance at this time, then have as a follow-up the motion by Councilmember Sanchez about sending it back to the City Attorney for a different ordinance. We can work that out between the City Attorney, City Manager and the City Clerk and start with something like the Chula Vista form.

Everybody on Council wants to fully disclose to the public the information that is useful to the public. He cannot stress enough how he wants to make it useful. To him, this current ordinance is not useful. No matter how you tweak it, it is not going to be useful. On the other hand they could have something like the Chula Vista form online so people can see it. He does not want to amend his motion at this point, but he would make a motion after this to redirect it to the City Attorney to start over.

COUNCILMEMBER FELLER does not want to have anything to do with reporting this 4 times a year. It is probably much simpler on the 2-page piece of paper that we have just seen. On that piece of paper there are opportunities for people who have contributed since this project. There are all kinds of questions on the form. He does not want to abandon the ordinance because we need something in place for now. If Councilmember Kern would change that, he thinks they could support it.

COUNCILMEMBER KERN asked if Councilmember Feller wished to make a substitute motion for Council to vote on.

In response, **COUNCILMEMBER FELLER withdrew his second and moved** that they not abandon this ordinance for now, but in the near future, they come up with an ordinance that will give them a quick and easy answer to all questions of lobbying. He would like to get to something simple. Keep this in place for now, but come up with a replacement in 60 days.

[Motion died for lack of a second.]

MAYOR WOOD wants this ordinance to remain. He would like to do something about resolving issues. He thinks this issue needs to remain with modifications. He would like to have a ad hoc committee of the Deputy Mayor Chavez and himself to sit down with the City Attorney and the City Manager and try to go over the complaints, concerns and issues that were brought up by all parties, the City Clerk, etc. and get back to Council

within 60 days. Maybe it is easier to do that than try to work it out here tonight at the dais.

He **moved** that they send this back to staff with an ad hoc committee of Deputy Mayor Chavez and himself assisting them and trying to come up with a better ordinance and keeping the sunshine transparency of it. Maybe the minor flaws we are hearing about need to be addressed. One thing that they will never resolve, even if it comes back, is that you cannot legislate what the Council wants, but they will try.

DEPUTY MAYOR CHAVEZ was going to support the lobbyist ordinance. He is honored to be nominated to sit on the ad hoc committee. However, he requested that Councilmember Kern sit on the ad hoc committee since it was his agenda item. He would be happy to **second** the motion.

MAYOR WOOD agreed and noted that the City Attorney had indicated that since this was not agendized to take this action, the best that Council can do is to send it back to staff to try to address this or come back at the next meeting to create an ad hoc committee.

CITY ATTORNEY MULLEN indicated Council could provide staff with that direction, and they would agendize that at the next available opportunity for Council to establish the ad hoc committee.

MAYOR WOOD concurred.

COUNCILMEMBER KERN agreed, stating this is a discussion worth having. Democracy is never clean. We cannot be very efficient here, as you can see by the way we are acting here. However, in the long run it will be an effective way to do this. All of us want something. What that is, we do not know. He is honored to be on the committee with the Mayor. They can move forward and bring something back to the rest of the Council that hopefully they can all agree on.

COUNCILMEMBER FELLER requested that this item be done by the end of the fiscal year.

MAYOR WOOD asked how many lobbyists there are.

CITY CLERK WAYNE estimated there are 44 registered.

MAYOR WOOD reiterated that Council has referred this item to staff to get back to Council.

[Recess was held from 7:22 to 7:38 PM.]

6:00 P.M. – PUBLIC HEARING ITEMS

8. **City Council/CDC: Introduction of an ordinance amending Articles 4 (Redevelopment Project Area land use definitions), 12 ("D" Downtown District text and land use matrix), and 41 (Use Permits) of the Oceanside Zoning Ordinance (ZA-200-07), and adoption of a resolution approving Local Coastal Plan Amendment (LCPA-200-07)** (This hearing is continued from April 4, 2007)

MAYOR WOOD opened the public hearing. Regarding Council disclosure of constituent contact, Councilmember Feller reported contact with staff and the public. Deputy Mayor Chavez reported contact with Mr. Cohen, the public, letter, email, and Councilmember Sanchez. Councilmember Sanchez disclosed contact with staff, Malkin, Deputy Mayor Chavez, Coastal Commission staff and the public. Councilmember Kern disclosed contact with staff, the public for Districts 6A and 5. Councilmember Sanchez further reported conversations with representatives of the State.

Regarding correspondence, **CITY CLERK WAYNE** reported that 36 emails were received by 3:00 PM today.

JANE McVEY, Economic Development/Redevelopment Director, displayed computer slides showing a redevelopment map that reflected the different zoning subdistricts. In each of the zoning subdistricts, different uses are allowed, not allowed, require conditional use permits, etc. Much of the Redevelopment Area is in the coastal zone, which has additional requirements. Not all of it is in the coastal zone, which extends within and without the Redevelopment Area. The rules in our Local Coastal Plan (LCP) were set forth by the City and approved by the Coastal Commission, and the City needs to conform to those rules.

Closest to the water is a permit area, and further east is not in the permit area. There are some special rules that apply to properties in the coastal zone. A subset of the LCP is called the 9 Block Master Plan, which has additional rules. This particular area has the most rules, and they mostly deal with having to have visitor-serving uses and also having to have a certain number of hotel rooms, which happens to be 240. Therefore, depending upon where they are in the Redevelopment Area, different rules apply.

In 2005 a property owner on Mission Avenue, close to Horne Street, was pitching his property to a prospective tenant. The tenant was Kinko's. He went to the planning counter to find out if a Kinko's would be allowed in that particular subdistrict. The answer that he got at the time was that Kinko's was considered a printing shop, and in the particular zone that he was in, Kinko's would not be permitted. The property owner went to 1 or more Council people and asked for relief or advice and counsel on this issue. Former Councilmember Mackin brought this issue to the Council and recommended that a committee be set up to look at the zoning in the various districts in the downtown area. Council then created an ad hoc committee with a very defined membership consisting of former Councilmember Mackin, Councilmember Chavez, Burt Johnson from the Redevelopment Advisory Committee (RAC), Dick Bartlett from the Redevelopment Project Area Committee, Kim Heim from MainStreet, Jerry Salyer from the Chamber of Commerce, Larry Herrman as a resident east of Interstate 5, Georgeo Kerpani as a resident west of Interstate 5, and various City staff members, including Kathy Baker, Redevelopment Manager and Jerry Hittleman, Acting City Planner.

This group met at least 4 times, and a lot of the conversations, which were long meetings, was to understand what was in the Zoning Ordinance, how the whole thing worked together, the special rules of the properties and the subdistricts, the 9 Block Master Plan and some philosophy of what the Coastal Commission had requested as they pursued visitor-serving commercial uses. They talked in great detail about the zoning matrix, which is a matrix that shows what you can and cannot do in these various subdistricts. Kathy Baker researched what other coastal communities consider visitors serving. This committee went line by line, district by district, through that chart and discussed in elaborate detail what was in, what was out, what should be in, what should be out and went through each of those. These were very labor intensive meetings.

The various parts of the zoning text are implementing the LCP. By definition, if you change your zoning text, you need to change the LCP. There is not an appeal to this because the City is the applicant. The City is asking the Coastal Commission to review these proposed changes and make a determination. She pointed out that 90% of this year-long effort was spent on the "D" District on the various definitions, etc. Kathy Baker will walk through the various components of how the zoning text works, the proposed changes to the "D" District, and some new administrative proposals in an effort to streamline our processes. At the end of her presentation, Ms. McVey will go through some of the visitor-serving accommodation definitions that have been added.

KATHY BAKER, Redevelopment Manager, stated when the ad hoc committee was set up, no one envisioned how much work it was going to be. They spent countless hours going line by line through the matrix. Article 12 is basically the redevelopment area zoning ordinance, and it had not been comprehensively updated since 1995. Since 1995, there

were several resolutions and zone amendments that had changes to the article. However, those had not been incorporated into the actual document. The committee's outcome is that they created a more user friendly matrix, updated and created some new definitions, added the ability for an Administrative Use Permit process and added some new visitor-serving use definitions.

The difference between the old matrix and the new matrix was the elimination of "L's" to make it less confusing, and they added a whole column for what they defined as visitor-serving definitions. She presented a computer slide diagram of what the old matrix looks like. As an example, looking at the old matrix, if you wanted to open a restaurant in subdistrict 6B, you would look in the column under 6B and see that you have an L2, L27 and an L35. You would go further in the document to additional pages with additional regulations. Currently there are 45 additional regulations for this zoning ordinance. They felt they could improve upon this.

Using a computer slide presentation, she then described the proposed new matrix, which eliminates all of the "L's" and makes it simple in that if there is an asterisk, it is not permitted at all. If there is a "P" it is permitted by right. If there is a "C" you can go through an Administrative Use Permit process and if there is a "U" it is a Conditional Use Permit process.

Since the Redevelopment Agency has taken back the planning activities, they needed to change the language in Article 41, which is the article for the Zoning Ordinance that allows for Conditional Use Permits and variances. The existing ordinance allowed for the Planning Director to approve Administrative Use Permits; however, there was no ability for the Redevelopment Director to make that call. They had to make amendments to Article 41 to allow for that. The Administrative Use Permit allows for a use that we want to see in the downtown but that may have potential issues with adjacent properties for business owners or uses in the same general area. In addition an Administrative Use Permit process still needs to go through a 300-foot notification to the property owners, and the Economic Development and Redevelopment Director would make that determination. However, if someone was not happy with that decision, ultimately they could appeal it to the Redevelopment Advisory Committee, which would make a recommendation to the City Council for final approval.

They also looked at Article 4, which contains the definitions. Some of the definitions did not adequately address current market trends or uses that were not currently allowed in the existing Zoning Ordinance. They created some new and improved definitions for the commercial, recreation, entertainment, and eating and drinking establishments in restaurants. They tried to align their definitions more closely with the Alcohol and Beverage Control (ABC) licensing definitions in terms of what a restaurant is and what a bona fide restaurant is. They added a definition for an espresso stand, a drive-through coffee type of place, but they did not want drive-through restaurants in the Redevelopment Area. They wanted to redefine the grocery store, neighborhood market and specialty market because every time they go to public meetings or meetings with the neighborhoods, they are constantly hearing people say they want to have a meat market, a bakery, a vegetable-produce store, or a Trader Joe's. Therefore, they needed to tighten up those definitions because they way they read was fairly restrictive.

They also see live-work lofts in the downtown now, but they did not have a clear definition for that either. They looked at personal improvement services, because they had eliminated a lot of those uses in the past. They came up with a day spa definition and some additional personal services definitions.

The committee went to the extent of creating a laundromat/café definition. This is widely recognized in urban areas where you take a laundromat and combine it with a coffee shop or a restaurant or something of that nature. Someone could literally come and do both activities in the same establishment. They also added some new visitor-serving accommodations that were not currently listed. The Administrative Use Permit process was added to the matrix. This gives the City the ability to place conditions on a site, but in a

quicker manner than the conditional use process.

MS. McVEY talked about the new visitor-serving accommodation definitions. She acknowledged that some of the definitions were new to Oceanside, but that they are not new in the coastal areas. She shared that a fractional time share is common in ski areas. There are some cities that are currently processing these types of uses. The Coastal Commission is also grappling with these. They held a workshop last August and are planning another workshop. They are at the same stage as the City may be in trying to define the appropriate use of some of these things. City staff has met with the Coastal Commission staff, talked to the Chairman of the Coastal Commission, and also received a letter from Peter Douglas, the Director of the Coastal Commission, regarding their direction to cities. It appears that the Coastal Commission is going to look at each individual city on an individual data-driven basis to make some determination as to what the current mix is of hotels, what their price points are and how they feel it is appropriate to have these things. Staff has tried to follow their direction and mirror the language that the Coastal Commission staff has provided as examples and as suggested to other cities.

The prior text had hotels and motels. It had a definition for a timeshare, but it was silent on fractional timeshares. They could, for example, with the SD Malkin project, have conditioned that hotel with the same kind of rules that they are proposing tonight. Their concern was to thoroughly vet the issue in a public forum and make sure this was a safe way to go so that they did not get to the end and have somebody challenge it because they were not specific about fractional. They thought it was best to process a LCP and change their language to be very explicit about what they are doing. Subsequent to that decision, they received the letter from Peter Douglas of the Coastal Commission, which stated that, if they did not have something in their text that spoke to one of these types of uses, they needed to add it in their text and change their LCP if they were proposing a project that contained any of these uses. There is a lot of administrative work, all of the staff reports and more on its way to the Coastal Commission, and they have an uncertain outcome. However, staff decided that was the way to proceed.

In the "D" district committee, certain percentages were discussed. The additions to the language included a specific definition for timeshare and other definitions. With timeshares, people are purchasing a week either point- or fee-based to stay in a timeshare. With the fractional time share in general, they are purchasing a longer period. It has different and special restrictions on it. In a condo-hotel people are actually buying an equity position in the hotel. They become a hotel partial owner. For the privilege of being a partial owner, they are allowed to stay in the hotel for longer periods, with restrictions.

The committee defined a resort as a hotel of at least 200 rooms that also had a full service restaurant and other amenities. They further defined an integrated resort. This is important because you cannot be an integrated resort unless you are first a resort. A resort has to have 200 rooms; therefore an integrated resort has to have at least 200 rooms, and it can have some component of either fractional timeshares or condo-tels. The ability to do fractional timeshares or condo-tels in this zoning text amendment and in the matrix is limited to the 9 Block Master Plan area. That 9-block area is bounded on the west by Pacific Street, on the east by Cleveland Street, on the north by Civic Center Drive and on the south by Seagaze Street. That constitutes the 9 Block Master Plan area. Therefore, the ability to do fractional timeshares, condo-tels or an integrated resort falls only within that 9 blocks. The only project in the 9-block area that currently has a proposal that has at least 200 rooms is the SD Malkin project.

Both the fractional timeshares and the condo-tels are limited in this proposal. They are limited to a maximum 29 days of use during any 60-day period and also no more than 90 days per calendar year. When they are not in use by the owner, they shall go into the hotel rental pool. There are some additional requirements that were imposed. If the hotel owner and the operator of the fractional timeshares are not the same person, they are jointly liable for meeting all the requirements for this code and the LCP. The use limitations that have been set are imposed upon them. Another special requirement is that an existing hotel could not convert to be either a fractional or a condo-tel. Another

requirement is that the projects need to have Covenants, Conditions & Restrictions (CC&Rs) that spell out these limitations, so that if a purchaser comes in, they know what their restrictions are on their use. Again, the use limitations are 29 days in a 60-day period and no more than 90 days in a calendar year.

The text before Council has a proposed limit on the percentage of either fractional time shares or condo-tels within a given project to be 49%, which is a place holder number and is less than a majority. In addition, the text also says that no more than 15% could be in the fractional timeshare market. In the report there is an acknowledgement that there is nothing magical about the 49%, and it also puts forth the conversation that 30% has also been a subject of dialog. Council would be taking a position on a percentage, although the ultimate decision will be with the Coastal Commission.

Based on our understanding with the Coastal Commission staff, we needed to be able to explain why it was okay for Oceanside to have any fractional timeshare and/or condo-tels, so we needed to inventory our rooms, look at our supplies and specifically look at whether we had affordable rooms in the City - the Coastal Commission rules state that is \$100. The Economic Development and Redevelopment Department inventoried the hotel rooms in the City. What we got back were stated rates. If you call and get a price, that is their stated rate. However, if you ask them if they take a discount for AAA or some other membership, you will get a potentially lower discounted rate or a rack rate. The numbers were provided to the Planning Department for inclusion into a report for another project that they were working on, the coastal lagoon hotel. During that particular hearing, those numbers that were provided were questioned. Therefore they hired a known hotel consultant, PKF, that has appeared before the Coastal Commission and has done reports for other cities, to do an inventory and an analysis of our hotel rooms. The previous inventory that we did utilized a cutoff of \$85 because there was a natural break there and price points. However, the Coastal Commission guidelines are that \$100 and less are deemed affordable. It is noted in the report that the price quoted when you call is not the same as the rack rate, and it is not the same as an average daily room rate. Hotels have varying sizes and types of rooms, and they have different occupancy rates, etc. The average daily room rate is exactly that, it is just an average.

PKF was also asked to evaluate demand. The way they statistically evaluate demand is a function of the occupancy rate. The occupancy rate reflects that if you have a high occupancy rate, the belief is that there is a high demand. If you have a low occupancy rate, that equals a low demand. It has come to her attention that there are some properties that should have been included in the report that are not included, and that there are some properties that are incorrect. Therefore, they do have some corrections to make. Based upon that new information and before they send this report to the Coastal Commission, they will ask for either a revision or an addendum to look at some properties that should have been in there and some that should not have been in there. The information provided tonight is the information based on the report from PKF.

They inventoried our supply of affordable accommodations, which is defined as less than \$100. There are 1,295 rooms depicted in the report and that is Citywide, with 740 of them not being in the coastal area and 555 being in the coastal area. Of the 555 coastal rooms, 503 have an average daily room rate of less than \$100. That means 90.6% of the 555 rooms are deemed to be affordable. This does not include the 106 vacation rentals or the 241 recreational vehicle (RV) spaces. We made a conscious determination not to include those because their prices can be so different they would skew the numbers. Of the 740 non-coastal affordable rooms, all of them are deemed affordable. There are no rooms outside of the coastal area that are greater than \$100. In total, 95.9% of the 1,249 rooms are considered affordable by Coastal Commission standards.

They have to look at demand as a reflection of occupancy rates. This is a quantitative statistical measurement, not qualitative. Based on the quantitative measurement, the City has an adequate supply of affordable units less than \$100 within the coastal zone because their occupancy rates are so low. There is a greater demand for hotel rooms with a greater than \$100 average daily rate based upon the occupancy rates.

In effect, that means that the higher priced rooms have higher occupancy rates.

She pointed out that they have had a number of meetings on this. Last year, the RAC heard this, and in December the CDC heard the "D" district committee's report. In January it went to the Economic Development Commission, and in March it went back to the RAC.

If we have 48 fractional timeshares proposed out of 1,295 rooms Citywide, that is 3.7% of their rooms, or 48 out of the 555 coastal rooms. It is a relatively small number. The Coastal Commission staff has indicated that they understand that we are in a unique position with a very long stretch of Coast Highway with a lot of older, unbranded hotels. They are quite conscious of what our inventory and diversity is.

There have been some questions raised. A couple of emails asked if this hotel is all timeshares. There are 289 traditional hotel rooms, 47 boutique hotel rooms and 48 timeshares. There was a question about if the height on Pacific Street is going up to 35 feet. There was a good catch that the previous Coastal Plan amendment was not incorporated. It now has been, so that is not an issue anymore.

MS. BAKER reported that this morning the RAC did meet on this topic. They met in October, December, March, etc., and they heard it again today. The RAC split their approval into 3 motions. The first motion was that the Community Development Commission approve staff's recommendations as stated in the report. They added a second motion to add the ability to have small scale entertainment in subdistrict 2 and subdistrict 9. Subdistrict 2 includes the commercial properties along Mission Avenue. Subdistrict 9 is a section of commercial properties primarily on Coast Highway. A while ago they did have an amendment to small scale entertainment to allow for 5 entertainers. We did recommend that they consider having it with an Administrative Use Permit. Highlighted would be the change to the matrix that they are recommending.

They also made a recommendation that in Article 41, which is the Use Permit section, in section 4110a, to strike the Community Development Commission. It was a typographical error. There were actually 3 recommendations by the RAC.

Staff would be recommending that the City Council introduce an ordinance amending Article 4, the Redevelopment Project Area Land Use definitions, Article 12, the "D" District text and land use matrix and Article 41, the Use Permits of the Oceanside Zoning Ordinance, which would be Zoning amendment ZA-200-07, and adopt a resolution approving the Local Coastal Plan Amendment LCPA-200-07.

MAYOR JIM WOOD requested that Ms. Baker address the concern he had on subdistrict 6A.

MS. BAKER met with a property owner on the north part of Coast Highway who had contacted Council. She assured them that the text changes are to their benefit. This is a difficult property because it is in the coastal zone. They are having a difficult time leasing the space. They have had a few tenants that have fallen out of escrow. In fact they left this evening because after talking to staff they realize that it is all good. They are fine now.

COUNCILMEMBER FELLER questioned if the owner of the timeshare gets the same unit every time they come to town.

MS. BAKER responded that for the timeshares and the fractionals they do not get the same unit every time. In the condo-hotel unit they would get the same unit because they would have an equity position.

Public Input

JOHN DALEY, 631 South Coast Highway, was on the City's 1st redevelopment

committee over 30 years ago. At the time, it was exciting that they were going to redevelop downtown Oceanside. In 1904 we built the last hotel down by the pier, the El San Luis Rey Hotel. An individual financed that hotel. It was 60 rooms. When his mom was a kid in the 1940s, it was the Grand Beach Hotel. The Beach hotel was the place to hang out. Later on it became the Colonial Inn. That was the hot spot to go after a special church activity, etc. In the mid-1960s it was torn down. There were a lot of expectations back in those days that something would happen down there in a grand way. You can only imagine the difference between 1904 and today.

Financing hotels is getting more and more difficult. The fractional timeshare is a popular way of doing that. It is not a way to exclude people from the coastal area like some people think. It is far from that. In fact, an Oceanside person can own a fractional timeshare of a hotel in Oceanside. He is suggesting that all of the changes that are made today are the cost of doing business because of the way laws have changed and the way investment tenure has changed. We need to, approve these changes, move these on to the Coastal Commission and stop playing games with our hotel. He wanted to make sure it moves ahead.

DAVID NYDEGGER, Chief Executive Officer of the Oceanside Chamber of Commerce, apologized to the Surf Rider Foundation. He had sent an e-mail stating that the Surf Rider Foundation was against the hotel project since he was informed by a Surf Rider supporter that that was the case. However, the head of the San Diego region of the Surf Rider Foundation, Bill Hickman, called him and said they have not opposed the project. He said he had only heard about the fractional timeshare issues late last week.

The Oceanside Chamber of Commerce has been a long proponent of a 1st class hotel in the downtown area. For over 32 years, the City has tried to develop the pier area. Two years ago, the Oceanside City Council unanimously voted to work with SD Malkin Group in developing a 1st class hotel downtown. It was a wonderful day. The Chamber knew that there was lots of work to be done and formed a coalition group of those interested stakeholders from various organizations that were both in favor and opposed to previous attempted hotel projects. Their charter was to work on compromise and consensus to keep the hotel project on track. They are concerned that now their efforts may be in jeopardy because of this fractional time share issue.

A previous City Council in August 2006 unanimously approved a memorandum of understanding with the SD Malkin Group that included fractional timeshares. The same fractional timeshares we are reviewing tonight. They approved it then, and this Council should do so tonight. Currently, in all of Oceanside there is only 1 hotel with an average room rate of over \$100. It also has the highest occupancy rate. Higher room rates and higher occupancy rates show that 1st class accommodations are needed and demanded in our City. With the new hotel there will be only 48 rooms out of 555 in the entire coastal area with fractional timeshares. That is 8.6%. True, fractional timeshares do not produce Transient Occupancy Tax (TOT). However, timeshare owners spend much more time in town spending more on food and shopping. This will be a much needed win-win for Oceanside's business community. Fractional timeshares are used as a financing mechanism to provide much needed liquidity to the developer and will not increase the tax burden to the city. Not allowing fractional time shares will require the City to pay more to the developer or bring in a Motel 6 or maybe not have a hotel at all. Do not let Oceanside down.

KAY PARKER, 4377 Albatross Way, speaking as an individual, has said many times that it is the destiny of Oceanside to become the premier city of North County. This hotel project is pivotal to us reaching our destiny. It is time to move from the vision to the reality. If the fractional timeshare issue is a component that we need to make this economically viable, then we must do it. It is in our community interest for this hotel to succeed. We cannot keep putting road blocks in the way, or not embracing the future. She views fractional timeshares as a new product on the market. If the market is there, they will buy the fractional timeshares. If it is not, they will not. The free enterprise system will work of its own initiative. We do not need government to stand in the way.

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They need to grasp this opportunity and recognize that the advantages of having visitors stay longer in one place is that they are going to spend more money in local businesses. That is what we want to happen.

We are destined to become the premier city in North County. Tonight let us come together and have this be a 5-0 vote. She favors the 49% number, because she feels it will bring and retain a stable population that will buy goods and services from our local business that we are trying to build up in that area.

MARVA BLEDSOE, 1406 Denise Circle, had the privilege of serving as one of the co-facilitators for the Oceanside Community Coalition that was referenced earlier. This was a group that came together after Council took action. Eight diverse community, neighborhood and business groups all came together from very different perspectives. They have been meeting monthly since that time. They have 1 focus - get this hotel built. They serve as a clearinghouse for the neighborhood groups that Council is going to be hearing from this evening. She is not speaking on behalf of the coalition, but she wants Council to know what an excellent example they have been of diverse groups coming together and communicating. She reiterated to get this hotel built.

DONNA MCGINTY, 2405 Mesa Drive, noted that the taxpayers of the entire City are footing the bill for redevelopment. She thinks it would have been wise to bring in a majority of the interest outside of the beach community, which happens to be everyone east of Interstate 5.

You are building a hotel on public land. In the fractional timeshare sell off, they are limiting the taxpayers, who own that property, the opportunity for the availability of those rooms when they want to use them.

LIZ RHEA, 4962 Gabrieliene Avenue, is the Oceanside Chamber of Commerce representative to the Oceanside Community Coalition. It was their goal to work together with different facets of this community for the projects to help Oceanside. Please do not let us down. We have worked very hard for this. Please vote 5-0 in favor.

GRAHAM FORBES, 3737 Camino Del Rio S. #30, San Diego, is with the United Local 30, the hotel and restaurant employees union. They have been working closely with the Coastal Commission and the State. Oceanside might be a unique case, but they think it is important that the public is informed about the public costs that come with this type of development. For example, they have issues with public access, affordability, TOT and also the statewide implications. When the Coastal Commission makes a ruling, it will impact the entire state. For example, when the owners of these units are occupying their own unit, they do not pay TOT. Therefore, the City will not receive funds during that time. In the case of the fractional timeshares, like those that are proposed by SD Malkin, theoretically they could be like a normal timeshare and be occupied the entire year. Theoretically, it is possible the City would not see a penny of TOT for those 48 units for that time. They feel that is something important to know, coupled with the subsidies that are already existing for the project.

When these are being sold to individuals, the City will not see any of that money. That money will go to the developer to help with construction costs. On 1 hand that helps because it gets the hotel built quicker. On the other hand the City loses out on the money. It is important that the public knows that timeshares come with a cost.

BOB GLEISBERG, 1936 Palmer Drive, used to be a timeshare owner at Oceanside's Southern California Beach Club. That was a rehab project, and they had all kinds of "riff raff" living in it. The bottom line was that Jim Watkins turned that property around. We bought our week so we could enjoy what all of Oceanside has, which is a beautiful beachfront property. The thing that was neat was that we could bring our families down there. That was one of the few properties that he bought where he turned a profit on it. It is very rare to turn a profit on a timeshare, but it is called location, and Oceanside had it. The party that bought my timeshare was a grandmother from Arizona.

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She wanted to have her extended family down there, so she put top dollar on buying his unit so she could create a fractional timeshare.

Giving other instances, he said the concept of fractional ownership is not new. It is simply a marketing tool that those people who sell timeshares have found to be very effective because families want to come to the beach. They want to be able to use what we have, and they want all of the amenities of home. They want the quality standards they are use to having, and they can only get that in certain types of properties.

JIM KLEIN, 510 North Ditmar Street, was impressed by what was presented here tonight and the careful approach to these changes. Addressing the fractional timeshare issue, he stated that the reason he is interested in this is because he read that somehow this concept will create barriers to our beach. He thinks that people who own these units will not be sitting in them for 3 months out of the year. They are buying these units as investment prospects. If you look at fractional timeshares as an investment vehicle, you can see how it is an important part of the business plan for this hotel. It is a way of getting more money up front and making the project more viable. That is investment. It has very little to do with access to the beach, except for this kind of ironic twist: by giving it a broader investment base and increasing the success of it, we are creating more access by building the project and bringing in all kinds of new people into this community. He sees fractional time shares as a way of broadening access, not restricting it. He cannot afford to buy one. He probably cannot afford to stay 1 night in that hotel, but he is excited about the prospect that all kinds of new people might come to Oceanside.

GEORGE KERPANI, 300 South Nevada, was on the committee. The old matrix was very difficult to read. The new matrix that they worked on made it much easier to look at, review and understand. He attended 8 sessions over a year's period of time. There were no objections, disagreements or arguments among them. Regarding the fractionals, there were no objections raised at the time, and he recalls bringing up the subject regarding the 30-day policy, which he was unaware of. The fractionals were discussed early in the committee, and there were no objections, doubts or questions raised. Fractional owners have a tendency to have a higher discretionary income. Therefore, that would benefit the downtown and the entire City. He urged Council to approve this measure.

JOAN BOCKMAN, 1409 South Horne Street, President of the Oceanside Coastal Neighborhood Association (OCNA), stated her board has met, and they have a statement regarding the hotel. However, she would like to say that this is an overall amendment, and there is a lot more there besides the fractional timeshare issue. The board did not go through and thoroughly study the entire document due to time. The official OCNA position is that the City must make sound financial decisions for all residents and incur taxpayer debt only if the result is a superior facility that serves the entire community. This means that the Council needs to be certain that the community will get all of the amenities that are consistent with a 4-star hotel and that in this prime location we are not giving anything away. They feel strongly that they expect a 4-star hotel. We want to see the absolute best hotel and we do not want to settle or give money away to get it. It is the best location on the coast.

Regarding the overall amendment, they are depending on Council to be certain about any "gotchas" hidden in the matrix. One comment would be that having more review cycles for things that do occur in the Redevelopment area would be very helpful. OCNA will try to participate as much as they can as all of the projects go forward in the redevelopment area.

JIMMY KNOTT, 124 Sherri Lane, stated this should have been a public workshop and not just a recommendation to adopt tonight. This is more than just fractional timeshares that Council is considering. If they look at what was presented, it is an overwhelming omnibus bit of legislation.

Under fractional timeshares are booking agents. Booking agents want full-time

books. That means reduced TOT. He questioned who and where will that revenue be made up for the rest of the City. From past studies a few years ago, the economics of the Redevelopment Area has proven that only a small percentage of the income is related to high income or upscale support. A majority of the income for the businesses in the community depends upon lower- to middle-income services and support. If you read the report, a lot of it does not support those lower and middle incomes. Still missing from the report is past promises for improvements and public recreational opportunities. A lot of them have been eliminated, and a lot of them have never been replaced even though there have been public promises to do such. These go back at least 30 years.

MARY ANN THIEM, 731 North Tremont, is representing the homeowners of North Coast Village. Those in opposition to this zoning clarification present themselves as lovers and protectors of the beach. They seem to be willing to risk the resort hotel to preserve their point of view - there is no compromise, no discussion. Save the beaches from the rich fractional timeshare purchasers, no matter what the cost. As you know, the hotel plan does not close the beach. It does not infringe on the bluffs. It does not stop anyone from staying at that hotel or any other and enjoying a day in the waves. In fact, the money gained by the City from the hotel and the business that those timeshares and hotel rooms will create, generates business throughout the downtown area. That money is needed to maintain and preserve the very beach that they purport to save. The momentum of the change in growth in Oceanside is building everyday, but many see the resort hotel as the heart of the change. When the heart stops beating, the rest of the patient dies.

The people she speaks for love the beach too. They want only the best. The potential is there, but it has to be carefully nurtured and encouraged. If this does not pass, it may not stop the hotel. It may only delay it. But for the businesses that took a chance, it may be too late for them to hold on that long, and the businesses that are about to commit will look someplace else. The people who took their savings and invested in a home here may not want to wait that long or may not have that long to wait.

Some say they do not want to stop the hotel, just the fractionals, but that does not make financial sense. City staff has done due diligence, consulted with experienced hotel builders and operators, weighed the consequences and have concluded that now is the time to move, and this is the way to go. The group arguing over exactly who is going to own each room and each pillar of the hotel are grasping at straws. This should not be a challenge, a test, or a cause to demonstrate power. This is our home, our community, our beach, our Oceanside.

LOU TASCHNER, 128 South Pacific Street, stated it appears that the community is asking Council to allow the developer to proceed under a set of rules that need to be resolved before he can proceed. This is Council's opportunity to resolve those rules in coordination with another governmental body. He does not see any reason not to proceed, except for the fact that some people say that there is something written in the coastal rules or in the proposition that passed in 1972 that precludes this. It is not there. Like anything else, it is an evolving process. Now 35 years later and in that evolution, this is probably the right way to go.

JOAN BROWN, 511 Rockledge Street, would like to remind everyone of what a unique problem they have. There are nine lots of core oceanfront property, 2 of which are earmarked for a 4-star hotel. After all of our public meetings, one thing rang out loud and clear: they want a 4-star hotel. She did a study of her own from La Jolla to Santa Monica about room rates in 4-star hotels. It was surprising how few 4-star hotels there are. The most expensive was in Laguna. The Sand and Surf is \$575 a night for June 29 and 30. All of the room rates range from \$299 to \$595 a night. They all had the same amenities, and they were all about the same size as our hotel will be. They all had vacancies, including Marina Suites, which is ours, but that is only a 3-star hotel. For those dates they wanted \$265 a night for a 1-bedroom apartment.

Now it seems to help finance this 4-star hotel. SD Malkin wants to sell fractional

timeshares. About half of all of the resorts in the USA are currently selling timeshares, generating sales of \$8,600,000,000 in 2005. There are 4,100,000 households that own 1 or more U.S. timeshare weekly intervals or equivalent points. Fractional timeshares are a little different. The leaders of fractional timeshares are Ritz Carlton, Four Seasons, etc. For someone who wants a second home but does not want to maintain it, they can buy a fraction, i.e. a quarter of a 2-bedroom hotel suite, priced depending on location. She noted that 2/3 of the people who buy fractional time shares pay cash. Their income is from \$150,000 to \$500,000. She does not see that this would hinder their access to the hotel. The day of the \$150 a night 4-star beach front hotel went away many years ago, and the fractional timeshares are just the beginning. The City must make sound financial decisions for all.

SHARI MACKIN, 1469 Moreno Street, was part of the Council at the time the MOU was approved, and the MOU did not include 49% of allowable uses of those condo-hotels. She supports a 1st class, 1st rate beautiful hotel for Oceanside residents and the visitors to Oceanside. There are a few issues that need to be addressed with regard to the staff report and the proposed LCP amendments.

In Section D, item 7, the description allowing for 49% of the uses to be condo-hotels should be brought down to a reasonable number such as 20-25%. It would pretty much guarantee that they would not have problems at the Coastal Commission looking to put 49% of the use of this project into quasi residential uses. Again, the idea is to get this hotel through, get the tax base going for the Redevelopment Area and bring something nice to Oceanside.

The City cannot regulate CC&Rs. She was surprised to hear that. When she was on the Council, they discussed this with regard to a project that came forward in Henie Hills, and it was very clear that Council could not regulate the CC&Rs. The study has major flaws that the consultant put together. She has discussed some of them with staff. She is more than glad to bring that information forward. The study did not even include North Coast Village which has an inventory of 250 vacation rentals. Let us hope we are getting TOT on that, and it should have been included in the report. The Pavilion development, which has been pulled, should not have been included in that report. She will furnish that information, hopefully bringing this to the Coastal Commission. However, they must have an accurate inventory of what Oceanside is. You will find that none of our coastal rentals and vacation rentals rent for less than \$2,000 a week. On the high end it is \$7,000. That is a little gold mine that they all have not been following. Let us get to work on that, clean it up and be reasonable. Bring the percentage down.

KIM HEIM, Director of MainStreet Oceanside, had the opportunity to serve on the ad hoc committee for the redefinition of District D. The redraw of District "D" in terms of zone definitions really gave the opportunity to refresh and redesign the uses of that space. As working in the MainStreet program downtown, he is constantly burdened with interpretations of what an appropriate use is there. It is important to understand that what brought this about was that we could not put a Kinko's downtown. Our definitions could not accept that use in a particular location.

This gives us an opportunity to prepare the downtown for all of the new and future innovative uses for downtown and with that the ability to also incorporate the fractional timeshare component or the integrated resort idea into the 9 block area that would be important for a hotel facility. Again, these are place holders, and there will be a future discussion on the hotel with a specific use permit. He would urge the Council to move forward and approve this so that they can define the uses of the new District "D." They will also be able to better inform new business starts in downtown on what the appropriate uses for those spaces will be, because they will be having 100,000 square feet of new space downtown. He urged their support.

PAMELA MYERS, 910 North Pacific Street, discussed the height issue on Pacific Street. She sent some letters to Council and staff, but she would like to get more clarification. The height was reduced on the north side of Pacific Street from 35 feet to 27

feet. Looking through the proposed LCP amendment, she noticed that their LCPA-200-06 number is not in here. She is bringing it to Council's attention to ask if they could have that in here. She saw that there was a reference to Proposition A and when it was passed, the actual date and year. She would like to see some more of that in here. There is a table that says subdistrict 5 – 35 feet. Most people are not going to read through all of the text. They are going to go straight to this table. She would like to see it incorporated in this table. While staff says it is only for a 3-block area, she asked if they could put some sort of reference to the 27 feet in this table. It would be much clearer.

There were 3 dates that were listed: when Council passed it, when the ordinance was passed and when the Coastal Commission passed it. She asked if all 3 of those dates could be in here. She would also like to address the Administrative Use Permit. Currently if something is going on in a neighborhood, it goes to the RAC and then to the Council. From what she understands, now they want to have the director of redevelopment make a decision, then someone will appeal it to the RAC and then the RAC will make a recommendation to the Council. That is adding an extra layer.

She questioned how the residents are supposed to know. It says they are going to get notification within a 300-foot area, but sometimes they do not get notification. Things can be lost in the mail. She did not think the administrative permit should be added to all of this. It is really important to be able to get on the internet and see what is being discussed and have people come to these meetings. The way she sees it, if this goes through, a lot of things are going to be lost in the shuffle. She asked that anything in redevelopment go through the RAC and the City Council and be on the internet so they can see what is going on and play a part in this.

CHUCK LOWERY, 812 Alberta, is for the hotel with limited timeshares. It is typical that incentives are given to developers such as the Manchester Project, the Belvedere Project and now the Malkin Project. He questioned how today's decision will look decades from now. He asked if they would have a beautiful city income for maintaining Oceanside Boulevard, loads of tourists and happy residents and whether Oceanside's future will look like an upscale Santa Barbara or more like an industrial Long Beach.

He received an e-mail yesterday suggesting that the City Council stay the course. We know that is a recipe for disaster, but he does support the hotel with limited timeshares of about 20-25%. He asks Council to leave a legacy that includes families and children of all incomes, not just the rich. Council's decision could grant yet another giveaway to yet another developer by converting the hotel to a significant amount of fractional timeshares. The coast is our legacy. We have all inherited it from our ancestors. Council's vote decides what we will leave for future citizens of Oceanside. Please support the hotel with limited timeshares.

THOMAS DEMPSEY, 3641 Esplanade Street, stated it appears the City Council has lost its zest for TOT revenue. He does not support the conversion of hotel rooms to 49% fractional uses in this project, especially in this prime location on Pacific Street. We desperately need more hotel rooms, not quasi-residential uses that do not pay TOT, which support the costs of our City services. The past City Council missed an opportunity to collect TOT from the Fairfield timeshare project now being constructed on Pacific Street. Let's not let it happen again.

NADINE SCOTT, 550 Hoover Street, is for the hotel. She was very thrilled when the City Council voted for it. However, she has some issues with the amendments that are being proposed. Staff is standing here with a straight face telling Council that it is not about any particular project. It is about the Malkin. We all know it. The 9 blocks is what is going to be in there. She particularly objects to the way the study was performed. It was quite obvious at the RAC that a lot of the members there had not really gone through it. There are hotels in here that she has never heard of. There are hotels in here that she would never stay at or let her family or her dog stay in.

It was very interesting that the report concludes that we need more high quality

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hotel rooms, not more condos. Staff stated there are problems with our downtown hotels as they are substandard and quite dangerous. She is supportive of hotel rooms. The original MOU contemplated some form of timeshare. We can all get past that. That was negotiations. There was nothing agreed to. 48 units are 12% of the new 413 created rooms. After speaking to Mr. Cohen, now the amount looks like it will be closer to 20 or 25%. If you have not fully analyzed what it means with the hotel analysis, unless that passes muster, the Coastal Commission will never approve it. They will never approve 49%. She wants that completely removed now.

Secondly, she supported Ms. Myers' comments regarding the administrative provisions. They are adding another layer, and they are adding more problems for the communities getting notice. Third, the 2 other recommendations that they brought to the RAC this morning were neither noticed nor put out in printed material, and she does not want those considered. Fourth was the matrix. This particular document of 100 plus pages only had additions. It did not have strike outs or changes, so the public has no idea what the other LCP says. It was not presented in the proper form.

They are going to have a beautiful hotel with a 500 capacity ballroom, and yet we are going to have 200 or 300 hotel rooms available. She took exception specifically with the occupancy rate equating high demand. There is high demand for safe, clean places that have access for handicap, families, etc. Obviously, there is low demand for the crack houses, the drug houses, etc. The occupancy is going to be low. Frankly, their study is flawed. They did not spend the amount of time on it that they should have. She urges Council at a minimum go back down to 25% maximum for the timeshare portion.

HARVEY SCHWARZ, 509 Leonard Avenue, stated It takes a whole community to win the war. He has lived here all of his life. He started young and was in the car business and had a proprietorship. We started the redevelopment of Oceanside. we have struggled with this thing. Redevelopment was never set up to last 32 years. He questioned what the bankroll looks like. We are tapped out. In the City of San Diego, the redevelopment agency has got them tapped for over \$200,000,000. In Los Angeles and National City, it has not been a corrective help to a community. It has killed the privates. When you kill the private sector, you are dead. This town has all of the opportunity in the world, but he asked where the little private proprietor is today, maybe on Oceanside Boulevard.

He is glad the Council made a decision finally and went into the industrial end rather than more houses. So, this industrial deal looks good. We have a base, we have people working and that is beautiful. But redevelopment has to come to an end. He has studied the financial report that was done in September on redevelopment, and it is a tragic situation to look at some of the obstacles in this town that have held us back. If somebody would look at them and fix them, we would be on our way.

[Councilmember Kern left the dais at 9:09 PM.]

CAROLYN KRAMMER, 904 Leonard Avenue, stated there is not anyone in the room that does not want the hotel built. They just need to find a way to get there. Condo-hotels and fractional timeshares are a very controversial issue in the coastal zone with a lot of environmental groups. She asked why they want to invoke controversy. They have been down that road and do not want to go there again. 49% is not an acceptable percentage to give away to the developer for condo-hotels, fractional timeshares or timeshares. That means that 51% of the project will generate TOT for the City. 49% will only generate a small portion when they are not used as private ownership. That is a hot button, and they need to solve that problem. The suggestions that have been made of 20-25% are workable in the environmental community, and they could move this project forward.

JEREMY COHEN, developer for SD Malkin Properties, stated that if they could do a straight hotel project that had no condo-hotels, fractional timeshares or no timeshares and not have it result in an outlandish public assistance program that is not well covered by the tax revenue they would be producing, they would do that. They are not interested in

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building any kind of "for sale" product as a component of this just because they like doing it. It is a nightmare. However, it is what it takes to get hotels built. This is not something that is particular to Oceanside; this is true around the country.

[Councilmember Kern returned to the meeting at 9:12 PM.]

With a few rare exceptions, hotels do not require just a straight residential element to help subsidize them so that they work; they also require a fractional timeshare or a condo-hotel. It is not something they are doing because they want to or because they think they will get rich from it. They have been through almost a year of intensive analysis. They went through with the City's consultants every permutation to figure out what would get the smallest component they could have as saleable, particularly as the timeshare fractional component.

Correcting a few misconceptions, he stated that they have no condo-hotel component planned as a part of the project, but they felt that it was appropriate. They never want to go through this process again. While the "D" District is being redone, it is an appropriate time to have it there should it be needed in the future. The realities of condo-hotels are that they are resided in by their owners a very short period of time a year. It is an investment vehicle. Their experience is that the owners tend to be there less than 30 days per year. The other 11 months of the year the condo-hotels create TOT; they act like a typical hotel room; and it is completely transparent to the guest that they are in such a room.

He completely disagrees with some and does not understand the environmental community. He is incredibly sensitive to most of their issues, but he does not see condo-hotel, fractional and timeshare as a true public access issue. Most of their concerns are based on a lack of knowledge about how most of the product works and the diversity of ways that people can travel. He has 4 children. When they go away, having a larger unit with a couple of bedrooms and renting a fractional or timeshare is a very good way for them to stay. Even though he does not agree with their perspective, there has been one thing that has been extremely unique about this project that they must remember. The Manchester project floundered at the Coastal Commission, even though it enjoyed a great deal of support at the Council. They have had a very clear consensus in the City that the objective for this project is to make sure that it remains a consensus project throughout. That will assure that it gets approved at the Coastal Commission. Hopefully it does not even get appealed to the Coastal Commission so that they can start earlier. An appeal to the Coastal Commission can be an extremely long.

He clarified that the Coastal Commissioners themselves have been going through tremendous soul searching as to what is the appropriate balance for these types of "for sale" products to help hotels get built. There is no magic to 49%, and staff alluded to that in their staff report, saying 30% is another number that people are looking at. The Coastal Commission has approved projects with 100% condo-hotels, as they did at the Encinitas project at the foot of La Costa Avenue on the bluff over the beach. They have also looked at other projects where they like it as part of an integrated resort that has been at 25%. Staff had limited fractional timeshares to 15%, which is pretty close to what their overall program was. They are just trying to get clarity so they can move forward. He urged Council to move this forward in the process and try to come to something that is unanimous so that everyone can continue to feel that this is a project that enjoys the support of the entire community.

BOB WADE, 4537 Avenida Provado, does not know anything about fractional timeshares or TOTs. He felt 48 rooms out of the number they are talking about sounds like a reasonable number. There are enough experts on staff, in the City and the people they consult with to come up with a number that will fly with the Coastal Commission. He looks at this hotel as a lot more than whether it has TOT. It is a big issue of putting a foundational building block in place from which we can start to develop some big things like a football team. Football teams do not show up, and people with big development dollars do not come to towns that do not have vision. Council will come up with a number of

rooms that we need to have at this fractional timeshare level. However, we need to start talking about big picture and start thinking about big development dollars that this foundational building block is going to make for the rest of the people who want to look at Oceanside as a place to spend their money.

RICHARD EISENDRATH, member of the South Beach Property Owners Association, stated that years ago nothing was happening in our redevelopment area. They were trying to figure out what they could do to get this area turned around. They came up with the idea of putting a hotel in front of the pier and allowing parcels to be split into 25-foot wide lots. At the time they recommended that the ideas be extended to the whole coastal zone. The Council at the time was afraid that the Coastal Commission would not approve the whole coastal zone, so they left the southern part of their coastal zone out of the loop. It has just been sitting there floundering for many years, while the Redevelopment Area is on the move. The South Beach Property Owners Association strongly supports the project that has been presented here tonight, and they wanted to make sure that an area much larger than the Redevelopment Area be considered. They have a gold mine sitting there, and they need to infuse uses there along the line of what they are discussing for this project. If they would extend uses down Coast Highway and the southern part of town like they have in the Redevelopment Area, it would generate tens of millions of dollars a year for their community and taxes. He wanted to let Council know that those in that larger portion in the southern part of the coastal zone support this project.

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

[Recess was held from 9:22 to 9:31 PM.]

Regarding Council Policy 100-38 not to start new items after 10:00 PM, **MAYOR WOOD** felt that Item 9 was a necessity to hear following the close of this item. After that, General Items 10 and 11 could be moved to the next Council meeting.

DEPUTY MAYOR CHAVEZ recommended that Council finish this item and Item 9 in a concise manner and then call it an evening. Councilmembers concurred.

Continuing with Item 8, **MAYOR WOOD** requested that staff explain about the percentages to the the people because sometimes it is confusing. He clarified that they are not saying that 49% is the number they want. It is a holding place because the final number will be up to the Coastal Commission.

MS. McVEY responded that the "D" district committee reviewed a range of numbers. The consensus was that it could not be a majority. Therefore 49%, as a minority, was put in there as a place holder. Since that time, there has been a lot of dialog and discussion about this, to say that perhaps something in the range of 30% may be more appropriate. That is what is stated in her staff report, that there is a possibility of doing 30%, still with a 15% maximum of the fractional timeshares.

In response to public input, she noted there were comments that there is no TOT on fractionals. Although technically there is not, when the timeshares are not used by the owners, they would go back into the hotel rental pool with TOT.

There was discussion about the revenue that would come to the City from the SD Malkin hotel. It is about \$2,600,000 annually once stabilized, and that is from the prior analysis that was done in August 2006.

To clarify the height limit actions, **MS. BAKER** stated there are 2 different dates. The resolution was passed and adopted on May 17th and the ordinance was introduced on May 17th, and then adopted on June 7th. The final decision maker is the Coastal Commission. In addition, there was a section that Ms. Myers wanted changed. There was an LCP amendment that was approved in May for 3 blocks on the north part of Pacific Street on the west side and reduced the height from 35 feet to 27 feet. This area is

subdistrict 5, which is a much larger area, but the LCP only affected that 3-block area. What was approved in May was an additional regulation stipulating that within that subdistrict, the area located on the west side of North Pacific Street between Surfrider Way and Breakwater Way, the maximum height would be limited to 2 stories or 27 feet, whichever is less. The exception to the height limitation in Section 3018 would not apply to any development in this area. She believed that Ms. Myers would like to see that LCP amendment number be identified within the Zoning Ordinance. Typically they address all of the amendments at the front of the document once they are approved by the Coastal Commission. For any of the LCP changes that they are proposing now, they would note them on the front of the Zoning Ordinance once they are approved by the Coastal Commission. That is typically how it is done.

She believed Ms. Myers also wanted to add an additional note under additional regulations. They cannot make a change to that section because it would affect the entire subdistrict 5. They are not looking to reduce the height for the entire subdistrict 5, but just for that 3-block area.

In response to Mayor Wood's request to address the question regarding the administrative waiver aspect as another layer, **MS. McVEY** stated that in the area outside of redevelopment, under current Zoning Law and Administrative Policies, the Planning Director has the authority to issue an Administrative Use Permit. That is done to streamline the process. Sometimes for a Conditional Use Permit, it can take months to get on a calendar. If it is quite modest, Council has given the authority to the Planning Director. That is not in the text for the Redevelopment Area. Therefore, everything, including the most modest things, have to go through the RAC and then on to the CDC. In addition in the Redevelopment Area, the Redevelopment Design Review Committee is another body that looks at items. They are requesting that, for simplicity and streamlining for modest issues, there be an administrative policy. It has to be noticed just the same as it is now. Any appeal would be to the RAC, and the appeal from the RAC would be to the CDC. It would mirror what you have in the rest of the City.

There was a slight reference from a speaker to an incentive package or a subsidy that had been given to the Belvedere Project. There is no such proposal that was offered to the Belvedere. It is a residential project. All of what you see in the redevelopment area at this time is all market driven. It is only the hotel project that we have an incentive package with.

COUNCILMEMBER SANCHEZ said that they have been having some questions about the Administrative Use issues in the rest of the City and even looking at the notice requirements of 300 feet. Knowing that, she asked how they could make the noticing better. In other words, she asked if they could still keep this on some kind of an agenda for RAC and have those RAC agendas published on the web. That way people would at least know where to look and know if there is an appeal period that would end 10 days after that?

MS. McVEY responded affirmatively that her suggestion could be done. They want to streamline the process, but they also want to make sure that they have adequate notification, particularly to adjacent properties, so that people know what is happening. They would be able to do that.

COUNCILMEMBER SANCHEZ stated when we began talking about this project, we were so excited that it was SD Malkin and that we had such broad support for SD Malkin. She thinks that there is still that broad support for the hotel. The issue before the Council has to do with that magical number for fractional timeshares. She had a chance to talk to the Coastal Commission staff. This is a statewide issue. It is not just limited to Coastal Commission looking at this. State representatives are also looking at this. What she has been able to hear tonight is that they knew the fractional timeshares were going to be part of the project. It was just a question of degree. She is proposing wherever that 49% placeholder occurs in the staff report and the proposed language for the LCP amendment be changed to 25%. She **moved** to introduce the ordinance amending

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Articles 4, 12 and 41 of the Oceanside Zoning Ordinance and adopt the resolution approving the LCP amendment and change to 25%.

She had the chance to go to San Francisco in February, and she got talked into a timeshare presentation. They kept telling her that she did not have to spend money when she was there because she would have a kitchen and not have to spend her money on restaurants. However, she wants the restaurants that she has been dreaming about to come to Oceanside. She wants to see Oceanside build the kind of hotels that it deserves.

Three years ago she had a friend from Texas come to visit. She could not find a room in Oceanside. She had to put her up in Carlsbad, which was disappointing. She does not want that to happen to us. Hotel rooms are where we are going to be able to fund the exciting projects that we want to have happening in Oceanside.

DEPUTY MAYOR CHAVEZ seconded the motion.

MS. McVEY inquired if Council is including the RAC recommendations in that motion.

COUNCILMEMBER SANCHEZ responded affirmatively [and included it in her **motion**]. The recommendations were fine with her and seem to be consistent.

COUNCILMEMBER KERN inquired about the review cycle for redevelopment.

MS. McVEY clarified that there is no set review cycle. Cities in general delay as long as they can because it is so much work and raises controversy. The downside of waiting too long is that you have really dramatic changes, more than if you did it more frequently. To process an LCP amendment, we had over a year of committee. She would say 5 years would be about the shortest period of time to do these. We have processed one LCP for the reduction of the height. They can do others as the need arises or those that are more modest in nature, but a comprehensive complete overview is pretty daunting.

COUNCILMEMBER KERN asked Councilmember Sanchez why she selected 25% since it sounds like we are picking a number out of the air.

COUNCILMEMBER SANCHEZ explained that the Coastal Commission staff has recommended 25%. Other people have suggested 25%. There is a bill that may be stalling at this point, but it is recommending 0%. 25% seems to be something that will help with the financing but not make it a timeshare project. We heard from the developer, and he said 25% would be fine.

Regarding the PKF study, she requested that staff make those corrections noted. She knows that Pavilion has taken out the hotel, and there are some other things that need to be corrected.

MS. McVEY responded that they will ask PKF to make the corrections.

DEPUTY MAYOR CHAVEZ asked Mr. Cohen if 25% is good for him.

MR. COHEN responded that they could live with that.

DEPUTY MAYOR CHAVEZ wants the public to know why this financing mechanism is important. We have a good quality hotel being built. The City is investing \$27,000,000 into it that will be returned after the hotel is built and revenue starts coming in. Right now, as it is currently designed, just over 15% of the units will be fractionals. The number is important because each bed is approximately a \$200,000 investment. So 5 of them are worth \$1,000,000. When you are looking at 10% of 340 rooms, you are looking at 34 units. That 34 units means we have a leeway if we need it. If when we come back and build this hotel and prices are going up or things are being delayed and if there is

additional financing required, we can see \$6,000,000 to \$6,800,000 more that can be put into this without the City investing any more into it. That is important for the public to hear. If this goes to the Coastal Commission and somebody appeals it and this is delayed another year, we are losing time, which is costing us money, and we are talking about millions of dollars. We only have a short time for the decision to go to the 25%. He agrees with Councilmember Sanchez about financing versus a timeshare. We need to get this done quickly. Let's build this hotel.

COUNCILMEMBER FELLER stated that there have been a number of businesses taking chances, and they are betting on us. Chuck Lowery's place on Coast Highway, Pasta Mia's, Dairy Queen and all of the businesses in this downtown area have been betting on this to happen. The citizens have been taking chances on this. They want their property values to increase all the way up and down the coast. We need a consensus. We have compromised to the level we are at right now. We have compromised to this point. We brought down the height, which was a compromise. Other things have happened that make this a compromise. That sometimes frustrates him because it is the same 4 or 5 people we are compromising for every time. We need to go forward with this project, united behind it in the City of Oceanside. Those threatening to tell Coastal Commission every time we turn around are doing a disservice. He believes the 49% may work. He believes we can get there with 30% if they all went forward with this as a united front. He believes that they would be successful at whatever level they get to. They are giving up \$27,000,000. If they had allowed building this hotel to 140 feet, they would not be talking about this. He is behind this 100% because of the people who have sacrificed. Kelly's went out of business because he could not wait any longer. There are others that are hanging on for that very reason. They cannot wait for this to happen any longer. It has to be now.

MAYOR WOOD stated this is something the City wants now. It is a pivotal point in downtown Oceanside. We have compromised on other issues, but like the gentleman from South Oceanside said, we were afraid to address anything else because we might tip over that barrel, so they are a little nervous and deservingly so.

Following the titling of the ordinance, "... amending the text of Articles 4, 12, and 41 of the Oceanside Redevelopment Zoning Ordinance (ZA-200-07 & LCPA-200-07) (City of Oceanside - Applicant)," motion [to introduce the ordinance and adoption of **Resolution No. 07-R0222-1**, "... to amend the Local Coastal Program (LCPA-200-07) and to request the California Coastal Commission certification of said amendment (City of Oceanside - Applicant)(ZA-200-07 & LCPA-200-07)"] was **approved 5-0**.

9. **City Council: Consideration of an appeal of Planning Commission Resolution No. 2007-P06 denying a time extension to Tentative Parcel Map (P-1-04), Development Plan (D-1-04), Conditional Use Permit (C-4-04) and Variance (V-8-04 – for reduced lot area, lot width, lot depth, and required side yard) to subdivide a 0.11-acre lot into two single-family lots located at 307 South Ditmar Street – Ditmar Residences – Applicant: Zocco Development, Inc. – Appellants: Paul Zocco and Danette Dils**

MAYOR WOOD opened the public hearing.

Regarding disclosures, Councilmembers each reported meeting with residents and staff and a lobbyist, Mr. Paul Zocco.

CITY CLERK WAYNE reported one e-mail correspondence received from Norm Menefee.

JULIANA VON HACHT, Associate Planner, presented staff recommendations for an appeal of the Planning Commission denial on a time extension for a project known as Ditmar Residences. The project includes a subdivision to create 2 lots, a development plan for 2 single-family homes, a Conditional Use Permit because the project is for small lots and a variance because the standard for small lots is 2,500 square feet and these lots are 4-

square feet and 5-square feet respectively, which is smaller than the requirement. The application also includes the deferral of undergrounding of overhead utilities.

The project is located in the 300 block of South Ditmar Street, which is part of the Townsite central area. There is a transition in zoning in this area between single family and multi-family and commercial, by Seagaze. This project is located in the RH district, which allows densities between 28 and 29 dwelling units per gross acre. The project has a density of 17 dwelling units per gross acre (du/ac).

Describing the neighborhood characteristics, she stated the 300 block of Ditmar Street includes multi-family and single-family developments. The corner lot has an older single-family home, and the adjacent lot on the mid block has a single-family home in the front with multi-family units above the garage. Between the project site and this home is a driveway. Another characteristic in this block is the average block base is 15 feet, and while the development standard allows a 10-foot front yard setback, the applicant has kept the character of the street with a project that has a 15-foot front yard. She showed a computer image depicting how the project would appear from the street as 2 single-family detached homes with varied rooflines, also showing the architecture. From the alley side can be seen a 2-car garage and a balustrade looking down from the rooftop deck. The side of the project that would be facing the single-family home on the corner has limited windows, and the ones on the ground floor would be blocked by a 6-foot tall fence. The interior side of the lot facing the row home has a blank wall for privacy between the 2 units. The floor plan has the kitchen, living room, dining room and the garage on the ground floor, with bedrooms and bathrooms above. The second unit has a distinctively different presentation to the street, with different roof lines and a different color. Some of the characteristics that are the same include the interior wall, which is blank with very few windows.

Staff is recommending that the appeal be approved, and that a 2-year time extension be granted for the Parcel Map (P-1-04), the Development Plan (D-1-04), the Conditional Use Permit (C-4-04), Variance (V-8-04) and the deferral of facility conversions. Staff recommends that the previously adopted findings, when City Council unanimously approved the project 2 plus years ago, be made again along with 3 findings for the time extension. The findings would include that: 1) the project has been conditioned for payment of all applicable fees, and therefore will be paying its fair share towards needed public services; 2) the tentative parcel map as originally approved is consistent with and complies with the General Plan, Zoning Ordinance, regulations and policies currently in effect; and 3) the tentative parcel map as originally approved will not threaten the public health, safety and welfare of others residing and working in the vicinity.

Applicant

PAUL ZOCCO, Zocco Development, is a lobbyist for the principals. Because the project is on appeal he described the history of the project, which was approved the latter part of 2004. The owners went to the Planning Department and asked what they would like them to do with this property if they purchased it. Planning encouraged the development of these 2 single-family homes on the 25-foot wide lots. Because of that, the applicants moved forward and decided to develop the project. The options were a bulkier 3-unit condominium project or something of this nature, which would have less mass and would be a more appropriate transitional product into an older neighborhood.

Public Input

LISA HAMILTON, 323 South Ditmar Street, lives about 4 houses down the street from this project. Using computer slides, she showed the house in question, which is not historic and was built in 1961. The rest of the houses in the neighborhood are substantially older. They are craftsman bungalows built in the 1920s. Numbers of them have the bungalows preserved and units behind them. She referenced various homes on South Ditmar Street, which have units behind them. This could be referred to as a monumental block kind of construction, but it is mitigated by the fact that the houses all have a 15-foot

setback from the sidewalk. In the 200 block there are 2 large developments, with 4 units for each of those buildings. Because they are staggered and are at least 15 feet from the sidewalk, they do not have the mass that occurs with the usual row house development, which can be seen in the 100 block and which has just been completed and only has a 10-foot setback from the sidewalk. They were mitigated by the fact that they had garages detached in the back. The project could have been set further from the street with a useable backyard. All row houses were not originally built that way. These are the originals. They have between 20- and 30-foot setbacks, and they have a real streetscape. Everybody pretty much has outdoor living facilities. The ones across the street have 15-foot setbacks. Eventually that has a chance to grown into an actual streetscape, whereas the 10-foot setback has virtually no chance. It will never grow into a streetscape, despite the fact that the picket fence improves things. It will never add to the streetscape that they now have and would like to preserve.

JAY LEMBACH, 303 South Ditmar Street, lives directly adjacent to the property in question in the Townsite neighborhood. The Townsite neighborhood was recorded in the books and San Diego County land records on June 10, 1887, prior to the incorporation of Oceanside. This 300 block from Highway 101 to Horne Street contains many homes of historical significance, including the one that he lives in, which is a 1909 craftsman bungalow.

A couple of weeks ago he spoke to Council about the zoning change that allowed for the lot splits that are now being proposed on this property and that none of the homeowners in the area were notified about that zoning change before it happened. The introduction of row houses to this neighborhood is a threat to its very existence. Row houses do not really make sense as in-fill development, putting two 27-foot high houses between 2 bungalows that are 16 feet high. You really need to redevelop the entire block. He is wondering whether that is really the City Council's vision for this area. If it is, they would like to hear about that tonight so that they can make plans for their future. If not, this is a discretionary action, and Council can stop this type of development before it is too late. The Planning Commission has stated its concerns related to the compatibility of row house development in this area, and it has proposed studying the issue.

He requests that Council deny this application for a time extension because first, the applicant has not made a good faith effort to complete the requirements of this application and does not intend to in his opinion. They have had 2 years to work on this. They bought the property in 2003, immediately made an application to split the lot and have not done anything on it since then other than to list the property for sale with its entitlements. The second reason is that the applicant has other viable options to enhance the property's value, i.e. to build another single-family home, build apartments or some kind of condo on this property.

He requested that Council waive the time requirement for an appeal on the 2002 zoning change, based on the fact that the residents were not notified about it, and allow him to appeal that decision to the City Council, which will give them the opportunity to discuss the issues and whether this is really the type of zoning and development that they want to see in this area.

MIMI DEMIRJIAN, board member of Oceanside Coastal Neighborhood Association (OCNA), stated that OCNA is against the extension for this project for many of the reasons mentioned previously. They would like to bring 2 additional points to Council's attention. First, the zoning irregularities within the 100-300 blocks of this area have been a concern of the Planning Commission and the neighborhood residents for some time. Because of this the Planning Commission recommended that a site specific master plan overlay be done to the neighborhood south of redevelopment between Interstate 5 and Coast Highway. She believes it is eminent that the zoning ordinance will be changed to what it originally was and to what the neighborhood presently reflects. Knowing this, she questioned why Council would want to undo this process.

OCNA is not against density or row homes. However, they feel that they are better

placed in an area where there is latent development value such as along the Oceanside Boulevard corridor where the City stands to gain a lot in sales and business taxes, but not in a neighborhood that is already built out and has an established and unique historic value to the city. Putting 2 row homes on a lot in this 300 block, where there currently are not any row homes, is not going to enhance the area, nor will it bring considerable revenue to the City like the Oceanside Boulevard corridor will. The residents of this area have come forth with their opposition and feel that in this case the City will be best served by denying this extension and allowing the planning staff to complete the overlay process.

VICKY DEEHAN, 309 South Ditmar Street, a broker with the last 20 years in real estate, likes this area. The oaks are 100 years old, and the homes in the front were all done in the 1940s. It is a 5-minute walk to downtown and a 10-minute walk to the beach. It is an area where everybody likes to walk, and they sit out on their porches and watch life go by. They are retiring next year and plan to live in that front house. They could have afforded a brand new row home or anything else they wanted at this point in their lives. They chose this because they like the look of the place and the slowed down pace.

The objection they have to this is that the lot is 25 feet wide, and they want to divide it in half. It is 100 feet long. Instead of 50 feet wide, you have two 25-foot lots. Of the 13 homes and 1 church, 9 of those have the single-family dwelling in the front and apartments in the back. The other 5 are single-family dwellings. There is only 1 condo project, and that has not been divided into 2 lots.

JOAN BROWN, 511 Rockledge, lives in a row house. It really is detrimental to their street. When Danny Mahanna bought that property on the corner of Missouri and Brooks, he wanted to build 3 more row homes on that empty lot on the corner of Rockledge. The City told him that he could not do that because it has to have a single-family home, if that makes sense that it has to have a single-family home right next to Crown Heights and a big apartment house. Now they want to put 2 row homes in the middle of the beautiful area down there. It does not make sense and takes away from the prices. It discourages single family people from moving in and building a single-family home because the people coming into that area are investors. She would like to see a family buy that and put up a single family home.

JIMMY KNOTT, 124 Sherri Lane, stated the people there want to have a quality community. He would like to think that Council would share in that feeling of continuity within that community and listen to the people speaking tonight. This is a precious little jewel to preserve in that area.

JOAN BOCKMAN, 429 South Horne Street, President of OCNA, stated that row homes are projects that are done in blocks. It is not an in-fill project at all. You do not find a vacant lot and put row homes on it. The streetscape must be preserved. They are coming around to understanding that there is density, height and other issues. It is really about streetscape, and that is what they are mostly interested in.

They support zoning and want to see that adhered to. They do not want to see variances unless there is a really good reason. The rules have allowed this sort of thing. Those rules need to be amended with an overlay. There are certain things about our neighborhood that are not protected right now. There are no good row homes east of Coast Highway, including the ones recently built on Ditmar Street and currently under construction on Freeman. They are not good looking. There is nothing nice about them. Their neighborhood has fought these for years. On Grant Street there are 3 row homes. They had wanted the Victorian house that was raffled off for the City's Centennial put where those 3 row homes are. The neighborhood was so adamantly opposed, and that project was delayed for quite a while due to this position. They have a long history of opposing row homes in their area. They have never fit as a housing type. She applauded them for backing off 15 feet. However, row homes do not work in their neighborhood.

The walls between the units did not have any windows. She questioned why they are not connected. There is no reason to have 2 separate buildings there.

This is the wrong thing for that block. They are not against density. They have worked with many developers in their area and continue to do so. They support them regarding their zoning. However, they do not support row homes in this area.

DEBORAH KENNEDY, 313 South Ditmar Street, has lived for 10 years at a property that her family owns. She stated that 9 out of 12 of the houses on that block are owner occupied or a member of the family. There is not one person on our street that is in favor of this project, not one who lives there. We have all been adamant.

We feel that Council made a mistake. Maybe we were not strong enough coming out when it happened, but it was a mistake. This is a nonconforming project. You split a lot. Every lot on that block has 5-foot side setbacks. As Mr. Lembach says, when the City changed the zoning, nobody let us know. We did not have a voice in that. You changed our neighborhood. You are our representatives, and we bought those houses for a reason. We like the way that block looks. We like the 50-foot lots. We like the income units, and none of us want to leave for at least 20 years.

This is not the neighborhood where you take 1 or 2 little pieces that might be developable and just put in these houses. We do not mind the height. Nobody has a concern with the height restrictions. It is the side and front setbacks and splitting the lots when every other lot on that block is 50 foot. It does not work; it does not feel good; and the people who want to do this are investors. She does not think they have any intention of building it, or they would have taken out the permits and done it. It was bad faith on their part. It got approved. It was a mistake. She is asking Council to reconsider. They have seen their neighborhood. She noted that Bob Perforio and Norman Menefee could not come tonight. We have 3 brokers that own houses. We are not against development. We are all pro development. It is the way it is done and the effect it has on the residents.

GEORGEO KERPANI, 300 Block South Nevada, is a member of OCNA. We are talking about a major hotel and much progress in Oceanside, yet many of these people and organizations in the community have a lack of understanding progress, appraisal and economics. He received 2 notices since he has 2 properties just a rocks throwing distance away from the property. This location was previously approved. It does not hinder the neighborhood like many nimby's would lead you to believe. Some say they do not want row houses in the neighborhood east of Coast Highway, but it only acts as a buffer. It is already zoned 3 units or more in that area. The next block to the south is single family, so it would act as a buffer. You are allowed 3 units, but this would only be 2 new units.

What a master appraiser would tell you is that there are 3 blocks where the subject property affects parcels. There are 24 lots total. Some are obsolete properties, meaning that they are far underutilized for this site. They average between 50 and 900 square feet. There is one little cottage around 50-60 square feet. The biggest is about 1,000 square feet. They average about 450 square feet. These are old. There really is nothing cute and charming about them. The ones shaded pink have 3 units or more, and on that same block, where the subject property is, 3 of them are 2 levels already. This block is already allowed 3 units. Settling with 2 new modern beautiful homes will conform to the future of the block. In the future, those 15 homes will not be there.

MS. DEEHAN said that when she called the Planning Department and said that the lots are divided 25 feet by 100 feet deep, she asked what that does for them and was told, she could do the same thing. They cannot do the same thing, and that is why we are here tonight. Regarding the configuration of that house, there is a house in the front and multi-family behind. The way that these have been done, we would have to mow down the houses that we have, and her unit at 309 S. Ditmar has 1987 apartments built. They are not tear downs. She would have to mow down the house in the front and mow down 2 very good foundation-built apartments so that she can build her 2 row houses next door to the ones that are being built.

MR. ZOCCO stated that the proposed project is well within the parameters of what the property is zoned for. Also, it seems like one of the bigger issues has been the setbacks and how they do not conform to the other residences. It has been pointed out that the front yard setback has voluntarily been expanded to 15 feet. The side yard setbacks are 3 feet instead of 5 feet, however, there will be a fence. He does not see where the reduction from 5 feet to 3 feet is going to be detrimental to any of the residences in the immediate area. He also thinks that this project, if it is allowed to continue forward would have a positive impact economically on the value of the homes in the neighborhood and the value of the properties as they are rehabilitated in the future.

MAYOR WOOD closed the public hearing.

COUNCILMEMBER KERN likes row homes, but does not think we need to put them every place in every block. He thinks the character of the neighborhood has to be preserved at a certain point and time, otherwise everything west of Interstate 5 eventually will be row homes. He cannot support putting row homes on this particular block. He thinks they will need to come back with some design review and design guidelines about where they stop row homes. He likes the row homes on Cleveland Street. He thinks they look great and that they work well.

He does not think having row homes in these type of neighborhoods does anything for the neighborhood. It does not add to it. He does not want all of the neighborhoods to look the same everywhere we go. He cannot support putting row homes on this particular block. He **moved** to deny the appeal and affirm the Planning Commission's decision.

DEPUTY MAYOR CHAVEZ seconded the motion.

COUNCILMEMBER SANCHEZ remembers this coming to the Council. While she is prepared to not have any other row home be considered in this area, especially since now we have the staff looking at this area, looking for potential recommendations to the planning commission and/or the City Council with respect to what we can do in terms of zoning, to maintain the character of the neighborhood. This is just an extension. There is a 15-foot setback. She does not know what the delay was, but most homes are taking a little longer because of what has been happening. She will be supporting the appeal.

COUNCILMEMBER FELLER inquired about the setback, etc. on the big green boxy building which was a 4-plex.

MS. VON HACHT responded that the characteristic of the street is 15 feet. She believes the condominium that is mid-block is 15 feet. She has not physically measured it, but it is set back as far as the other homes that are 15 feet. There is also a large tree in front of that condominium development that really buffers it visually from the street. She believes they are for sale condominium units. There are older condominium units within our jurisdiction where the entire building is rented, but it has a condominium map on it.

COUNCILMEMBER FELLER asked what is the maximum that could be put on the 50 by 100 lot.

MS. VON HACHT responded that with the density in that block it could be 3 units.

COUNCILMEMBER FELLER stated that we have a lot of rentals on that street behind each and every one of those small bungalows. He asked when the plan was resubmitted for the time extension.

MS. VON HACHT stated it was timely filed 35 days before the map would have expired.

AMY VOLZKE, Senior Planner, stated that the 200 and 300 block within that area

is a transitional area from a zoning stand point. It includes a very diverse mixture of land uses including condominiums, apartments, single family homes, and secondary units behind the single family homes. It is somewhat of a challenge in terms of planning because it abuts a commercial professional zone on 1 side and single family residential on the other side. That includes larger lots, lengthier front yard setbacks and wider side yard setbacks. It would be unfair to compare the homes that are located on the 400, 500 and 600 blocks on Nevada or Ditmar Streets with those that are located on the 200 and 300 block.

The 200 and 300 block in that area is intended to be a transition area that would allow for multiple family development and when the zoning text amendment was processed back in 2002 that allowed for the row homes to be considered with a conditional use permit within the higher density residential areas. It was not specified in what areas of the city those could be permitted; it was discretionary. It was not limited to the downtown redevelopment area. We have found that some of the row home type development is becoming more and more prevalent west of the Coast Highway area. We will be seeing more of those. We also recognize that in the immediate area that this project is located there are some character issues that have been raised recently and we need to address those. The Planning Commission as part of their work program this year has looked at that specifically and we will be coming forward with their recommendation for potentially preparing citywide guidelines and neighborhood specific guidelines. With respect to this project, having been in processing since 2004 and having gone through that process with an appeal, subsequent approval by the City Council and just dealing with an extension at this point, staff felt that since it was timely filed, it should be supported.

We have for the last 7 or 8 months, discouraged row homes in that area and we will continue to do so, but we should also keep in mind that within that area we could potentially end up with as bulky, as massive, multiple family buildings that would not necessarily be privately owned and may not be as well cared for as some of the other single family homes that are beyond the 300 block. From that standpoint, this project provides for a good transition between the higher density and the lower density.

COUNCILMEMBER FELLER thinks we need to get that area fixed for sure. He has heard about pride and ownership in this area with bungalows, but he is constantly amazed by the apartments that are behind these prideful front pieces of property. The danger is that many other things could go in there that are very large and bulky. You have a jungle growing on 1 of the lots there that cannot be streetscape friendly. He is struggling with the fact that this has not been fixed yet. He hopes they are taking that into consideration. He hopes that the Planning Commission, in review of their work plan, takes a look at this.

He inquired about a Planning Commissioner owning 1 of the buildings.

MS. VON HACHT said that a speaker mentioned that, but she is not sure.

MAYOR WOOD clarified that this item is regarding the denial of the time extension on the tentative parcel map. He wants the City Attorney to explain what this vote means.

CITY ATTORNEY MULLEN explained that the motion that is on the floor is to deny the appeal and deny the time extension. That means that the entitlements, tentative map, CUP, variance, and development plan would not be extended and would no longer be effective.

Motion **failed 2-3**, with Mayor Wood, Councilmember Sanchez and Councilmember Feller voting no.

COUNCILMEMBER SANCHEZ moved to grant the appeal and allow the time extension [and adopt **Resolution No. 07-R0223-1**, ". . .approving the appeal of Planning Commission Resolution No. 2007-P06 and approving a time extension for Tentative Parcel Map (P-1-04), Development Plan (D-1-04), Conditional Use Permit (C-4-04) and Variance

(V-8-04) to subdivide a 0.11-acre lot into two single-family lots located at 307 South Ditmar Street (Zocco Development, Inc. – Applicant)(Paul Zocco and Danette Dils – Applicants).”

COUNCILMEMBER FELLER seconded the motion.

Motion was **approved 3-2**, with Councilmember Kern and Deputy Mayor Chavez voting no.

MAYOR WOOD stated it is past 10:00 PM [10:49 PM] and per Council policy as previously mentioned, a vote is needed to continue the meeting.

COUNCILMEMBER FELLER would like to consider Item 13: appointments, prior to adjournment. Council concurred.

MAYOR AND/OR COUNCILMEMBER ITEMS

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

MAYOR WOOD nominated the following:

	<u>Term Expires</u>
<u>ARTS COMMISSION</u>	
Move Corrine Perez-Garcia from Alternate II to Regular (replacing J. Horvath)	7/1/2008
Appoint Eugenia Bizzaro as Alternate I (replacing G. Cunningham)	7/1/2009
<u>HARBOR & BEACHES ADVISORY COMMITTEE</u>	
Appoint James Hawks as Regular – Yacht Club Rep (replacing George Boehmer)	2/28/2010
Appoint Felicia Sirchia as Regular – Community at Large (replacing Jacqueline Grossman)	2/28/2010
Move John Metz from Regular – Non-Boat Owner/Beach Front to Regular – Beach Front Property Owner (replacing J. Enright)	2/28/2009
Appoint Kevin Byrne as Regular – Non-Boat Owner/Beach Front (replacing John Metz)	2/28/2010
Appoint Scott Townsend as Regular – Live aboard Permit Holder (replacing R. Moon)	2/28/2010
Reappoint Richard Trusty as Regular – Non-Live aboard Boat Owner	2/28/2010
Appoint James Gardner as Regular – Commercial Fishing Permit Holder (replacing J. Guth)	2/28/2009
<u>INTEGRATED WASTE COMMISSION</u>	
Appoint Joshua Helmle to Regular (replacing M. Williams)	7/1/2009

LIBRARY BOARD OF TRUSTEES

Reappoint Art Mandelbaum as Regular 7/1/2009

PARKS & RECREATION COMMISSION

Reappoint Jack Anderson as Regular 7/1/2009

POLICE & FIRE COMMISSION

Appoint Gene La Rue Jr. to Alternate I 8/1/2008
(replacing W. Carlson)

REHABILITATION LOAN REVIEW COMMITTEE

Reappoint John Todd to Regular 5/24/2010

SENIOR CITIZENS' COMMISSION

Reappoint Carl Souza as Regular 2/10/2010

Reappoint Margene Pyeatte as Regular 2/10/2010

Appoint Terrecita Bernal to Regular 2/10/2010
(replacing J. Tweedie)

Appoint Ann Marie Clayton as Alternate I 2/10/2009
(replacing P. Harvard-Hinchberger)

UTILITIES COMMISSION

Appoint Frank Merrifield as Alternate I 7/1/2009
(replacing Harry Homer, now regular)

YOUTH COMMISSION

Move Jennifer Richards-Garcia from Alternate I to Regular 3/20/2009
(replacing Christopher Keim)

Appoint Elizabeth Ramos as Regular 3/20/2009
(replacing Francis Pedraza)

Appoint Fred Vogt as Regular – Adult-Non Voting 3/20/2009
(replacing J. Chavez)

THOMAS DEMPSEY, Esplanade Street, inquired whether there would be any appointments to the North County Water Authority.

MAYOR WOOD responded negatively.

COUNCILMEMBER KERN seconded the motion.

COUNCILMEMBER FELLER inquired if Jean Tweetie did not reapply.

CITY CLERK WAYNE responded affirmatively. Jean Tweetie did not reapply.

Motion was **approved 5-0**

April 11, 2007

Joint Meeting Minutes
Council, HDB and CDC

MAYOR WOOD moved to adjourn the meeting. **DEPUTY MAYOR CHAVEZ seconded** the motion. The motion was **approved 5-0**.

Therefore, the following items were not heard at this meeting:

GENERAL ITEMS

14. **[City Council: Presentation of the Quiet Zone Conceptual Design, and direction to staff]**
15. **[City Council: Approval of Change Order 4 in the amount of \$7,570 to the agreement with Midwest Environmental Controls, Inc., for the Old OPD Jail Demolition project, to replace sections of wall which were found to have previously undetected structural deficiencies; acceptance of the improvements constructed by Midwest Environmental Controls for the project; authorization for the City Engineer to execute the change order; and authorization for the City Clerk to file the Notice of Completion with the County Recorder]**

CITY COUNCIL REPORTS

16. **[Mayor Jim Wood]**
17. **[Deputy Mayor Rocky Chavez]**
18. **[Councilmember Jack Feller]**
19. **[Councilmember Jerome M. Kern]**
20. **[Councilmember Esther Sanchez]**

INTRODUCTION AND ADOPTION OF ORDINANCES - None

ADJOURNMENT

MAYOR WOOD adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 10:52 PM on April 11, 2007.

ACCEPTED BY COUNCIL/HDB/CDC:

Barbara Riegel Wayne, CMC
City Clerk, City of Oceanside



California

CITY OF OCEANSIDE

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

APRIL 18, 2007

REGULAR MEETING 4:00 PM COUNCIL CHAMBERS

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

**Mayor
HDB President
CDC Chair**
Jim Wood

**Deputy Mayor
HDB Vice President
CDC Vice Chair**
Rocky Chavez

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

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

Treasurer
Rosemary Jones

**Interim:
City Manager
HDB Chief Executive Officer
CDC Executive Director**
Peter Weiss

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

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

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB) and Community Development Commission (CDC) was called to order at 4:00 PM, April 18, 2007 by City Clerk Wayne.

4:00 PM - ROLL CALL

City Clerk Wayne convened and recessed the 4:00 PM meeting to 5:00 PM since no closed session was needed or held. No Councilmembers were present due to the earlier notification by the City Attorney. Therefore, the following items as listed on the agenda were not discussed:

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)]**

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

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]

2. [CONFERENCE WITH REAL ESTATE NEGOTIATOR (SECTION 54956.8)]

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

5:00 PM

Mayor Wood convened the meeting at 5:02 PM. Present were Mayor Wood, Deputy Mayor Chavez and Councilmembers Feller and Kern. Councilmember Sanchez arrived at 5:05 pm. Also present were City Clerk Wayne, City Treasurer Jones, Interim City Manager Weiss and City Attorney Mullen. Pastor Carl Souza gave the Invocation. Lisamaria Martinez led the Pledge of Allegiance.

PROCLAMATIONS AND PRESENTATIONS

The following presentations were made:

Presentation – Award to Oceanside resident Lisamaria Martinez
Proclamation – Tuskegee Airmen Day – April 18, 2007 - presented to Bob Maxwell
Proclamation – Law Day – May 1, 2007 – presented to Cheryl Weeks-Frey
Library starfish mascot introduced

CLOSED SESSION REPORT

3. Closed Session report by City Attorney – No closed session was needed or held.

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

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

Advance written request to reserve time to speak: **None**

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

DONNA MCGINTY, 2405 Mesa Drive, expressed concerns with the conditions of Garrison Creek across the street from Garrison School. The creek is contaminated by debris, such as cut green waste, bicycles, grocery carts and every sort of trash imaginable. The creek is blocked by a property owner who has encroached into the creek bed and used various means to dam the flow of the creek. He is pumping water out of the creek or pumping junk into the creek in 2 locations. She expressed concern for the small children playing in the area with no safety net from this contaminated water area. There are swarms of mosquitoes, etc. She has sent emails to Council and to the School District. She is demanding an overnight resolution to this issue.

INTERIM CITY MANAGER (ICM) WEISS acknowledged receipt of emails from both Ms. McGinty and Ms. Scott. He believes Code Enforcement has already responded. He cannot commit to an overnight resolution, but it is a high priority for both our code enforcement and clean water staff.

PoliceWatch.org, [no name given], referenced ballot initiative proposals registered with the State that can and will change human and civil rights. There is a ballot initiative to mandate recording of all contacts with peace officers, and require that all defendants get a copy. If there is no recording, all charges would be dropped. The proposed bill is Secretary of State's No. 1236 and Attorney General No. 06-0041. Another bill to reverse the Copley case is AB 1648 that will open up police disciplinary meetings to the public.

RICK MOHRLOCK, 2210 Mesa Drive, on behalf of the Oceanside Cultural Arts Foundation and the Days of Art Committee, wished to invite all to the Days of Art Celebration this weekend, April 21-22, from 10:00 AM to 5:00 PM and reviewed the event. It is all juried, original art; the artists have to be in their booth; and it is a great, free event.

NADINE SCOTT, 550 Hoover Street, Friend of Loma Alta Creek, also spoke regarding their recent visit to Garrison Street. A major concern is how long this creek condition has gone on. There are people stealing water: one is at the Garrison Street site between the 2 dead end properties, and another is the Creekside Apartments, which is stealing this water to water their landscape. It is heavily polluted, and they are letting the children run through the sprinklers. It was reported to Code Enforcement.

She attended the Oceanside Boulevard Corridor meeting today, which was well attended. It went rather well with a lot of ideas and momentum going. They hope the public will participate.

GEORGE KERPANI, 315 South Nevada Street, stated that in the next 10-20 years there will be enormous progress and investment in the downtown. He clarified some statements he made last week that with all this progress will be pressure on a lot of the properties within the downtown area of Wisconsin to Surfider, west of the freeway. Many homes will be demolished as a result. He is just stating real estate facts. He attended the Oceanside Boulevard Corridor Committee meeting and there were 3 absences. He would like to be appointed as an alternate.

CONSENT CALENDAR ITEMS [Items 5-9a]

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 advised that there are requests to speak on Item 6. **COUNCILMEMBER SANCHEZ** removed Item 7 from the Consent Calendar for discussion.

COUNCILMEMBER FELLER moved approval of the balance of the Consent Calendar [Items 5, 8, 9 and 9a]. **DEPUTY MAYOR CHAVEZ** seconded the motion; **motion approved** 5-0 [as follows:

5. City Council/Harbor/CDC: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)
6. **Removed from the Consent Calendar for Discussion**
7. **Removed from the Consent Calendar for discussion**

8. City Council: Approval of Change Order 1 [**Document No. 07-D0230-1**] in the amount of \$46,946 to A.B. Hashmi, Inc., for additional work for the Capistrano Park Slope Repair project; authorization for the City Engineer to execute the change order; approval of a budget appropriation in the amount of \$25,000 from the Park Fees Fund to the project account to complete the funding for the project; acceptance of the improvements for the project; and authorization for the City Clerk to file the Notice of Completion [**Document No. 07-D0231-1**] with the San Diego County Recorder
9. City Council: Approval of Change Order 3 [**Document No. 07-D0232-1**] in the amount of \$36,350 to Charles Doherty Concrete for the FY 2006-07 Citywide Sidewalk Repair project for the replacement of ADA sidewalk improvements at various locations, and authorization for the City Engineer to execute the change order

Addendum

- 9a. City Council: Approval of Change Order 4 [**Document No. 07-D0233-1**] in the amount of \$7,570 to the agreement with Midwest Environmental Controls, Inc., for the Old OPD Jail Demolition project, to replace sections of wall which were found to have previously undetected structural deficiencies; acceptance of the improvements constructed by Midwest Environmental Controls for the project; authorization for the City Engineer to execute the change order; and authorization for the City Clerk to file the Notice of Completion [**Document No. 07-D0234-1**] with the County Recorder (*continued from April 11, 2007*)
6. **City Council: Approval of plans and specifications for the Buddy Todd Park Improvement Phase 1 project located at 3000 Mesa Drive, and authorization for the City Engineer to call for bids**

DONNA MCGINTY, 2405 Mesa Drive, thanked Council for this project.

NADINE SCOTT, 550 Hoover Street, was happy to see this item going forward.

COUNCILMEMBER SANCHEZ moved approval [of Item 6]. **DEPUTY MAYOR CHAVEZ seconded** the motion. Following comments, motion was **approved 5-0**.

7. **City Council: Approval of Change Order 1 [Document No. 07-D0228-1] in the amount of \$189,432.68 to Frank & Son Paving for additional work related to the Annual Overlay FY 2005-06 project, and authorization for the City Engineer to execute the change order; and acceptance of the improvements constructed by Frank & Son for the project, and authorization for the City Clerk to file the Notice of Completion [Document No. 07-D0229-1] with the San Diego County Recorder**

COUNCILMEMBER SANCHEZ questioned the change order, which means they went over their budgeted amount of what they said it would cost to do the project to the tune of \$189,432. She asked staff to explain why.

GARY KELLISON, Senior Civil Engineer, responded the explanation is not that they encountered unanticipated difficulties or that the contractor made any mistakes. These were quantities that were added as the City got into the project, where streets just deteriorated, etc., and staff needed to extend the limits of the construction. It was better to attack the problem now with this contractor than wait for next year's program, which will be on Council's agenda within a few weeks.

COUNCILMEMBER SANCHEZ questioned how much of this is due to new projects being included and how much is attributed to the original project.

MR. KELLISON responded that probably better than 90% of this amount is new work that was requested of the contractor. Minor amounts might be additional manholes not counted, etc. With all the work the contractor has done, he submits unit prices, and he is committed to doing asphalt paving at a fixed dollar per ton, striping at a fixed dollar per

lineal foot, etc. That never changes; it is only the quantity of the work that changes and causes the additional amounts.

COUNCILMEMBER SANCHEZ then wished to clarify that these were public safety issues that arose after the award of the contract.

MR. KELLISON responded yes.

COUNCILMEMBER SANCHEZ moved approval [of Item 7].

COUNCILMEMBER FELLER seconded the motion. We all should be aware that there will be needs for increases with these work orders, and we are running out of suppliers for the product. The product is not getting any easier to come by, such as asphalt, rock, etc., and this is a real situation to consider.

Motion was **approved 5-0**.

The Mayor determined to hear Item 18 next.

CITY MANAGER ITEMS

18. Update regarding Interstate 5 widening

ALLAN KOSUP, with CalTrans, wanted to provide a brief update on what was happening in the Interstate 5 corridor, along with what is happening specifically in the City of Oceanside. Briefly, when the transnet regional sales tax was approved in 2004, one of the projects the Board selected was the I-5 corridor improvements. They are working on the environmental document.

They are moving close to 300,000 cars through the I-5/I-805 merge. Trips that would traditionally take 20-30 minutes are now taking 50-60 minutes. That is the average. If there is an incident, it may take twice that time. So, if you are a worker, you need to budget close to 80 minutes in order to do a 20-minute trip. Because of those things, this project has risen to the top of the priorities for the region. Another example of this important project is the weekend traffic. I-5 works like a big funnel and all the traffic coming from the north and east end up queuing up into Carlsbad and Oceanside. We are seeing queuing on the weekend as much as 8 hours. It starts at 10:00 AM and runs till 5:00 PM, which is not tenable. So they are pushing this forward to get some relief.

The bigger project is the I-5 managed lanes, but in the interim they are trying to do things downstream from Oceanside to get the traffic through. Driving through the I-5/805 merge in the last week has been fully opened. That is saving as much as 10 minutes in both directions. Their big concern is that, when that project was completed, the queuing was just moved down to Del Mar, which is true. So they are trying to find a relief valve—to get people further to the north to their homes. So in the last 2+ weeks construction has started on some lanes—outside widening between Via de la Valle/Loma Santa Fe to get the local traffic out of the way of the through traffic going to Oceanside/Carlsbad and to facilitate some of the Fair traffic/seasonal traffic that happens in that area. They hope the southbound improvements will be opened in time for the Fair. The northbound improvements will open in 1+ months after that.

As soon as those outside lanes are complete, construction will start on the extension of the HOV lanes, with northbound through to Manchester and southbound at Manchester. It is adding another lane of traffic. Given the number of people who carpool on weekends, that will take a lane's worth of traffic out of the main lanes to provide relief.

This is voters' money, from the November 2006 election approval of Proposition 1B, which was the first time the State bonded for transportation projects. The voters approved almost \$20 billion of bond money. By February/March the region had selected over \$1.7 billion of projects to put forward to the State to compete – the I-5 and I-15 projects were some of the top priorities in the state. We got about \$500 million through that process; much is going to I-15. We got about \$100 million to extend the HOVs on I-5 back

to Carroll Canyon and build some direct access to kick-start the corridor.

Regarding I-5/SR 78, there has been some demonstration money brought from Washington through Congressman Issa's office and CalTrans is able to start traffic studies with that. They have identified some alternatives which potentially have impact to local street circulation. So now CalTrans will look at how that will impact local street circulation, and they will bring those results back to Oceanside and Carlsbad and make a decision on how to proceed with the project once that information is received in about 6 months. They plan on having a scoping meeting in 6 months. From an engineering perspective, they have looked at what they think will fit and work. They will take that perspective, model it and figure out where the traffic is going. Then they will bring that back to everyone for discussion to determine if the benefit is better than the impact.

This information is to give a flavor of interim projects they are trying to do. These are not 20-year fixes, but interim. The bigger picture, what they call I-5 managed lanes, is somewhere between a \$2.5-3.5 billion project, depending on which alternative is ultimately selected. It would mirror what is being constructed on I-15 - 4 lanes in the middle of the freeway - managed lanes, meaning a mixture of carpools and then they would sell off the excess capacity via the fast track program. There would be drop ramps in the middle of the freeway for direct access to the middle and not have to enter on the outside lanes. The only difference between what is being built on I-5 and I-15 is that on I-15 there is a movable barrier down the middle. They do not have that directional split on I-5.

The project alternatives they are looking at have to do with whether there will be a buffer, a barrier, protecting the inside freeway with painted strip or a concrete rail. Those decisions have not been made yet; but will be when the environmental document is out.

For Oceanside, because of the constraints of the right of way (ROW), there is no alternative to look at. It will be the "8 + 4" with buffer [8 lanes with 4 HOV lanes with a center buffer]. So they are trying to neck down the facility as much as possible to reduce the ROW impacts. That would be from SR 78 north to Vandergrift.

He reviewed the DAR [direct access ramp] drop ramp that goes into the middle of the freeway.

ARTURO JACOBO, with CalTrans, reviewed a proposed I-5/Oceanside Boulevard access ramp [as shown on a computer slide]. In meeting with City staff in 2005, they looked at different locations for an access ramp based on the traffic needs for the future, as well as a location to minimize the environmental, ROW, and community impacts. After looking at locations including Mission Avenue, Bush Street, and Brooks Street, it was determined that just north of Oceanside Boulevard, behind the shopping center was the best location for a drop ramp to tie into State Street. So basically, there would be access from the middle of the freeway.

Another slide showed the I-5 and Mission interchange. Again in late 2005 and 2006 we had meetings with Oceanside High School (OHS), City staff and past Councilmembers. OHS had 2 major issues: the ROW impacts to their baseball field and the safety of the students as they went back and forth across the freeway. Currently eastbound on Mission has a free right access onto southbound I-5, and the students have to cross through there. Even though there is a crosswalk, students did not wait for their turn to cross; they were crossing taking chances. Similarly, on the east side there is a free right hand turn for cars coming off the freeway. What they are proposing as part of the environmental document is to move the southbound entrance ramp and the northbound exit ramp to the north side of the interchange. By doing that there will be no traffic on the south side of Mission to enter the freeway, and students will be able to cross safely back and forth. That also allows extra room in the southwest corner of Mission at OHS where they can do additional landscaping to enhance the area.

Another slide depicted the I-5/Harbor Drive interchange. They have had meetings with the Capistrano community, which has several issues. The first is going northbound during the peak hours. The community was not able to access their community due to the backing up of traffic trying to enter Camp Pendleton. So they propose to leave the exit where it is but to sign it off so that the exit will be used only for people trying to enter Camp

Pendleton. For people trying to enter the Capistrano community, they will continue northbound and exit at a modified ramp to bypass the Camp Pendleton queue to access their community. The community's second concern is when coming from the west side of the freeway/Harbor Drive, access to San Rafael Street was not available if the off ramp was backed up or if the light was green with 50 mph traffic. It was not a safe condition to merge to the right to access their community. So for that concern, CalTrans proposed a new bridge undercrossing so that when you are traveling eastbound on Harbor, a right turn access to San Rafael would be possible.

Those were the community's 2 main concerns. A third concern was noise and ROW impacts. As part of the environmental process, CalTrans is doing technical studies and anticipating late August/early September to be here for public meetings to share the results of those studies.

MR. KOSUP summarized that this is a very large corridor – 28 miles long. It is the largest project they have ever undertaken in the County, probably one of the largest projects in the State. It has taken 3-4 years to analyze the impacts through the corridor, to complete preliminary designs, meet with everyone, and understand what the projects would do regarding the pros and cons. Transportation projects like this are not the silver bullet to be congestion free in 2030. If you tried to do that, the impacts would not be acceptable to anyone, so it is a balancing act. They think they have done the best they can and are ready to bring out the 3-4 alternatives. They are in the process of synthesizing all the information so that it makes sense to people. They will be out by the end of summer with the draft environmental document. That is when everyone gets a chance to weigh in and give guidance on where to go from here.

The other issue is obviously staging or how it will be built—all at once from Del Mar to Oceanside. That depends on finance, how much money the region has, and other projects prioritizing, and performance. They do not need to fix the whole thing to get congestion free at least right now.

That conversation goes on once the draft document comes out and until the draft is final, which is probably a 12-24 month process for a job this large. They will be back several times to give more information on the impacts and the values of the project.

In response to Councilmember Sanchez, Mr. Kosup stated people need to understand that the highest priority may not be in the City of Oceanside, but that the congestion relief that would occur in Encinitas would clear up the corridor and help the City of Oceanside. The prioritization of where we should work first has not been finished. One proposal in the bond measure in February was to complete one HOV lane in either direction all the way up to Oceanside to finish the inside of the freeway. They would then come back when more money is available and build the outside part and work their way north. That is one proposal, and it may be the top proposal pending any new information.

Also, noise is important to the corridor. Once they know where the final impacts of the freeway will be, they can try to do as much early mitigation as possible, and put noise mitigation in its final resting spots. He knows they have some commitments to Oceanside.

COUNCILMEMBER SANCHEZ questioned if the widening has to go forward before I-5/78 is addressed.

MR. KOSUP stated that the reality from a traffic perspective is that, unless they can add additional capacity to I-5, providing direct connectors is not going to help much. An example is I-5/56 where traffic is backing up on the connector because there is no place to put them. They are trying to do the projects together from a footprint perspective so that they can do the lagoon mitigation once - to do the fill in the lagoon only once - so they are trying to blend the projects as much as possible. They are working with the lagoon foundations to come up with a strategy for mitigation. They have about 25 acres of wetland impact up and down the corridor, so they need a mitigation plan. They are looking for all opportunities.

COUNCILMEMBER SANCHEZ stated the big question that everyone has along I-5 in the residential parts is the potential for the widening to impact on homes and having to remove homes.

MR. KOSUP responded that is a potential. That is one reason why in Oceanside they have dropped all the other alternatives. They have narrowed it to the narrowest alternative to minimize that impact. But even with that and with maximizing retaining walls, much like on I-15 with very large walls, there are homes that will get impacted. They have no definite number on the number of homes impacted, but they are close and will share that in the near term. They can commit and offer that within the next couple of months they can do map showings with the communities/planning groups to show them specifically. This meeting is a tough venue, but in smaller groups they can show them and walk through the alternative impacts.

COUNCILMEMBER SANCHEZ questioned when a home owner would know they are impacted in order to plan for a move.

MR. KOSUP responded that, in a project this large and long, it is a difficult question to answer because it is related to how much money the region has and their case flow. Once they select the alternative, it is still a big question of how fast it can be built. It may be fairly long term. We realize that creates a hardship with folks. There is a hardship process that they consider moving ahead on early acquisition of those houses. Those impacted would be notified in probably the next 6 months as they release the draft document. They generally notify folks prior to the release of the draft document so there are no surprises, and CalTrans will work with them one-on-one before it is in a public forum.

Again, this is a very challenging project for them. They are committed to leaving the corridor better than it is. They will be back frequently asking for the City's guidance and input.

INTERIM CITY MANAGER WEISS reiterated one area where the City has been participating, with prior Council direction. They were looking at a number of enhancements/betterments within the corridor that would benefit the City as a whole. They have worked with Arturo and his landscape architect team to identify a number of things.

MR. JACOBO responded that knowing that I-5 is the gateway to the whole San Diego region, they wanted to do something above and beyond what is normally done. Working with SANDAG, they came up with a document in-house to enhance the corridor, which included doing pedestrian/bicycle trails along the freeway in some cases, like on Brooks Street, where some of those bridges built in the 1960s had no sidewalks/bike lanes. When they come back, their proposal in those areas with a lot of pedestrians between the east and the west is to reconnect those communities. They will be doing wider sidewalks and putting in standard bike lanes. In some of the areas where they will need to take some properties for the widening, the idea for the parcel that is left is to maybe create a mini park or community gardens. Once they acquire property for the widening, the excess would be given back to the community for a garden or mini park. They have had meetings asking the community to rank them in terms of priority. They have the list, and the technical study of community enhancements will be part of the environmental document the City will see in September. He believes all of those ideas can fit within the budget and can be built.

COUNCILMEMBER FELLER stated we are all concerned about people losing their properties. But a real key factor is to have projects ready to go when the money is available. It will be very important for our representative on transportation, even though just an alternate position, to be ready to deal with these projects when it gets to SANDAG for the funding requests. He stressed how important it is to be ready to accept that money because the projects that are ready get the early dollars. This community definitely needs the widening.

MR. KOSUP concurred. Regarding the money available in January/February, he thinks the region got \$100-200 million more than they would normally get by formula because the projects were ready to go and there was consensus in the region for those projects. While other regions were not sure what they were going to build, our region came in with a package, and that performed very well. So they want to keep that going, and they

are trying to move I-5 ahead as quickly as they can.

COUNCILMEMBER SANCHEZ emphasized that our impacted residents need to know as soon as possible. It is very important.

[This was an information-only item]

Mayor Wood understood it was past time for the public hearings, but called up Item 19 next.

19. **Update on Police Training Range noise-reduction efforts**

POLICE CAPTAIN DAVE HEERING wished to give a quick update on something they are trying out at the range. In October 2005 the Council directed the Police Department to stop using metal targets as part of the practice qualifications [due to the noise factor]. Those metal targets are very important, and are one of the 2 primary targeting systems they use when qualifying, in addition to paper targets. Those metal targets provide an immediate feedback because they are used as either a knock-down target or as a hanging target, and the feedback for an officer is that he can actually see the target fall, as opposed to a paper target where the puncture of the target may not be seen.

Since that time our range master, Rich Davis, has been looking for a way to continue to use the metal targets. He came up with an idea to use the truck bed-lining rubber material that they spray in pickup truck beds, to spray on the targets to see if that minimizes the noise of the metal targets when they are hit by a round. They tried it out, and it seemed to work pretty well. It has eliminated the ping sound off the metal targets. Prior to instituting this new padding on the metal targets, they wished to get Council's input. They passed around to Council a sample of the target with the rubberized material. This material is surprisingly resilient. The rounds go through the rubber and hit the metal and drop to the ground. Another surprising result is that it minimizes ricochets off the metal.

They did a quick 2-minute video on the sound as Rich Davis demonstrates shooting at the targets, but the video does not do it justice. The sound/pinging is greatly reduced with the rubberized coating.

DEPUTY MAYOR CHAVEZ stated he was at the range a few weeks ago to participate in that exercise. Captain Heering is correct; the video does not do it justice. When firing at the metal targets, there is a clear stinging sound. When firing at a coated target, it is just the weapon going off. It is a thud. This does 2 important things. First, for the neighborhood it will reduce the secondary sounds, which was the concern of the metal targets. Since he made the motion months ago on not using the metal targets, he thinks it meets the requirement that he had to reduce the secondary sounds. This is an innovative idea. Second, it stops the ricochet of rounds; they just drop. As far as he is concerned, this meets the spirit of Council's intent, and he is satisfied to allow the training to go forward.

The other item is to still address the larger issue of the range. We made a promise to the neighborhood/community that we would address the problem of the range. He knows there is a plan being developed to look at training/facilities for police. He hopes in that plan that they would look at the range for a final solution for training.

COUNCILMEMBER KERN would like to go out and see/hear this as well.

RANGE MASTER RICH DAVIS stated he would provide Councilmember Kern with the date/time for the next training/demonstration.

COUNCILMEMBER KERN asked about the life of these targets and whether they can be re-coated.

POLICE OFFICER DAVIS responded that the targets are re-coated at a local business on Roymar Road. They did some prototypes for OPD, and they finally determined how thick to make them. OPD takes the targets for re-spray as needed.

COUNCILMEMBER FELLER congratulated Officer Davis on this creative solution, which is relatively inexpensive. He would not be afraid to have staff proceed with this as soon as they are ready to implement it.

MAYOR WOOD indicated this was an information-only item, so it cannot be voted on. He followed up on this item also. For the neighborhood, Council indicated they would try to reduce the issues/concerns for the neighborhood, etc. He did meet with Camp Pendleton's Base Commander this morning and talked about having some sort of shooting facility on Camp Pendleton. There have been continuous delays. No matter what happens, our existing range needs to be a backup range in all aspects. In major shootings with shotguns, rifles and submachine guns, which might be more of an issue there, the Colonel indicated he is very supportive and wants our chief to meet with his staff. Major General Lehnert is very supportive, and feels the issues can be worked out so that their range is available by May 1.

DEPUTY MAYOR CHAVEZ understands the issues with the use of Camp Pendleton ranges. Ranges are run by Department of Defense regulations, which are established at a higher level than local commanders. The standards for ranges are all similar throughout. With that understanding, it is great to have short-term use with rifles. But he thinks the long-term solution is either a) to build a facility to ensure the training of our police; or b) ensure the training with a partnering with another city to do a range. Camp Pendleton will be there for some unique training, but for everyday access, we need a long-term solution.

CAPTAIN HEERING noted that they are looking at including some type of a range facility in their long-range plans for a new police facility. Short-term is that SWAT is no longer allowed to train at our range anymore. They go to Camp Pendleton for their training, and they can only schedule that range 30 days in advance. They are more flexible if they get bumped off the range. So those are some of the steps they have taken.

Also, our range master just acquired a different type of ammunition for some of our rifles that is suppose to minimize the noise; it is a training ammunition that is supposed to be quieter. They have not yet tried it. They are looking at other ways in the mean time to minimize the impacts to the residents.

[Recess was held from 6:47 – 7:02 pm]

6:00 P.M. – PUBLIC HEARING ITEMS

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

10. **CDC: Consideration of a resolution approving a Tentative Parcel Map (P-201-07), Regular Coastal Permit (RC-201-07) and deferral of undergrounding of the overhead utilities for a two-unit single-family development located at 412-414 North Tremont Street – Applicant: ARC Development**

MAYOR WOOD opened the public hearing and asked for disclosure of constituent contacts. Councilmembers reported on contacts, with Councilmember Sanchez reporting no contact.

SHAN BABICK, Associate Planner, gave the staff report, noting that on April 4 [2001] the CDC approved the mixed unit development of 35 residential units and 10,000 square feet of retail space on North Coast Highway between Civic Center Drive and Sportfisher Drive. The second component of that project included the 2 single-family homes at 412-414 North Tremont Street. The applicant has filed a new parcel map for the

2 single-family units at this location and is requesting a modification of former Condition No. 35. Due to the fact that the previous tentative map had been recorded, a new map was required to modify this condition and separate the 2 units. Former Condition No. 5 of the previous resolution states that all existing overhead utility lines shall be constructed underground.

The new condition would state that the undergrounding of existing overhead utilities may be deferred, and the developer shall pay in-lieu fees based upon the length of the utilities to be placed underground and at the rate in effect at building permit issuance. The applicant would be required to underground approximately 150 lineal feet. SDG&E has estimated the cost at approximately \$110,000. Deferral of the fees, which is not a waiver, is allowed if one of 7 conditions is met. This project meets 3 conditions: 1) it contains less than 10 residential units; 2) it has less than 250 feet of lineal frontage (50 feet); and 3) is less than ¼ block in length and the subdivider proved an exorbitant fee.

This item went before the Redevelopment Advisory Committee (RAC) on April 11, 2007, and they unanimously approved the request.

Staff recommends adoption of the resolution for approval of the deferral of the undergrounding.

Applicant

DOUG BARRETT, with the Lightfoot Planning Group, represented ARC Development and their project located at 412-414 North Tremont Street. As already stated, the project was originally approved on April 4, 2001, and the only change they are requesting is to defer the undergrounding of the electric transmission lines that are located along the parcel frontage. The applicant does not draw any utilities from these lines. Instead, they are using the utility lines that are located to the rear of the property, which are going to be undergrounded. The project qualifies under Article 9, Section 901 as stated [by staff]. The 4 units to the north of this property have qualified for this deferral as well.

Public Input

PAMELA MYERS, 910 North Pacific Street, questioned whether all new development has to have electrical put underground. If so, she would like it to continue.

MR. BABICK responded that all discretionary projects involved with a subdivision would be required to underground all overhead utilities.

With no further input or rebuttal, the Mayor closed the public hearing.

COUNCILMEMBER FELLER wanted clarification that the part of the project on Coast Highway will underground all the utilities in the alley between Civic Center and Sportfisher.

MR. BABICK confirmed that was correct, and the utilities are already undergrounded in the alley between Civic Center Drive and Sportfisher, and Tremont Street and North Coast Highway.

COUNCILMEMBER FELLER wanted to confirm that splitting these 2 maps will allow this parcel to be sold off.

MR. BABICK responded that would be up to the developer, but they have to record the map and complete items for their certificate of occupancy. Once that is complete, they could be sold.

COUNCILMEMBER FELLER questioned when the undergrounding would take place on Tremont Street.

INTERIM CITY MANAGER WEISS clarified that the City gets an allocation from SDG&E to do major undergrounding utility districts. The current project is the Mission Avenue area, and they are also planning for the Oceanside Boulevard corridor area. The Tremont Street portion would not be an eligible project for those funds, which is why the City would collect the deferral money. What would happen is an adjacent developer, if they are obligated to do the undergrounding, would be eligible to be reimbursed from these funds collected now to extend that undergrounding. So essentially, the next developer on this or the next block could be conceivably required to underground everything and be eligible for reimbursement if CDC defers this undergrounding. The Council's past policies have been that individual projects do the undergrounding on their own as they develop. There are deferral provisions when it would require adding more poles than are being removed. The 4 projects to the north of this did receive a deferral, which essentially leaves a 500-block project to be required to do the undergrounding.

COUNCILMEMBER FELLER moved approval [of staff's recommendations and adoption of **Resolution No. 07-R0235-3**, "...approving a tentative parcel map and regular coastal permit and deferral of the undergrounding overhead utilities for a 2-unit single-family development located at 412-414 North Tremont Street – Applicant: ARC Development"].

COUNCILMEMBER KERN seconded the motion.

COUNCILMEMBER SANCHEZ questioned why this is before CDC now and not before. This was a condition of the project to be built, and this project is already built. Procedurally, in building a home and pulling permits, construction follows certain steps, with certain things to be have been completed, like the undergrounding. This issue should have returned to CDC before now. She asked why this issue was not brought to CDC earlier rather than after the homes were built.

INTERIM CITY MANAGER WEISS responded that typically a project such as this has the obligation to do the undergrounding since it was a condition of the original approval. He believes the project plans and securities did include and specify the undergrounding. He would ask Scott Smith to respond on why it did not occur.

SCOTT SMITH, Acting City Engineer, responded that this project was conditioned to do the undergrounding. During the process of construction, many times the SDG&E design delays a little, and the project proceeds. Regarding this item, the undergrounding should be completed, and he has no explanation why it is not done.

COUNCILMEMBER SANCHEZ hoped this would not happen again. These deferral fees may not cover the costs at some later time. She is glad to hear the next project in the 500 block will require undergrounding, and that needs to happen. She is not happy this is coming forward at this point; it is not appropriate at this time.

In response to Mayor Wood, **LOU LIGHTFOOT**, Lightfoot Planning Group, explained that normally a little project of 2 units would be eligible for a deferral, and it would be requested at the time of the original tentative map. An applicant, when coming forward, has to include all of his property in a tentative map application if he has abutting property. So essentially these 2 projects—the larger and the smaller ones—got combined because the applicant owned everything. He knew he would have to underground everything in the alley and made arrangements to do that. Then he found out these are actually transmission lines, not distribution lines, which costs a lot more to underground. He talked to staff about how to do that because it is not just his 50 lineal feet of frontage, but he must go all the way to the corner, which is 150 feet. The 4 units next door already paid their deferral fee for 150 feet, and with the deferral fee on this project, there will be enough money for the next developer to take both those deferral fees and get it all put underground.

He believes this issue arose because of the way the project was processed originally

as 2 projects combined into one that created this unique circumstance. All the utility lines this project is using have been put underground in the alley. They do not use these lines in question because they are transmission lines. It is a unique circumstance and is unusual.

COUNCILMEMBER SANCHEZ understands that it is a requirement regardless of whether or not it is being used.

INTERIM CITY MANAGER WEISS confirmed that the undergrounding of overhead utilities is a requirement regardless of whether they are taking service from those utilities or not.

MR. LIGHTFOOT agreed, although if this 2-unit project came in all by itself, it would have qualified for deferment. At the time it was originally approved, it did not qualify.

COUNCILMEMBER SANCHEZ questioned what would prevent others from doing this same thing. It should have been done as part of the large project.

MR. LIGHTFOOT indicated that he was not involved in the original processing. If there had been a way to put these 2 lots under a different ownership at the time the larger project was processed on Coast Highway, which would have been preferred, they would not have been included with the bigger project. However, because they were under the same ownership, they all had to be processed together. The larger project is the 36-unit Ocean Village project on Coast Highway [at Civic Center Drive]. This 2-unit project, which is completely independent from the larger project and is not part of the HOA, etc., would have been eligible for this deferral.

COUNCILMEMBER SANCHEZ stated the rationale for the criteria, such as 10 units or less, has to do with costs and whether it is fair to have a project of 1-10 homes vs. something larger where the project could, in fact, bare the costs much easier. That does not seem to apply here since it was one project/developer/owner.

MR. LIGHTFOOT responded that at the time all properties were owned together. Because of the nature of the projects, 2 single-family homes vs. a big condo/commercial project, the applicant had to finance these things separately. That is why the 2 homes are done, and the condo project is still under construction. All the utility undergrounding in the alley was financed with the condo project, and the 2 single-family homes were financed separately. Therefore, the deferral fees are being charged against the 2 homes, which is why staff recognizes the situation. This action is to recognize that these are 2 distinct projects.

COUNCILMEMBER SANCHEZ stated that, in looking at the criteria for the findings, she is not so sure those findings can be made.

DEPUTY MAYOR CHAVEZ reviewed that this project was at CDC in April 2001. Staff needs to be the honest brokers of the process. The undergrounding, as discussed, will be taken care of. Since 2001 the process has changed, and it is important that staff follows the procedures to ensure quality projects and customer service. Staff is doing what they should be doing, and he will support this. He moved to **call for the question [to end the discussion]**.

COUNCILMEMBER KERN seconded the call.

COUNCILMEMBER SANCHEZ called a point of clarification questioning whether this project meets the criteria.

CITY ATTORNEY MULLEN responded that it is a factual determination for the City Council to make based on the evidence. This is a new tentative map, so the project in front of Council is a 2-unit project. There are unique circumstances here, and it is based on

Council's call. He cannot say if the finding can be made or not. The question is whether there would be substantial evidence to support the finding, and what a court would look at is whether there is relevant evidence that a reasonable person could accept.

The motion on the call for the question was **approved 5-0**.

On the main motion [to approve staff's recommendation and adopt the resolution], motion was **approved 4-1**, Councilmember Sanchez voting no.

Mayor Wood determined to hear item 25 next.

Addendum

25. **City Council/CDC: Adoption of an ordinance of the City of Oceanside amending the text of Articles 4, 12, and 41 Oceanside Redevelopment Zoning Ordinance, (ZA-200-07 & LCPA-200-07) (Introduced 4/11/07, 5-0 vote)**

Following the reading of the title, **COUNCILMEMBER FELLER moved** adoption [of **Ordinance No. 07-OR0236-1**, "...amending the text of Articles 4, 12, and 41 Oceanside Redevelopment Zoning Ordinance (ZA-200-07 and LCPA-200-07) (City of Oceanside—Applicant); **COUNCILMEMBER KERN seconded** the motion.

Public Input

JIMMY KNOTT, 124 Sherri Lane, gave Council a chance to allow this to go again on an open review. This was thrown together with one hot item, i.e. timeshares and fractional timeshares. There is more in this than just fractional timeshares. If Council passes this, it has not had an adequate review into the impact on the community because this sets a precedent for the other areas in the city. He does not want this affecting as it expands out because of the precedent set as the new areas of redevelopment expand. These items need more study.

COUNCILMEMBER SANCHEZ stated this is a local coastal plan amendment that cannot be split up. She suggested that the Redevelopment Advisory Committee conduct public workshops to allow the public to learn more about the changes and the new things that can happen in the downtown.

Motion was **approved 5-0**.

GENERAL ITEMS

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

11. **City Council: Introduction of an ordinance of the City Council of the City of Oceanside amending Oceanside City Code Chapter 10A.3(b) and adding Sections 10A.3(e), 10A.3(f), and 10A.3(g) regarding smoking prohibitions at Oceanside beaches, pier, and parks**

MICHELLE SKAGGS LAWRENCE, Deputy City Manager, stated staff is requesting Council's support to update the City's smoking ordinance to make the restrictions in public parks a little more restrictive and to add new prohibitions at the beaches and at the pier. As Council is aware, some time ago an ad hoc committee was established with members of the Harbor and Beaches Committee and the Parks and Recreation Commission to look at this issue. The purpose of the committee was to assess the desirability of making the smoking restrictions more stringent. Smoke-free is a trend not only within the County but in the State as a whole, primarily because of the potential harmful nature of second-hand smoke, in addition to the debris created by the inappropriate disposal of cigarette butts.

The ad hoc committee looked at what other cities were doing in the County, and

most of the cities, particularly the coastal cities, have gone smoke free. A list of cities was provided in the Council packet. The committee also did a survey that was placed in the water bills, with a sample size of about 42,000. Of that, about 9,000 responded, with 79% of the respondents in favor of a prohibition at the beach; 78% at the pier; and 77% in City parks. The committee took the survey results, plus the background information, and they drafted their first ordinance which banned smoking at all 3 venues. They took that draft to 4 advisory groups: Economic Development, Harbor and Beaches, Parks and Recreation and Public Safety. Based on that input, the ad hoc committee drafted a compromise ordinance, which is in Council's packet.

Essentially the ordinance for Council's approval this evening, in terms of parks, it would prohibit smoking within the boundaries, and it would include sidewalks, picnic areas, ballfields, play areas, and tot lots. Smoking would be permissible in the parking lots and on public streets adjacent to the parks and public golf courses. In terms of the beaches, smoking would be prohibited on the sand and would be allowed in the bandshell, on sidewalks, stairways and along the public streets adjacent to the beach. In terms of the pier, it would be prohibited on all wooden portions of the pier, and smoking would only be allowed on the entrance [concrete] section.

Enforcement of this ordinance would be handled primarily through deterrents and self-policing. The first-year direct costs are estimated at \$20,000, which includes signage and appropriate receptacles. If Council wishes to proceed with the ordinance, staff would look for grant funds to pay for these items. Staff would request approval.

Public Input

GENA KNUTSON, Program Manager for Tobacco Control at Vista Community Clinic, submitted and read a letter from Joe Kellejian, Deputy Mayor of Solana Beach, supporting smoke-free outdoor recreational areas.

NORTH COASTAL PREVENTION YOUTH COALITION members: Dave and Susan Porter, and George Mollina, REACH member, presented a binder of 644 signatures of residents supporting Oceanside's smoke-free beaches, pier and parks; and 250 post cards in support. Jessica, REACH member, spoke and supported smoke-free beaches, parks and pier.

DEBRA KELLEY, Regional Director of Advocacy for the American Lung Association of California, reported that 11 of the 18 cities in the County have gone smoke-free with their parks and beaches, along with the County and the Port District. Public support for this is high, and implementation is painless with no painful aftermaths. In fact, the San Diego hotels and tourism are in support. If Council does not move forward with this, it risks sending a message that these ordinances are only for affluent, white-collar communities. The citizens of Oceanside deserve the same kind of protection that other cities have.

ELIZABETH TRUJILLO, 1636 Grandview Street, supported the smoke-free beaches, pier and parks. Smoking is harming the non-smoking public and producing an uncontrollable amount of waste via cigarette butts. It is important to have a healthy population without the burdens of second-hand smoke and degrading effects of waste. The California Air Resources Board classified second-hand smoke as an airborne toxic substance that causes/contributes to death or serious illness. Council can rid us of this today.

DONNA MCGINTY, 2405 Mesa Drive, has been addicted to tobacco since she was 18 years old and is still trying to quit. She supports the smoke-free ordinance.

KAY PARKER, 4377 Albatross Way, sees this as an opportunity to reduce the costs to the City and those who have to clean up [the cigarette butts]. In that respect, she supports this.

NADINE SCOTT, 550 Hoover Street, has a problem with the Chamber of Commerce and the City and all of the residents promoting how beautiful our beaches are, and yet they are seeing cigarette butts. She was exposed to second hand smoke since her mother smoked while she was pregnant with her, and she was born with lung damage. She is vehemently anti-smoking. She supports the ordinance with one change—to allow smoking on any portion of the pier is wrong. She should not have to go through that gauntlet of smoke to access the pier.

JIMMY KNOTT, 124 Sherri Lane, agrees with Councilmember Feller on a number of the issues. He thinks this has gone a little too far. He believes this is taking away a lot of freedoms and rights of individuals. An example is his father who is a pipe smoker, which is part of his enjoyment in life. This would incrementally take away from that. When do we stop taking away those rights and start respecting the people who have fought for those freedoms? In talking with a friend in Alaska, they will not recommend that people vacation here, so we will be losing dollars. Another issue is the religious usage such as with Native American Indians who use tobacco as a sacred herb. What if a tribe wishes to hold a ceremony in one of the City's parks—what provisions are there for that use? Another is medicinal uses.

MARTY BENSON, 999 North Pacific Street, represented Surfrider of San Diego County and is a volunteer and a resident who surfs at the South Jetty. Cigarette butts are what he sees there. The issues to consider are: public health, protecting resources, as well as the visitors and constituents, and economic concerns. Second hand smoke is a Class A carcinogen. 80% of North County supports this sort of ban and most of the beaches between Tijuana and Santa Barbara are now smoke free. He supports the ban.

NARINDER DHALIWAL, Director of California's Clean Air Project (CCAP), stated this is a statewide organization working with cities and counties throughout California on second hand smoke issues, both indoor and outdoor. More than 31 cities have passed smoke-free beach and pier ordinances, which is around 1/3 of the beach cities. Over 90 cities/counties have made local parks smoke free. This can partly be attributed to new science, including the California Air Resources Board declaration that second hand smoke is a toxic air contaminant. Regarding enforcement, it requires signage and does not require police intervention. In the past 4 years communities have reported little or no difficulty in enforcement. It is important to publicize the law in as many forms of media as possible.

ERICA CACAS, Advocacy Director for the American Heart Association, stated that with the renaissance of the downtown area, etc., and the ban on smoking at the beaches, pier and parks, it will continue the trend of positivity that is seen downtown. This would be a positive message with smoke-free beaches. The scientific evidence shows that there are over 4,000 carcinogens in a single cigarette. Second hand smoke does affect and harm people. 86% of Californians do not smoke. She supports the ordinance.

ANDREA PORTENIER, 735 Buena Tierra Way, developed lung disease as a result of exposure to second hand smoke where she used to work. She is in support of this ordinance. Smoking costs the State of California \$16 billion a year and over \$400 for each resident of California, whether or not they smoke. There is better use for our money than to pay for the cost of smoking-related diseases, etc.

JUANITA HUGHES, 3230 Carolyn Circle, supports smoke-free beaches, parks and pier in Oceanside.

RICK WILSON, 770 Harbor Cliff Way, member and employee of Surfrider Foundation, but is not paid to be here, stated that Surfrider's main issue with smoking on the beach is litter and the aesthetics of cigarette butts, along with the ecological harm when fish, birds, etc., think it is food and eat it and die. Butts are the number 1 clean-up at the beaches. The only practical way to eliminate it is to ban smoking on the beach while giving smokers an adjacent smoking area, which this ordinance provides. Please support this.

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MELISSA VILLAGOMEZ, Rancho Buena Vista (RBV) High School student, volunteered for Rancho Buena Vista for community participation to pick up the cigarette butts. She agrees that smoking should be banned because it is disgusting.

CANDICE PORTER, with San Dieguito Alliance for Drug Free Youth, agrees with most of the comments made. The science and public support is behind you. Implementation is painless, and this is a great thing to do. The North Coastal Council PTA adopted a resolution in favor of smoke-free beaches, parks and other public venues in April 2004.

RYAN KRAMER, RBV student, supported smoke-free beaches.

ERICA LEARY, Program Manager with North Coastal Prevention Coalition, stated California has made tremendous progress in tobacco control efforts. We have come a long way, and it is now time to adopt smoke-free parks, beaches and pier in Oceanside.

STEPHANIE CRAIG, RBV student, is here to do community participation, and she was also working on Saturday picking up all the cigarette butts. Her reason for stopping smoking is that God, or whomever you believe in, put us on this earth to cherish our land, not to destroy it with cigarette butts. Cigarettes waste a gift given to us, and it should stop.

PAMELA MYERS, 910 North Pacific Street, supported this ordinance and referenced her letter also asking to include in the ordinance banning cigarettes on the platforms in front of the trains. She takes the train every day, and people are smoking right in front of the doors. Also, smoking should be banned completely on the pier as suggested by Nadine Scott. Give the majority, the non-smokers, their rights and do not allow smoking in these areas.

Public input concluded

MAYOR WOOD stated they are going to do the right thing for the community and citizens by approving this ordinance. This is a compromise, and he knows it is because his father/family was part of that generation where everyone smoked. It is the senior generation that is dying off, and it has been picked up by the youth. For the health of the community, this ordinance also promotes health at the beaches, etc. Our responsibility is to protect our tourism and citizens. He has lived here since the 1950s, and all the cigarette butts all over is not uncommon. We have a beach-cleaning machine, but it is not uncommon to see them there. He is supporting this smoking ban due to a combination of all the issues.

COUNCILMEMBER SANCHEZ received a visit by some representatives, and she did say she needed a compromise. She has been contacted by several smokers who asked her not to do this. There are issues regarding enforcement. We cannot expect our lifeguards to enforce this because they are to watch people in the water. The question is policy versus law; is the issue smoking or litter. It started off as a litter problem, and then went beyond that. What clinched it for her is knowing they have a duty not just to the residents but to future generations. The kids tonight really took an interest in this. The compromise is to allow smoking in parking lots, so she would **move** approval [to introduce the ordinance, "...amending Oceanside City Code Chapter 10A.3(b) and adding sections 10A.3(e), 10A.3(f), and 10A.3(g) regarding smoking prohibitions"].

Regarding Mr. Knott's point about smoking for religious purposes, she asked if that would that be something that could be handled such as for Native Americans smoking, and incense for religious ceremonial purposes. She was advised this would be fine without any exceptions. She smoked from about age 18-30. She does not have as strong a sense of anti-smokers but she recognizes the need. Watching the students tonight was what swayed her decision for approval.

MAYOR WOOD seconded the motion.

COUNCILMEMBER KERN is struggling with this issue. Out of all the things since coming on Council that he has talked about the most with his Aide is this issue because it is a balancing of rights. We have had long discussions about the Constitutional rights and the chipping away of freedoms. So what happens next. People are allergic to perfume, so we will then ban wearing perfume. Are we going to continue down that road? For that percentage of people allergic to perfume do they have a right to stop people from wearing perfume, which is a further discussion if we continue down that road. If people on the beach are concerned about the issues of smoking, then what are they doing on the beach in relation to the incidents of skin cancer. Will we then monitor the number of hours on the beach because of rising skin cancer rates? That is why he has such concerns since some say this is just the next step. Another law is a smoking ban in the cars if there is a child in the car, which he agrees with, but who will monitor that? Are we going to be the nanny to everyone?

Also, if the discussion is on second-hand smoke, no one mentioned the fire rings. One fire ring probably puts out 10,000 times the carcinogens as one smoker, with people using treated, green wood in the rings. Regarding the compromise in smoking, he has no problem with people not smoking in parks, and smoking is allowed in the parking lots in those areas. He has no problem with the no smoking on the wooden part of the pier but would hold to the compromise for smoking on the concrete portion. The only item he really has a problem with is the beaches, which needs more compromise. Most of the tourists are probably between 6th Street and Wisconsin [on the beach], so he would have no problem banning smoking between those areas, and even Harbor beach. But outside of those zones, smoking should be allowed, and maybe even move the smoking rings out there. He is sure the fire ring issue will be discussed once the hotel is built, with the smoke coming up the bluff into the hotel. He has heard more from people about the fire rings than the smoking issue.

The only other thing he would add is to ban smoking further out from the library doors, such as 100 feet from the library. He has received complaints about people smoking in front of the library and the smoke coming into the library. He cannot support the ordinance in its present form. He would like to see some changes he has suggested.

COUNCILMEMBER SANCHEZ inquired about the sandy portion of the beach. She is not talking about the fire rings, since the only people who complain about them are those who live where she is living now: San Miguel. The fire rings were there before.

COUNCILMEMBER KERN stated that every Sunday morning he walks Pacific Street to the beach and all the way down the Strand, and he smokes a cigar. So if he steps on the sand, do they take him away?. If this is self-regulating, then just put up the signs "Please don't smoke on our beach," which would accomplish 90% of what the ordinance will.

COUNCILMEMBER SANCHEZ stated the compromise she asked for was to allow smoking in the parking lots to be included. Walking along the beach, she does not see many smokers, but there is no place for cigarette butts on the sandy beach.

DEPUTY MAYOR CHAVEZ stated that he has never smoked a cigarette in his life, but he takes over 5 medications everyday just for asthma. His parents smoked heavily. He suffers from the second-hand smoke issue. He gets upset when he leaves the Council Chambers and walk over to Economic Development, because out there is a designated smoking area for employees. He has to put up with his medical reactions because that is a designated smoking area. He would ask the City Attorney to also look at NCTD. He would say about 95% of the young people see the harm to the environment with smoking, cars, etc. He does not like smoking, but he was interested in hearing further discussion on a compromise as he has not yet made up his mind on this issue.

COUNCILMEMBER FELLER asked if this would affect Ruby's Restaurant.

MS. LAWRENCE responded it would not affect Ruby's.

COUNCILMEMBER FELLER does not want to hear any more about the beach rings; the beach fire rings should stay there. Bigger government is not the best. Is there a way to do this with just signs, without an ordinance or enforcement?

MS. LAWRENCE responded yes, that would be a policy decision. However, in looking at the current smoking restrictions, those are in an ordinance, so it makes sense to treat them in the same fashion.

COUNCILMEMBER FELLER stated that smoking is detrimental to health, and when affected by asthma, it makes it even worse. The students tonight displayed thousands of cigarette butts, which probably came from Camp Pendleton, Vista and Oceanside just through the storm water drains. We will never get rid of all the cigarette butts. Our main job is the protection of the public's health and safety; that is what government is created for. He is leaning towards this, as much as he hates putting more rules on people. This is a public health and safety issue. We need to protect our children. It says on cigarette packages that cigarettes are detrimental to your health. Citizens' rights have to go both ways in this instance. He is torn on this issue. Smoking outdoors is not at all the same as in an enclosed space.

COUNCILMEMBER KERN stated it appears there are the votes to pass this. The only thing he would add is to include no smoking within 100 feet of a doorway at the library.

CITY ATTORNEY MULLEN advised that is not within the noticed areas, but it could be added and brought back for Council's consideration. The notice only dealt with pier, beaches and parks.

COUNCILMEMBER SANCHEZ was wondering if Councilmember Kern's concern was he wanted to smoke and walk and if he was walking on the Strand.

COUNCILMEMBER KERN responded he walks on the sidewalk.

MS. LAWRENCE clarified that the ordinance would prohibit smoking on the sand; but it also includes the picnic areas and the tot lots. So it essentially is the sand now, and it is all the beach area.

COUNCILMEMBER KERN felt this would be an enforcement nightmare. The idea to just put up signs saying 'please don't smoke on our beach' would accomplish what we want.

COUNCILMEMBER SANCHEZ stated that allowing it in the parking lots is the compromise, along with in public streets adjacent to public parks and public golf courses.

Following the reading of the title of the ordinance, motion was **approved 4-1**, with Councilmember Kern voting no.

[Councilmember Sanchez left the dais at 8:52 PM.]

12. **City Council: Overview of the 3rd Quarter Financial Report and overview of the FY 2006-07 budget**

NITA MCKAY, Financial Services Director, stated that even though the financial report presented to Council previously included the enterprise and internal service fund, her presentation this evening will only cover the general fund portion. General fund revenues at the 3rd quarter end on March 31, 2007, shows the general fund had \$74.7 million in

revenues, which is a 7.6% increase over the same time period one year ago. To project this out to the end of the fiscal year on June 30, 2007, they are predicting that the general fund will have \$112.6 million in revenues. This is a 6.6% increase over the prior fiscal year 2005-06. Later in her presentation she will be advising that there is \$1.7 million in one-time revenue sale of property, but even if removed from the total revenues, they are showing a 5% increase over the prior fiscal year.

The good news items are that, when staff was preparing the revenue estimates 1 year ago for the current budget year, they projected the completion of the fiscal year with \$42.6 million in property taxes. They are still showing strong increases in property taxes. Having just received the April payment from the County, staff is currently projecting that they will come in \$1.7 million ahead of their original projection, which is \$44.3 million in property taxes. This is an increase over the prior fiscal year of 13½ %.

Investment earnings are also coming in very strong. Staff originally projected \$1.8 million in investment earnings. They are now projecting an \$870,000 increase over that, or 40% higher than the fiscal year in investment earnings. This is because of rising interest rates. The portfolio is actually earning an average of 4.7% this year compared to 3.2% a year ago.

Her graph titled 'other agencies' is other governments, which includes our motor vehicle license tax, State mandated cost reimbursement, and most recently a \$700,000 State reimbursement for booking fees. Staff projects to complete the year \$300,000 more than they projected when they completed the budget a year ago.

Sales and use taxes are the second largest revenue source in the general fund, and staff is projecting that to come in on target at \$19.5 million.

Again, the one-time revenue is the sale of property during this fiscal year at \$1.7 million. Of the \$1.7 million, \$1 million has already been allocated to transfers to other funds; for instance, to reimburse the gas tax fund. The remaining \$600,000 has been put in the general fund to be used for one-time capital improvement projects in the future.

On the down side, some of the revenues that are decreasing from staff's original projections are property transfer taxes—which is the tax received when a property changes hands; this is projected to decrease to \$800,000. It is a decrease from the prior fiscal year of 50%.

The plan check, inspection services and fees are the development fees. Staff originally projected, based on last year's budget and strong developer fees collected, that it would bring in \$4.3 million. Staff is currently projecting \$1.1 million less, which is a 25% decrease over the prior fiscal year.

For the general fund operating expenditures, which only excludes the Capital Improvement Projects [CIP], at the end of the 3rd quarter it is 6.6% higher than the same time one year ago. To project this out to the end of the fiscal year, it would be a 6.4% increase over the prior 2005-06. She noted that in this instance, the \$1.1 million allocated from the one-time revenue is also included in this. If that is subtracted, it would show a 5% increase over the prior fiscal year.

Some of the decreases projected at this point in time include:

- Personnel services—salary and benefits, and overtime and part time employees — All personnel services of the general fund are budgeted at full capacity with no vacancies. Because of current vacancies it is projected with a one-time savings of \$2.1 million in personnel costs
- Maintenance and operations—for supplies, training, contractual services, consultants, etc.— Staff is projecting a \$310,000 savings from the original budget

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Regarding one-time expenditures, the majority of the \$2.4 million is carry-forwards from the prior fiscal year of unspent budget. These are items that were encumbered at year end on purchase orders but have not yet been expended, so they carry that forward into the new fiscal year. Staff is projecting to spend those dollars.

Everything taken into consideration, staff is now projecting a general fund surplus at June 30, 2007, of \$1.5 million.

In May, staff will bring forward to Council a mid-cycle budget review, since a 2-year budget is in place. Items come up during those 2 years and at the beginning of the second fiscal year when there are unanticipated items. Staff reexamines that and the revenue estimates to provide to Council with some items. They will look at cost-saving strategies, which include the internal services assessments and all internal service departments, such as Finance, City Manager, etc., to make certain there are no, or minimal, service overlap and redundancy and efficiency considerations. On the revenue enhancement strategies, staff will bring forward items that could include: parking fines and fees, ambulance billing, development fee cost recovery, pre-planning efforts for hotel sites, cost recovery for vision/master planning efforts, and cost recovery for the neighborhood traffic-calming program. Staff will also bring forward at that time items requested by the departments that came up during the fiscal year that were not anticipated, including both ongoing expenditures and one-time capital expenditures.

MAYOR WOOD questioned if the new computer software program was in process to assist with the budget.

MS. MCKAY stated it is currently in the budget. They have not chosen a software provider, yet but it is moving forward.

[Councilmember Sanchez returned to the dais at 9:03 pm]

Public Input

JIMMY KNOTT, 124 Sherri Lane, would encourage the Council to bank any surplus because of some unknowns on the horizon, i.e. the impact of the current foreclosures, the slowing of home sales, business closures, the tightening economy, and the China effect. There is also an increase in costs of materials, such as steel and fuel; other agency pass-throughs; the war effects, etc. Also they should consider the decline in developer fees at build out. Look at how the staffing is being adjusted with our population. Many boomers will be retiring, etc. Don't spend the surplus; bank it.

COUNCILMEMBER FELLER agreed – bank it. He asked for clarification on the land sale.

INTERIM CITY MANAGER WEISS stated the proceeds are part of the Collins property sale. The City has an outstanding note because the City carried a note after the initial sale, and the owner paid off the note this past year.

COUNCILMEMBER FELLER questioned why the property transfer tax is decreasing, and why plan check fees, etc. were decreasing.

MS. MCKAY responded the property transfer tax is what we receive when property is sold/changes hands. So it is a decrease in the housing market and sales. Staff is projecting that it will remain low into the next fiscal year, at that same rate.

INTERIM CITY MANAGER WEISS responded that staff provided a memo early in April on the plan check fees, etc. The main reason those fees are down is, although the number of development projects are still significant, the type of projects and the fees that are paid regarding plan check and inspections services is dramatically down, which is why

there is about a \$1 million decrease in the amount of revenue those projects are bringing in. Additionally, the amount of the fees the City is collecting are the same as they were in 1990; so none of those fees or the basis for those fees have been evaluated or assessed since then. Staff is looking at that and will be making some recommendations to Council as part of the budget process to look at adjusting them.

COUNCILMEMBER FELLER questioned the size of the deferred maintenance budget regarding streets, infrastructure, etc.

INTERIM CITY MANAGER WEISS responded that there is a reasonably funded maintenance and replacement program for sewer and water. He believed Council would be seeing some enhancements to those as well, some as a result of unfortunate incidents that happened recently in other cities. Regarding street maintenance, although a good deal of money is provided from both transnet and gas tax for street maintenance, it is not adequate to fully fund the street maintenance program. The City's major repair/overlay program is geared primarily toward arterials. Other than preventative maintenance, there is no funding for any real maintenance programs for any of the residential streets, which is something staff will be looking at as well and providing alternate recommendations.

COUNCILMEMBER SANCHEZ is concerned with the plan check and inspection services fees, which should be paying for it. To be \$1.1 million down, there should have been an earlier time to look at this knowing that it was not paying for itself. This is urgent. But for the one-time sale of property of \$1.7 million, we would be \$.2 million ahead. If the plan check/inspection service fees were closer to budget, the City would have another \$1.1 million, so we would be back up to \$1.3 million. How quickly can this be turned around so that the City is not funding these projects; they should be paying for themselves.

INTERIM CITY MANAGER WEISS responded that Council's philosophy has been that development service pays its own way. There is a portion of development services provided to the development community that are subsidized by the general fund and have historically been so, such as the neighborhood traffic program. Those services are actually charged out of development services. Other development services would include the Oceanside Boulevard visioning process. Those services are provided from development departments, but there is no direct charge back to development. However, the plan check and inspection fees are direct services that are provided to developers; those fees are what are down at this time.

Staff is looking at alternatives to providing services, such as in the Building Division looking at changing the manner in which those services are provided. But the reality is that an elimination of redundancies is not going to make up \$1 million. Given the direction the City is heading, the number of large projects that we have are not going to happen again. The type of projects presently, which are in-fill type projects, etc., with high unit counts, still require a significant amount of staff effort, community outreach and processing of those projects. The only real way of looking at full cost recovery is re-evaluating the way we collect those fees. The Building Division is near completion of a full-cost recovery assessment for fees. However, all the different service fees need to be reviewed in Planning, Engineering and Building divisions to see how the fees are calculated and what is appropriate to recover those monies. Staff will be bringing to Council that information in May at the budget workshop. Hopefully with the mid-year budget adoption in June, that will increase the revenue so that it starts paying its own way.

COUNCILMEMBER SANCHEZ questioned if there will be more of a leveling out next year.

INTERIM CITY MANAGER WEISS advised that our current projections would indicate that the revenue collected this year will be reasonably consistent next year. In the absence of increasing that revenue, it would be consistent. Staff will provide options that will reduce the amount of money the City is losing.

DEPUTY MAYOR CHAVEZ stated that Ms. McKay provided some time ago, the general fund revenues and expenditures for 2001-2006. Looking at that, we have progressively expanded our budget. In 2001 the budget was \$75 million in revenue with an expenditure of \$75 million. We are now in 05-06 at a revenue of \$105 million with expenditures of \$102 million. Through the years we always had a cushion of \$3.6 - \$2.7 million. But in 03-04 we actually went in the hole \$3.3 million. A concern and his direction to the City Manager is that looking historically at the graphs would allow a better decision based on previous experiences. He referenced the April 4 memo of the City Manager where Page 1 references attachment B, saying the general fund expenditures are 60% expended and the low expenditure pattern is primarily due to the large number of vacancies, which are in the process of being filled. With the savings in personnel costs, or contracting out, there are other things there to look at.

Under City building maintenance for major non-general fund programs, \$3.8 million was budgeted and year-to-date expenditures is \$2.2 million, which is 58% and about the average for the entire City. So when taking building fees and the April 4 attachment D document on building inspections, we need to be careful on the permits. For example the permits for mobile home operators was budgeted at \$6,200, and it is presently at \$6,000, etc. So some areas—mobile homes, handicap, etc. are expending more than budgeted. So consideration needs to be given to how this is occurring. He further referenced the memo on building expenditures, which do not coincide with current discussion/information.

The big-ticket item is in people. If we have survived this long [with vacancies], do we really need to fill the positions? He looks forward to looking at the budget, from a historical perspective and where to head in the future. If we had unfilled positions, he would like positions going to code enforcement because that is what he hears about. Look at the new technologies and any efficiencies. It is too simplistic to just say 'increase the fees', because the April 4 memo does not support that.

COUNCILMEMBER SANCHEZ stated in discussing positions, there are other costs that need to be considered if a department is understaffed. We are overworking staff or we are contracting out, which is more expensive. Overworking staff then goes into workers compensation claims, stress leave, etc. that is on the cost side when not fully staffed. There are increased demands for services everyday since the City is growing. We have projects, like a second senior center, that will have to be staffed, and many things that need to be considered in planning for the future. In just talking positions, anticipated needs and the funding for such items need to be considered. Discussion on ways to generate funds, such as goat hill, are things being considered to use property to help generate funds to pay for the kind of services desired for our residents. This information is probably not as deep as we should go in terms of understanding and our fiduciary role in providing for the future. The personnel item is a savings not anticipated. She questioned if the one-time expenditures include the \$1 million for funds set aside for the Arroyo litigation.

MS. MCKAY responded that the money was transferred to a separate fund in the risk management internal service fund. It is not reflected in these figures.

MAYOR WOOD summarized that the City Manager has received input. Perhaps a workshop may be needed for additional information. This item was for information only.

13. **City Council: Consideration of a request by the Oceanside Chamber of Commerce for cash sponsorship in the amount of \$10,000 and waiver of fees and City support services costs in the amount of \$3,881 for the Operation Appreciation event to be held on May 19, 2007**

TERRY GOODMAN, Recreation Supervisor, stated this is the annual request from the Chamber of Commerce for sponsorship for the Operation Appreciation event on May 19. This event is to thank the military and their families for all they do. The Chamber will provide a free lunch, various activities and music at the bandshell/beach community center. To support this event the Chamber is asking the City to waive all the costs associated with

the amphitheater and parking lot rentals, and are asking that any City personnel costs be provided by the City, which would total \$3,881. In addition they are asking for a cash contribution of \$10,000. Council did award a similar amount last year--\$5,268 in in-kind/staff support and \$10,000 in a cash sponsorship.

Staff identified funding sources for this: \$4,930 from the Council's contingency fund for special events, which would exhaust that fund, and \$5,069 from the City Manager's contingency fund, which has a balance of \$26,059. He noted that the last 2 years the City Council has asked the Chamber to look towards self-sufficiency for this event.

DAVID NYDEGGER, CEO of the Chamber of Commerce, stated this will be the 6th year for the Operation Appreciation event. It is one of the premier events that the City and the Chamber and the *North County Times* sponsor with the Armed Services YMCA. They solicit as many sponsors as the possibly can. The event is costing more every year and is getting larger. He reviewed the activities for the day. He invited all to attend on May 19. They partner with Marine Corps Community Services (MCCS) on Camp Pendleton to market the event, along with huge ads in the news media to reach the Navy base, etc. as well. It is for all active duty.

COUNCILMEMBER KERN moved approval, but thinks the Chamber should move away from needing a donation every year. This should eventually be a stand-alone event.

COUNCILMEMBER FELLER seconded the motion; motion was **approved 5-0**.

Mayor Wood called up Item 15 next.

14. **City Council: Approval to issue a Request for Qualifications (RFQ) for the development of a mixed-use, affordable-housing project on the City-owned 14.47-acre Josepho Parcel located just east of Mission Avenue and Carolyn Circle**

DAVE MANLEY, Neighborhood Services Division Manager, stated the City purchased this site last year, and it was part of the affordable housing task force strategy report on available land. There was some delay in purchasing the property due to environmental constraints, but those have cleared up prior to the purchase. We chose the RFQ process to partner with the developer team to bring forward a project that will encompass a myriad of things including: an affordable housing component, with a cap of up to 200 units that could occupy about one-half the parcel, although it may not pencil out; a market rate housing component; and a commercial and/or mixed-use component on the site.

The RFQ is heavily weighted on the financial capacity of the development team to make sure the project will come to fruition and also has a good track record, not only with the City but also with outreach to the community. We have a blank slate of a 14.5-acre site and want to make sure there is a lot of community input into this process and to have a project good for the City. The RFQ will be sent out to select developers that have a proven track record for projects. There is a 90-day RFQ submittal period, and our housing consultant will assist in the initial reviews. Staff will bring the completed submittals to the Housing Commission and then to the Council.

This does not include any kind of a budget at this time for the project. They are not committing any housing funds at this time. That will be at a later date when the project actually comes before Council with all the financing aspects. The Housing Commission recommended that the Council issue this RFQ.

[No public input]

MAYOR WOOD has some concerns. He remembers that when this property was purchased, he indicated he was concerned about the concentration of affordable housing in

that area. We are doing 80 units across the street at La Mision, and now a large portion across the street. He is in favor of affordable housing, but not concentrated in one spot. It says up to 200 units, which is way too high for the community/neighborhood. As he read the report, it will be 4 acres for affordable housing and 10 acres for market use.

MR. MANLEY responded that it depends on how the project will pencil out. But it is anticipated that with 25 units per acre, it is possibly 8 acres of the site.

MAYOR WOOD would like to put a cap of 100 units on that site due to the concentration. In the past they had discussed other nonprofits being on site along with commercial. He does not know the interest by nonprofits and the monetary issues. On page 15 of the report under Item 4: leverage of agency funds/developer compensation/site proposal, item a: highest market rate purchase price, he notes a developer is given 20 rating points for that, which seems high. That might interfere with quality more than quantity issues.

MR. MANLEY responded that the 20 points was to make sure the developer was committed up front to the project. They will have a vested interest in the property, and it requires a deposit.

MAYOR WOOD is concerned with that. Another concern is on page 4, which references a nonrefundable deposit of \$500,000, which seems high. That amount would limit it to big business and not a small operation.

MR. MANLEY stated this is the first project of its kind in Oceanside. It will be about a \$100 million project. We worked with our consultant, and that figure was thought reasonable to have a development team all committed to the project.

MAYOR WOOD is very concerned about the high density aspect of affordable housing. He would like it restricted to perhaps 100 units on the property, with the rest being commercial use.

MR. MANLEY stated staff would promote as many units as possible, since the City is under requirements to provide as many affordable units as possible per State-mandated requirements. The City is to provide capacity up to 2,400 units by 2010, but realistically we probably only have the capacity to build 600-700 units based on resources and available land.

MAYOR WOOD reported that he is getting feedback from the neighborhood, and he understands they are forming an association because of this project.

MARGERY PIERCE, Neighborhood Services Director, stated they have not received any feedback from the neighborhood. They hope to create a development that will provide enhancements to the existing neighborhood. Regarding the concentration issue, the families living in a development like this would be the working families that make between \$30,000-45,000 per year. She does not think the concentration with working families like that would be problematic up to the 200 units. They are conscience of Council's concern about over concentration in one area, but staff does not feel the impact of up to 200 units would create any problems so long as they have the proper development team in tact and have the quality and long-term management of the property. That has been their experience with all the affordable housing projects in Oceanside.

MAYOR WOOD further reiterated his concerns. He asked Mr. Seymour for his input based on his past and present experience with affordable projects.

JOHN SEYMOUR, with National Community Renaissance [developing the La Mision project], responded that if you have the right development team in place and the right property management, you can handle that. They have never been involved in a project, nor has probably any developer, that they have ever come away with a density that they asked for. He envisioned that at the end of it all, you would not see 200 units there nor

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25 units per acre but probably less density. When it says up to 200 units, let it fly and see where it goes. They would not propose 200 units if they decided to submit. They would propose somewhere around 80-125 units, etc. He thinks the \$500,000 is a fair deposit; it is large. However, it is 14.7 acres, and \$100 million is a large project.

MS. PIERCE also advised that the reason for the up-to-200 units is because this project would be eligible for tax credits, and the State maxes out at 200 units for that.

MAYOR WOOD asked Chair Parker of the Housing Commission for input since he has missed a couple of their meetings and has concerns.

KAY PARKER, Chair, Housing Commission, stated \$½ million is more than they have ever asked for. On the 200 units, in the task force and the Housing Element, they have been sensitive to the concentration issue. We know we have to work with the surrounding neighborhoods, and she is happy to hear that the 200 units most likely will be less.

MAYOR WOOD wants quality, not quantity. Again he is concerned with high density of 200 units added to the 80 across the street. He does not want all affordable in this area.

INTERIM CITY MANAGER WEISS wanted to remind Council that the RFQ is only to select a development team. It is not to approve a development at this time. The community and the Council will have multiple opportunities to review an actual development proposal and be able to make recommendations, provide input, etc.

MAYOR WOOD reiterated his concerns.

COUNCILMEMBER SANCHEZ reviewed items in the RFQ including dates set for questions by May 19, community input, etc., and heard the discussion that it is up to 200 and will probably end up below that. She is comfortable with that. Seeking out a relationship with the neighborhood will be important with the vision. She knows several non-profits have been looking for sites so there may be interest in this project. She wants to make sure there are play areas incorporated into the project for kids and family.

She **moved** approval, with the understanding that there will be meetings with the community.

DEPUTY MAYOR CHAVEZ seconded the motion. In the staff report it talks about a joint venture with several development entities to complete a high-quality mixed-use affordable housing development. It is exciting with the new hotels in the redevelopment area, etc., but some will work in those hotels and provide the services of changing linen and working in the kitchens and all the other things that are at a lower price point. As a vibrant City we need to recognize that, and it is important to provide that housing. He is excited about this project on Mission Avenue in a transportation corridor. In the RFQ, item 7 talks about community input and outreach, etc.

COUNCILMEMBER FELLER asked if, when advance written questions from vendors come in, those would be answered by the City and dispersed to every vendor.

MR. MANLEY responded that is correct. The questions will be more heavily weighted on the financial capacity of the developers. DRA [David Paul Rosen and Assoc's] is our underwriter who will field those questions and respond to all developers on the list.

In response to Councilmember Feller, Mr. Manley stated the Old Grove project had 56 units.

COUNCILMEMBER FELLER asked what, beyond the land, is the City's contribution.

MR. MANLEY stated there could be other housing sources that go in for gap financing; there is the in-lieu fee set aside funds; and there is the ability to bond.

MS. PIERCE further responded that the City will not know the money involved until there is a proposal, and they would then determine what the gap is. There is much financial analysis needed to determine what type of income would be derived from the commercial piece, etc. The City purchased the property using housing funds with the intent of doing an affordable housing project. However, there would have to be a reimbursement to the City based on the commercial piece, or if a nonprofit went in, because the money used for the purchase would not be eligible to support those other uses. We need the completed financial analysis before knowing the subsidy the City will be asked to contribute.

COUNCILMEMBER KERN stated this is only a RFQ. We are way too early in the process to talk about the commercial, number of units, etc., until we have a team in place. The team that is chosen will have to coordinate all the meetings, details, etc.

Motion was **approved 5-0**.

After 10:00 PM issue – Policy 100-38 - regarding no items to commence after 10:00 p.m.

DEPUTY MAYOR CHAVEZ stated it is now after 10:00 PM, and this is the third time in a row. Unless there is anything critical, he would recommend securing the meeting and pushing the remaining items to a later date. At the next meeting he would bring an item to look at the time we start these meetings, because this is becoming a trend. He **moved** to secure [end] the meeting at this time.

MAYOR WOOD **seconded** the motion.

COUNCILMEMBER SANCHEZ would like to go forward with the rest of the meeting. People are here waiting for some items.

COUNCILMEMBER FELLER stated the meeting has gone on for 5 hours now, and we still have 5 items left.

MAYOR WOOD agrees; it is multiple times we have gone this late. This morning he got up at 5:00 AM to go to an early meeting, and it is turning into a 18-hour day. It is difficult. If we and the public are going to talk this much, perhaps we need to go back to 4 meetings a month and not have to go late. We either need to review with the City Manager how many items go on the agenda, or Council may have to limit their conversation and get the work done.

COUNCILMEMBER KERN stated the one item that is crucial is Item 17. We have to get the San Diego County Water Authority (SDCWA) nailed down. We will have representation at the next SDCWA Board, but it will be the Mayor of Carlsbad who has our proxy. Our citizens might not want Carlsbad representing them on a regional board.

DEPUTY MAYOR CHAVEZ is willing to hear Item 17 and then call it a night.

MAYOR WOOD advised that if we are going to do Item 17, then we will do all the items, including Item 15 which may take awhile.

DEPUTY MAYOR CHAVEZ **amended his motion** to only do Item 17 and call it a night.

MAYOR WOOD, as the **second**, would not agree to the amendment.

COUNCILMEMBER KERN **seconded** the motion. Motion was **approved 4-1**, with Mayor Wood voting no.

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MAYOR WOOD wanted the City Attorney to verify that this is his meeting to run.

MR. MULLEN responded yes it is, but there was just a vote on the motion, and the motion was in order.

17. Request by Mayor Wood to appoint a City representative to the Board of Directors of the San Diego County Water Authority

MAYOR WOOD continued this item to the next Council meeting.

DEPUTY MAYOR CHAVEZ called a point of clarification since the Council voted to hear item 17 and make a decision.

MAYOR WOOD advised that he had no name to bring forward at this time.

As a result of the above action, the following items were not heard:

14. [City Council: Approval of purchase orders and purchase order increases in a total amount not to exceed \$643,550 to various vendors for the purchase of 18 new vehicles and 2 used vehicles for various City Departments; approval of budget transfers in a total amount not to exceed \$162,988 to fund the purchases and in-house build costs; authorization for the Financial Services Director, or designee, to execute the purchase orders; and approval to adjust the interfund charges as necessary]

Addendum

- 15a. [City Council: Presentation of the Quiet Zone Conceptual Design, and direction to staff *(continued from April 11, 2007)*]
16. [Request by Deputy Mayor Chavez for update and discussion regarding the City's presentation and program for the Leadership Summit group at the Mayor/Council Workshop being held on April 28 at MiraCosta College]
20. [Mayor Jim Wood]
21. [Deputy Mayor Rocky Chavez]
22. [Councilmember Jack Feller]
23. [Councilmember Jerome M. Kern]
24. [Councilmember Esther Sanchez]

ADJOURNMENT

MAYOR WOOD adjourned this meeting to Saturday, April 28, 2007 at 10:00 AM for a Mayor/Council workshop at MiraCosta College Cafeteria. This joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor Board of Directors was adjourned at 10:14 PM, April 18, 2007.

ACCEPTED BY COUNCIL/HDB/CDC:

Barbara Riegel Wayne, CMC
City Clerk, City of Oceanside