



CITY OF OCEANSIDE

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

JANUARY 5, 2005

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
Vacant

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

Treasurer
Rosemary Jones

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

**Interim City Attorney
HDB General Counsel
CDC General Counsel**
Pam Walls

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

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, January 5, 2005.

ROLL CALL

Present were Mayor Wood, Deputy Mayor Chavez, Councilmember Feller and Councilmember Sanchez. Also present were City Clerk Wayne, City Manager Jepsen, Interim City Attorney Walls, City Clerk Wayne and Assistant City Clerk Trobaugh.

COUNCIL, HDB AND CDC CLOSED SESSION ITEMS

INTERIM CITY ATTORNEY WALLS titled the following agendized items to be heard in Closed Session: 1A, 3A, 3B and 3C, [Item 2.A]1 was continued to January 19, 2005].



January 5, 2005

Joint Meeting Minutes
Council, HDB and CDC

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

- A) 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) and Unrepresented]

Closed session on this item was cancelled.

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

- A) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

1. Riverwatch et al. v. County of San Diego et al., Superior Court Case No. GIN038227]

Continued to the January 19, 2005, meeting [not discussed].

3. **CONFERENCE WITH REAL ESTATE NEGOTIATOR ON TRANSACTIONS PREVIOUSLY AUTHORIZED IN OPEN SESSION (SECTION 54956.8)**

- A) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: Yucca Road Surplus Property, APN 165-020-10; Negotiating Parties: City of Oceanside and various individuals and entities responding to a Request for Proposal; Negotiator for the City: Douglas E. Eddow, Real Property Manager; Under Negotiations: Price and Terms

Discussion was held and direction was given to staff.

- B) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: Marina Towers, 1200 N. Harbor Drive (APN 760-080-23); Negotiating Parties: City of Oceanside and Oceanside Marina Towers Association; Negotiator for the City: Douglas E. Eddow, Real Property Manager; Under Negotiations: Price and Terms

Discussion was held and direction was given to staff.

- C) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: 3210 Mission Avenue; Negotiating parties: City of Oceanside and Philip W. and Barbara A. Weingart; Negotiator for the City: William F. Marquis, Senior Property Agent; under negotiation: Terms and Price

Discussion was held and direction was given to staff.

[Closed Session and recess were held from 4:02 PM to 5:08 PM]

5:00 PM – ROLL CALL

Mayor Wood reconvened the meeting at 5:08 PM. Present were Mayor Wood, Deputy Mayor Chavez and Councilmembers Feller and Sanchez. Also present were City Clerk Wayne, City Treasurer Jones, City Manager Jepsen, City Clerk Wayne, Assistant City Clerk Trobaugh and Interim City Attorney Walls.

INVOCATION – Pastor Carl Souza

PLEDGE OF ALLEGIANCE - D.J. Tubbs, Alamosa student

PROCLAMATIONS AND PRESENTATIONS – None

CLOSED SESSION REPORT

4. Closed Session report by City Attorney

INTERIM CITY ATTORNEY WALLS gave the report on items previously discussed in closed session: See Items 1A, 3A, 3B and 3C above. [Item 2.A)1 was continued to January 19, 2005]

Changes to the Agenda

CITY CLERK WAYNE reported that public hearing Item 17 has been removed from the agenda as the application has been withdrawn.

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

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

Advance written request to reserve time to speak: None

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

JIMMY KNOTT, 124 Sherri Lane, thanked staff for helping in the community in areas such as Vista Way, Lake Boulevard and College Boulevard. There are also other areas of concern. He would like NCTD to institute a bus route along the College Boulevard corridor.

Even though staff has done an excellent job on Vista Way, there are a few issues that need to be looked at. We are encountering more potholes around the community, improperly recessed manhole covers and bottlenecks that could potentially occur with the improvements.

The City needs to look at the tsunami impacts in Oceanside if something like what occurred in Indonesia takes place here. He asked if the City is prepared. He asked that staff study this and come back to Council with a report on the potential impacts.

MALINDA ENGERER, 2910 Jefferson Street, #203, Carlsbad, invited everyone to the Cardiovascular Disease Foundation's Second Annual 5K Run/Walk for Life Health Fair on Sunday, February 27th at McGee Park from 8:00 AM to 2:00 PM.

KEN LEIGHTON, 1109 South Nevada Street, commented on statements by Deputy Mayor Chavez that suggested the new Mayor did not show leadership because he presided at a meeting where he allowed the public to speak. The Mayor or anyone else should not and cannot suppress our right to speak. He and most of the others who spoke were not taking personal jabs at Deputy Mayor Chavez but rather his propensity to dole out general budget funds for worthless causes.

Deputy Mayor Chavez wanted to appoint people to the vacant Council seat, some of whom most residents have never heard of. These are not people who have been vetted by the electoral process or who have been dissected by the media. He continues to fritter away \$330,000 on an election for an 18-month term. Further views were expressed.

DEPUTY MAYOR CHAVEZ called for a point of order. Oceanside Municipal Code Section 2.1.27 addresses the opportunity for the public to address the Council on non-agenda items, or better known as oral communications. Paragraph D says all remarks shall be addressed to the Council as a whole and not to any member thereof.

The presiding officer shall not permit any communication, oral or written, to be made or read while it does not bear on a matter of city business which is within the subject matter of the City Council.

The point of order to Mayor Wood, as the Presiding Officer, is that actions that were just exhibited should not be allowed according to the Oceanside Municipal Code.

MAYOR WOOD will take that information under consideration. Other areas in North County have addressed similar concerns, such as the Vista Unified School District. They were challenged by the American Civil Liberties Union (ACLU) and lost, regarding the ability of the public to address issues or the Council. It is a thin gray line. It is tough. He asked if the City Attorney would like to comment.

PAM WALLS, Interim City Attorney, added that in terms of regulating the speech that occurs in the Council Chambers, the Council Chambers is a limited public forum. Council can regulate the length of time and the conduct and particularly speech that disrupts or delays the proceedings. There is a case that seems to suggest that Council could regulate some speech, but it cannot be based on content and Council cannot prohibit speech that they might disagree with. As a matter of professionalism, the speech should relate to the entire Council, to matters before Council and within Council's jurisdiction. Council can regulate in terms of when the oral communications occur and conduct, but cannot discriminate based upon the viewpoint of the speaker.

The current Municipal Code has provisions under Chapter 2 which direct the speaker to address the Council as a whole and not just a particular Councilmember. She does not see that as regulating speech, the contents of the speech and the viewpoint of the speech. There are also provisions in the Code asking that after a speaker has concluded their presentation, there should not be raucous conduct, clapping, applause or yelling. That is within the parameters of what the City can do.

MAYOR WOOD said there has always been a lot of feedback in Oceanside. There is a fine line regarding free speech, and he tries to address it the best he can. If someone is stifled, some of the press will certainly address the issue of freedom of speech.

It is reasonable to tell everybody ahead of time, during Council meetings and even afterwards that respect is important. He agrees that speakers should be addressing the Council as a whole. People are not being threatening or using foul language, so it is difficult to stop some of this. Respect is a 2 way street and we should have it. Nobody on the dais wants to hear anything negative, but this is the public's opportunity to address their representatives and tell them what they think about issues or concerns. Council generally doesn't hear from people unless they're mad, and that's understandable.

The City Attorney has laid the ground rules. Trying to stop speakers sometimes instigates a bigger problem. He does not want to have people not want to show up at the Council meetings. He wants their input; that's what Council is here to hear. None of the Councilmembers like to be battered. We went through a lot to get these positions. He asked speakers to try to make their statements to the Council as a whole.

Over the 30 years that he has served the City as a police officer, almost every Council in the past has had a similar problem and has tried to address this. It is hard because if Council tries to do something, it looks like we are trying to stifle the speaker's freedom of speech and their ability to approach an open forum of representatives. However, respect is important.

COUNCILMEMBER SANCHEZ wanted to underline our First Amendment Constitutional right to freedom of speech, which includes freedom of religion, freedom of the press and freedom to petition government on grievances. People are free to bring their grievances to City Hall.

When the Mayor and the rules say address concerns to the entire Council, it does not mean that you cannot refer to an action that a Councilmember has taken. If someone states an incorrect fact, then Councilmembers can ask for a point of personal privilege and correct the record.

DEPUTY MAYOR CHAVEZ wants to be very clear that he is not for censuring anybody. He served his country for 27 years to allow people to enjoy the rights of the United States. He appreciates the Mayor, as presiding officer, recognizing that he sets the tone for these meetings and that we want a more dignified meeting that is reflective of the City. Remarks should be addressed to Council as a whole because we are doing the business of the City. He would expect some level of decorum here at City Hall because we are reflecting the City; we need to have a sense of maturity and responsibility. That was his only point. Since the issue was in the Municipal Code section talking about how Council is to conduct oral communications, he felt it was important to bring it up. He thanked the Mayor for agreeing to strive for a higher level of decorum at the Council meetings.

MAYOR WOOD will continue to try to express his concerns before oral communications, and that respect is important.

ROB HOWARD, 4907 Composition Court, representing the NAACP, announced that on Saturday, January 15th at 4:00 PM they will be celebrating Dr. Martin Luther King's birthday at El Camino High School.

On Monday, January 17th, at Neiman's Restaurant in Carlsbad, we will be having a community breakfast to acknowledge some individuals.

CONSENT CALENDAR ITEMS [ITEMS 6-16]

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 items were submitted for approval:

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

February 6, 2002, 2:00 p.m., Regular Meeting
November 20, 2002, 6:00 p.m., Regular Meeting
7. City Council/Harbor/CDC: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)
8. City Council: Approval of a purchase order [**Document No. 05-D0003-1**] in the amount of \$64,800 for the purchase of 0.48 acres in the Pilgrim Creek Mitigation Bank for the Douglas Bridge and Coast Highway Seismic Retrofit projects, and authorization for the Financial Services Director, or designee, to execute the purchase order
9. City Council: Approval of Amendment 1 [**Document No. 05-D0004-1**] to the property use agreement with Tower Optical Company, Inc., of South Norwalk, Connecticut, for six coin-operated binocular machines at the Oceanside Municipal Pier, extending the term of the agreement through December 31, 2005, for revenue of approximately \$5,000, and authorization for the City Manager to execute the amendment
10. City Council: Approval of Amendment 3 to the lease agreement [**Document No. 05-D0005-1**] with the Assembly Rules Committee, California Legislature, for an office at

302 North Coast Highway for Assemblymember Mimi Walters, extending the term of the lease through December 31, 2006, for a total revenue of \$4,224; and authorization for the City Manager to execute the amendment

11. City Council: Approval of an encroachment permit agreement [**Document No. 05-D0006-1**] with Sprint Telephony PCS Assets, L.P., dba Sprint PCS, authorizing encroachment on a portion of the public rights-of-way at 1628½ Old Grove Road solely for wireless telecommunications purposes; and authorization for the City Manager to execute the agreement
12. City Council: Approval of a professional services agreement [**Document No. 05-D0007-1**] with Infrastructure Engineering Corp. of Oceanside in the amount of \$64,850 for the design of the Mission Avenue Widening West of Rancho del Oro Drive project, and authorization for the City Manager to execute the agreement
13. City Council: Acceptance of Treasurer's Report for the quarter ended September 30, 2004
14. City Council: Adoption of **Resolution No. 05-R0008-1** "...authorizing application to the California Integrated Waste Management Board for grant funds under the SB 1346 Rubberized Asphalt Concrete Grant Program", for \$7,750 to be used for tire-modified asphalt concrete in street restoration projects
15. City Council: Adoption of **Resolution No. 05-R0009-1**, "...establishing all-way stop (Havenwood Drive and Boulder Creek Road)"
16. City Council: Adoption of **Resolution No. 05-R0010-1**, "...approving the Final Map of Harbor View" Condominium Project located at the eastern terminus of Neptune Way and authorization for the City Clerk to record the Final Map with the San Diego County Recorder [220 units on 16.1 acres]

COUNCILMEMBER SANCHEZ moved approval of the Consent Calendar (as submitted).

DEPUTY MAYOR CHAVEZ seconded the motion.

Motion was approved 4-0.

The Mayor determined to hear Item 19 at this time.

GENERAL ITEMS

19. **City Council: Approval of the Parks and Recreation Commission FY 2004-05 Workplan**

ANA ALVAREZ, Parks and Recreation Director, introduced the Parks & Recreation Commission Chair to review the annual Workplan for the Parks and Recreation Commission.

MAUREEN GANIEL, Parks and Recreation Commission Chair, reviewed the staff report and presented the annual Workplan for the Parks and Recreation Commission. This year new members were added to the roster. We currently have 9 voting members and one alternate.

Many subcommittees are active on the Parks and Recreation Commission outside of the regular meetings. We currently have one standing committee that meets regularly, and that is the Golf Committee. We have 4 ad-hoc committees: the Parks and Recreation Community Foundation Committee, the Parks and Recreation Master Plan Committee, the Skate Parks Committee and the By-Laws Committee. Commissioners have been appointed to serve on 2 additional Council-sponsored Committees: the 2nd

Senior Center Committee and the General Plan Committee.

She reviewed the general plans and objectives for this year:

1. Inform citizens of projects under consideration
2. Promote public comment on Parks and Recreation projects and services
3. Encourage volunteer efforts when specific outreach efforts are scheduled
4. Advocate citizen involvement in civic issues
5. Conduct neighborhood outreach to residents when a park project is being sited
6. Advocate and seek revenue generation opportunities to support City Parks and Recreation services; more specifically, encourage the allocation of revenue generated on parkland be dedicated to support City parks and programs

The specific goals and objectives are as follows:

Parks and Recreation Community Foundation: review current recreational programs and special events that require alternative funding opportunities and explore opportunities for a signature event.

Parks and Recreation Master Plan: continue to participate and assist City staff in the process to update the City's Parks and Recreation Master Plan and incorporate the City's recreation trails element as part of the Master Plan

Naming of River Park: ensure a public process to name the anticipated new City park located on City property commonly known as the Murray Bridge property through the implementation of the City Council policy for naming and dedicating City facilities

Naming of Second Senior Center (Adult Community Center): ensure a public process to name the anticipated new second senior center located on City property commonly known as El Corazon through the implementation of the City Council policy for naming and dedicating City facilities

Off-Leash Areas: we are working in partnership with the North County Humane Society to develop an off-leash area where residents can recreate with their dogs and also continue to participate in the oversight and evaluation of these areas to ensure a successful encounter for the dog owner, as well as those in the adjacent neighborhood

Skate Parks: continue our efforts to identify viable locations for the relocation of the temporary skate park currently located at Rotary Park downtown, continue to collaborate with the Youth Commission, evaluating future opportunities for a corporate sponsored skate plaza, and continue the planning process for a permanent skate and BMX facility

Municipal Golf Course: continue to participate in the review of the implementation of the City's contract with American Golf for the operation and management of the City's Municipal Golf Course, develop an Annual Capital Improvements Program and develop a Master Golf Course Plan that involves the participation of the American Golf management team, residents and user groups

Sunshine Brooks Theatre: participate in the bi-annual review of the implementation of the City's contract with an independent contractor for the operation and management of the City's Sunshine Brooks Theatre and develop and review an annual calendar that assures community access to the facility

Park Development: continue to gather community input and interest regarding park development, and in collaboration with the Arts Commission, review the

artistic elements proposed at any of the City parks.

Recreation Facility Development: strive to formulate recommendations for Council's consideration with regard to capital improvement projects throughout the City

COUNCILMEMBER SANCHEZ moved approval [of the Parks and Recreation Commission's FY 2004-2005 Workplan].

COUNCILMEMBER FELLER had asked the City Manager to contact the School District regarding the artificial turf and track for the 2 high schools. The School District seems receptive. With the City and the School District using it, it is an exciting prospect for the whole community. It could be a great collaborative use there.

CHAIR GANIEL and the other Commissioners received in the mail last week a whole package on artificial turf so we can educate ourselves.

COUNCILMEMBER FELLER seconded the motion.

Motion was approved 4-0.

20. **City Council: Approval of the Police and Fire Commission FY 2004-05 Workplan**

ROBERT OSBY, Fire Chief, introduced the Commission Chair and said that pursuant to the Police and Fire Commission By-Laws, a Workplan has been created for Council review and approval.

LAWSON CHADWICK, Police and Fire Commission Chair, thanked Councilmember Feller for being the liaison.

BILL HARMS, Police and Fire Commission Vice-Chair, was appointed by the previous Chair to create the Workplan. The goals and objectives in this Workplan are substantially the same as what we've had for the last 2 years. They will assist the Commission in meeting its responsibilities to advise Council on public safety policy matters, mobilize the community to participate in developing solutions to public safety issues and to conduct studies and make recommendations regarding public safety matters.

The Commission is proposing six goals and objectives for Council's approval:

1. Improve communications between the Commission and the community. To accomplish this we will establish a Public Relations Committee comprised of not more than 4 commissioners, plus other volunteers who are experienced in the areas of visual and print media. The Committee will develop and oversee dissemination of information about the Commission and its activities to promote public safety in Oceanside.
2. Review, evaluate and make recommendations concerning crime and fire prevention programs, as well as public safety education. To reach this goal, we will establish a Prevention and Education Programs Committee to contact government and private organizations and gather information about programs that are or may be available to Oceanside residents and businesses. Their inquiry will include all levels of government such as the US Postal Service, the State Department of Consumer Affairs, the County's Office of Violence Prevention and the new Oceanside Ten Point Program. The Committee will compile and disseminate a report to Council, the Commission and the community on all of these programs, their availability and benefits.

3. Monitor public's perception of public safety issues. This will be accomplished through a Public Safety Evaluation Committee, which will coordinate efforts with the Police and Fire Departments in conducting surveys of residents and businesses. The results and comparative analyses will be presented to Council and the Commission.
4. Encourage public participation in the City's decision-making process through the Commission. To carry out this goal, a Public Safety Forum Committee will initiate and promote a forum for public commentary and ideas. The forum will be conducted at the Commission's monthly meetings. The public's input will be compiled along with the appropriate follow-ups and recommendations and forwarded to Council for consideration.
5. Implement a program to recognize individuals who have made a notable contribution to the safety or security of others in our community. A Recognition Program Committee will be established to develop qualifications for receiving a Commission award and will arrange for publicity and presentations to be conducted at Commission meetings. The Committee will review submissions for the award from all credible sources in our community.
6. Develop a Management Summary Report combining pertinent statistics and activities of the Police and Fire Departments for presentation at Commission meetings. Currently we receive one detailed monthly report from the Police Department only. What we propose is retaining this report for in-depth analysis and initiate another in an easily understood format that presents an overview of both departments' operations, staffing levels and special programs, such as workplace diversity.

COUNCILMEMBER SANCHEZ noticed that these are some of the things that were suggested within the last couple of years. She had major problems with those suggestions. She appreciates the spirit of volunteerism; however, she is not interested in establishing an activist committee. There are several things here that are different from other commissions. The suggestion is not to just make recommendations to the Council for action. The suggestions here are for this Committee to actually do things. In light of the last 2 years, where sometimes this particular Commission has taken positions against the Council, she does not feel comfortable with that at all.

She suggested that Council take this to a workshop so that we can go through these bit by bit. For example, establishing a community relations standing committee when the City already has a Community Relations Commission (CRC) would be duplicating efforts. There are some other things in the Workplan that would require funding. The other commissions have been very good about trying not to require funding. She would like to see more of a working relationship with the Council as well as the Police and Fire Departments and this Commission.

MAYOR WOOD agreed with Councilmember Sanchez. He recommended getting some clarification on this. He will request a workshop on some of these issues.

CITY MANAGER JEPSEN said staff would schedule a workshop in the near future.

COUNCILMEMBER SANCHEZ moved that this agenda item be scheduled for a Council Workshop.

MAYOR WOOD seconded the motion.

Motion was approved 4-0.

21. **City Council: Approval of a management and operation agreement with New Vision Theatre Company for the use of the Sunshine Brooks Theatre; approval to expend \$95,000 to renovate and upgrade the theater; adoption of a budget resolution transferring \$95,000 from the General Fund Capital Reserve to a newly created Sunshine Brooks Theater Improvement account for the improvements; and authorization for the City Manager to execute the agreement**

PETER WEISS, Public Works Director, gave an overview of what we are doing at the Sunshine Brooks Theater. The City has an asset that is positioned to move forward and start bringing some unique opportunities to Oceanside in the downtown area. Before we bring those opportunities in, we have to do minor improvements within the theater, and that's what the budget resolution is for. Those improvements are going to include putting in new curtains that will convert what is now a platform into a stage, which is a Building/Fire Code issue. We will be putting some sprinklers in, modifying some exit doors and doing some additional work that will prepare the theater to house some premier productions as we move forward.

In the future, we are looking at additional planning and design work. As the museum expands and the art school, which is next to the Sunshine Brooks Theater now, moves into what will be the new museum, we will be looking at some opportunities to modify the theater to expand it, add some additional restrooms and make that theater one of the premier theaters in North County. He requested Council's approval.

MEGAN BRADY, Parks and Recreation Department Program Specialist, presented the background and introduction to the New Vision Theatre Company, which is a newly formed 501(C)(3) and is a non-equity theater company, meaning that they will be working with volunteer actors through their stage productions. The President of the non-profit is John Kalb, who has 25 years experience in general business and 5 years experience in theater management with the Southern Orange County Community Theater Group and the El Camino Playhouse in San Juan Capistrano. Yolanda Kalb is the Secretary/Treasurer with extensive experience in management of stage design, including props and costumes.

The New Vision Theatre Company will have annual goals and objectives through the 5-year term of this contract. The annual work objectives will be reviewed with the Parks and Recreation Commission on a bi-annual basis. This will be similar to what the Commission does with American Golf on their Standing Golf Committee. It is a practice that the Commission is used to, and they will be working with the theater company.

Some of the exciting things that they will bring to Oceanside are an opening event, playwriting contests, a series of productions, comedies and adult and child workshops. They will also accommodate local theater user groups such as the school district, other local non-profit groups and other organizations that just like to use the theater on a one-time basis for recitals, etc., as well as working with the Friends of the Library for the concert series. Those are some of the things that are highlighted.

John and Yolanda Kalb are very excited to come and be a part of the community. They want to establish themselves here as the theater company in Sunshine Brooks Theater, working along with the Star Theater and other arts organizations within the community in helping establish an art district downtown.

COUNCILMEMBER SANCHEZ recalled that the City first put out the Request for Proposals (RFP) in July of 2003, and the City was quite excited about the Grove Theater Group because they had an instant show that they could rotate through. The really exciting thing that she felt through attending some of the presentations is that they were going to be flexible enough to provide this community input or access to the theater. She wanted to be sure that the contract would be flexible. This group was apparently second in the bids, and she hopes they appreciate the variety of culture that Oceanside has and the variety of interest in terms of ages, etc. She asked if there is

that kind of flexibility.

MS. BRADY replied there is that type of flexibility within the contract. As she has explained to the New Vision Theatre Company, this is a working relationship with the City in that we can work together as needs change or new things come up. We can't always predict everything, but as things come up we will have that flexibility in working out the best maximum use of the theater for the community.

COUNCILMEMBER SANCHEZ asked if there would be a working relationship with the Arts Commission as well.

MS. BRADY replied that the Arts Commission is looking at their Workplan currently. It's not in the goals and objectives to report bi-annually to the Arts Commission but, yes, there will be a working relationship there. The review of the goals and regulations will reside under the Parks and Recreation Commission.

COUNCILMEMBER SANCHEZ wondered if it should be a joint committee made up of members from both the Parks and Recreation Commission and Arts Commission since the Arts Commission has been talking about the performing arts as well as the typical artists; drawings, sculptures, etc.

ANA ALVAREZ, Parks & Recreation Director, responded that is an excellent suggestion, and staff would be happy to make sure that it happens. The Arts Commission is very interested in the activities that take place at the Sunshine Brooks Theater. The Parks and Recreation Commission is always very open to having joint efforts with the other commissions.

DEPUTY MAYOR CHAVEZ said in looking at the list for the \$95,000 that will be needed for improvements, the back of the stage is supposed to be Americans with Disabilities Act (ADA) capable to allow access to someone in a wheelchair to be able to get up on the stage. He asked if that lift had been fixed yet.

MS. ALVAREZ said the ADA improvements, in particular the lift chair, is a component of the Community Development Block Grant (CDBG) allocation, and that is part of a Capital Improvements Program that is going to come forward relatively soon.

DEPUTY MAYOR CHAVEZ asked if by the time this theater ready to go, it will have met the ADA requirements.

DIRECTOR ALVAREZ replied yes.

DEPUTY MAYOR CHAVEZ said we need to make sure that this theater meets the needs of everyone and he wanted to make sure we had the money there for it.

COUNCILMEMBER FELLER asked if this is \$95,000 that the City is going to spend before the New Vision Theatre Company takes over. He doesn't want them to not be ready, and we spend the money.

DIRECTOR WEISS anticipates having these improvements done within the next 90 days.

COUNCILMEMBER FELLER said it looked like their productions would start quickly. He asked if that is the case.

MS. BRADY responded the New Vision Theatre Company is ready to perform in the theater. It does take time to get the first performance up and going, with rehearsals, etc. They will be in the process of doing that while we are underway in making the improvements. We do have a commencement date of July of 2005, and that is a conservative estimate on staff's behalf. We are in constant communication with New Vision Theatre Company, and they will be ready to go when we open up the

theater. The contract does also offer them, once all of the improvements are made, a few weeks to come in and get settled and ready for an opening evening. So, they will be ready right along with the improvements.

Public input

BRADLEY HAYWOOD, P.O. Box 1151, has some concerns about this idea. He doesn't believe that this building was left to the City. The newspaper says it was donated to the City. He is concerned about spending \$95,000 to get somebody to move into a building that is less than a block down the street from where the City already has one. If this Theatre Company wants to use this building, they should be the ones to fork out the money they need. If the City owns it, the City's only requirement would be that it is ADA and fire safety approved. Any other improvements like draperies and anything else would be the Theatre's problem and part of the lease. The idea of them only giving 1% of their proceeds back to the City is not a whole lot of anything. That should be raised so the City gets a minimum of 10%. As time goes by, the building will need a new roof, and that new roof may cost \$10,000 now, but 5-years from now it could cost \$80,000; 1% will not cover it.

CITY MANAGER JEPSEN clarified that the City has had the Sunshine Brooks Theater for several years. The City has invested a tremendous amount of money in upgrading. What was originally a \$350,000 gift from Ms. Hattie Brooks, the City has put almost \$1,000,000 into that facility to date. We are very close to having the facility at a point where we can meet all of the Code requirements to conduct performances there. Whether it is this theater company or any other theater company, it is important that Council move forward with those Capital Improvements.

The speaker did raise an interesting point with regard to the City's participation in the arts and the 1% for Capital Improvements. We have an agreement with the Museum of Art that does not require any participation for Capital Improvements. As a matter of fact, the City is responsible for the maintenance of the exterior and the mechanical systems on that building. Part of that was the trade-off that we made for having that type of art in this community.

Our intent in getting into this, in talking with Ms. Ann Schultz of Star Productions of the Star Theater, was not to compete with them but to collaborate with them. It takes as long as 90 days to get a production put together. During that time they are building sets, rehearsing, putting costumes together, etc. There is a lot of work that goes into this. The theater at the Star is quite a bit bigger than the Sunshine Brooks Theater and will be playing to different audiences. The Star Theater has a focus on children, although they do have other events there. They also have 600 seats at the Star Theater, where the Sunshine Brooks Theater has 200 seats. They are different sized venues and will cater to different types of entertainment. Staff sees them as complimentary and adding to the fun and excitement of the downtown area and the residents of Oceanside. He encouraged Council to give consideration for approval to this contract.

COUNCILMEMBER SANCHEZ has had the opportunity to attend some events there and it has been fun to watch this and also feel that we made this happen for Oceanside to provide these types of places for families and individuals. This is a great opportunity that Council has. She has known this as a historic kind of a site since she was a kid, and what it is doing now makes her that much prouder.

She **moved** approval [of staff's recommendation to approve a Management and Operation Agreement (**Document No. 05-D0012-1**) with New Vision Theatre Company for the use of the Sunshine Brooks Theatre as a community theater; approve the expenditure of \$95,000 for renovations and upgrades to the theater; and adopt **Resolution No. 05-R0013-1** "...amending the budget for the 2004-2006 Fiscal Years].

COUNCILMEMBER FELLER said when he lines up in front of this place and is

waiting to go, people are lining up and there is excitement in the street. It will be a great asset once they get rolling. He **seconded** the motion.

Motion was approved 4-0.

The Mayor determined to hear Item 18 at this time.

6:00 PM - PUBLIC HEARING ITEMS

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

- [17. **City Council: Approval of a five-year franchise agreement with Samber, Inc. dba Coach Cab Company, in a total revenue amount of up to \$14,500 for taxicab services in Oceanside, and authorization for the City Manager to execute the agreement (continued from December 15, 2004)]**

Removed from the agenda due to the application being withdrawn.

18. **CDC: Consideration of a resolution approving Tentative Parcel Map (P-202-03), Development Plan (D-202-03), Conditional Use Permit (C-203-03), Variation (V-200-04) and Regular Coastal Permit (RC-206-03) for a duplex located at the southeast corner of North Tremont Street and Surfrider Way; the project site is located within Subdistrict 9 of the "D" Downtown District and is situated within the Townsite Neighborhood and the Coastal Zone – North Tremont Condominiums – Applicant: Bob Morris**

- A) Chairperson opens public hearing – hearing was opened.
- B) Chairperson requests disclosure of Councilmember and constituents contacts and correspondence – Deputy Mayor Chavez and Councilmember Feller reported contact with staff. Mayor Wood and Councilmember Sanchez reported no contact.
- C) Secretary presents correspondence and/or petitions – none.
- D) Testimony, beginning with:

RITA BAKER, Senior Planner, stated the project site is located at the corner of North Tremont and Surfrider Way. It is currently vacant except for a small shed that will be demolished. Computer slides showed several views of the site. The lot is approximately 5,000 square feet, and the overall height of the proposed building is 32 feet, which is 3 feet less than the maximum allowed of 35 feet. The 2 units are 2,967 square feet and 3,376 square feet in size. The building will be 2 stories high with a deck and study area and is considered a modern architectural California style. She showed views of the Surfrider Way site, the south side and the view from the alley which shows the 2 two-car garages where the vehicular access will come from.

The applicant is requesting a Conditional Use Permit (CUP) because the site is located in Subdistrict 9, which accommodates both commercial and residential. We believe that it can be supported. The majority of Subdistrict 9 has been in residential use and has been very successful. The applicant is also requesting a side yard setback reduction from 10 feet to 8 feet 6 inches because a very small corner at the alley is needed for the garage. Otherwise the applicant was prepared to put in a carport. We feel the garage is a much better use and look for the building.

The project was reviewed by the Design Review Committee and the Redevelopment Advisory Committee (RAC). They both recommended this project unanimously to Council.

COUNCILMEMBER FELLER noted that the back-up material Council has says approximately 5,000 square feet, and the printing on the maps is so small he can't read it. He asked staff what size the existing parcel is.

MS. BAKER replied that it was indicated to us that it's 5,000 square feet. We have in the past used the term approximately. That really has no bearing on a duplex project in terms of the ultimate size and density.

COUNCILMEMBER FELLER realized it does not have any bearing but Council has had issues where somebody wants 6 square feet less than the 2,500 square feet in these different applications.

COUNCILMEMBER SANCHEZ stated that the back-up says that the building height is 32 feet. She asked staff to show where the 32 feet are. Is it just the little towers that are going beyond that?

MS. BAKER pointed out the area on a computer graphic.

COUNCILMEMBER SANCHEZ asked if where the 2 highest towers are was 32 feet high.

MS. BAKER said that is the trellis and yes.

Applicant

ROBERT MORRIS, applicant, and his brother, who is his partner, got together and decided for our families' future, instead of trying to dump our money down the stock market, we would try something else. We were fortunate to run across Frank Montecito, who is our architect. We have gotten very nice compliments from the committees about his creativeness and the somewhat unique style. We are proud to present something like this to the City, as well as take care of our own families with the proceeds that we make from it. Hopefully, since this is our first project in the City, if we do well with this and have a good time, we will go ahead and continue with that. We are somewhat unique because we are kind of a boutique brotherhood and not one of the giant contractors.

Public Input

JOAN BROWN, 511 Rockledge Street, stated it is a very beautiful unit. When she found out they were brothers, she thought they were going to live in it. She was disappointed to find out that it was another investment because she would like to see people like them live in Oceanside instead of only investing in Oceanside.

MR. MORRIS replied that if we are lucky we will be able to sell to families like we represent.

GRAHAM FRASER owns the property across the street from the project. He supports this project. It is a very nice building and will be an asset to the neighborhood.

Public input concluded

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

COUNCILMEMBER SANCHEZ pointed out the variation has to do with requesting a reduction of a corner side-yard setback from 10 feet to 8 feet 6 inches. That is not much of a variation. She **moved** approval of staff's recommendations [and adoption of **Resolution No. 05-R0011-3** "...approving a Tentative Parcel Map (P-202-03), Development Plan (D-202-03), Conditional Use Permit (C-203-03), Variation (V-200-04), and Regular Coastal Permit (RC-206-03) for a duplex located at southeast corner of Surfriider Way and North Tremont Street – applicant: Bob Morris"].

COUNCILMEMBER FELLER seconded the motion.

Motion was approved 4-0.

The Mayor determined to hear Item 28 at this time.

INTRODUCTION AND ADOPTION OF ORDINANCES

The Council/HDB/CDC have adopted a policy that it is sufficient to read the title of ordinances at the time of introduction and adoption, and that full reading of ordinances may be waived. After the City Attorney has read the titles, the Council may introduce or adopt the ordinances below in a single vote. There will be no discussion of the items unless requested by members of the Council or the public.

AGENDA ADDENDUM

28. **Adoption of an interim urgency ordinance of the City Council of the City of Oceanside placing a moratorium on the conversion of any mobile home park currently existing in the City from a park occupied primarily or exclusively by residents over the age of 55 years (senior residents) to a mobile home park allowing residents of all ages**

MARGERY PIERCE, Director of Housing and Neighborhood Services, stated that staff recommended Council adopt an interim urgency ordinance for 45 days to place a moratorium on the conversion of any mobile home parks currently existing in the City that are occupied primarily or exclusively by residents over the age of 55 years from becoming a family or non-age restricted park. There are 19 mobile home parks in Oceanside. Currently, 11 of those parks have a designation of being for seniors only. Those parks represent about 65% of the 2,643 spaces of rental spaces in Oceanside or 1,718 spaces. Of those 1,718 spaces some of those may be occupied by families within an age-restricted park; it is allowed. Up to 20% of the residents could be families under the Federal Fair Housing Act.

This urgency measure would allow 45 days for staff to conduct a survey to determine what the impacts would be on affordable senior housing available in the City. Staff does not feel that 45 days will be adequate time to complete the study. It will take some time, and the urgency ordinance was not noticed as a public hearing. However, in order to extend the time beyond the 45 days, a public hearing will be required within the 45-day period. Therefore, it is staff's intention to bring this forward for an extension on February 2nd as a public hearing item, and the parties would be duly noticed.

The mobile home park spaces that are here for seniors do provide a significant number of affordable housing opportunities for seniors. We need to better understand what options are available to our senior residents and what type of impact this could possibly have if parks decided to convert from age-restricted to all-age.

Adoption of the urgency ordinance would not have a direct fiscal impact. However, there may be some expenses associated with the study that's required.

The City Attorney has provided an analysis that provides information necessary for Council to adopt an urgency ordinance for the 45-day period. Staff's recommendation is that Council adopt the urgency ordinance this evening.

CITY CLERK WAYNE noted that Council received a faxed letter from Vickie Talley of Talley & Associates expressing their opposition to this ordinance. Council does have copies of that.

Public Input

JIMMY KNOTT, 124 Sherri Lane, is the only non-senior representing a senior mobile home community in Oceanside. There are 3 ages of seniors: 55-65, 65-75, and 75+. According to the Merck Manual of Geriatric Medicine, the national statistics show that a majority of seniors in elderly years have and are designated as being disabled or

having a disabling condition. They have vision problems, hearing problems and reaction time problems. They need special amenities, which are exclusively in senior communities. To make any park currently designated a senior park into an all-age park does a disservice to those seniors, and it may also violate the intent of the Americans with Disabilities Act (ADA), etc. Council needs to study the implications of any potential change by any mobile home park owner and consider the needs of the senior citizens.

ANDRE TEUBEN, 3646 Mira Pacific Drive, representing Aging and Independent Services (AIS) Advisory Council, is a senior who came to Oceanside to live. He needed a house and stumbled into a reasonable senior community. He became a senior advocate in a hurry. He considers Oceanside a very senior community. He hopes that it will continue to be so. There is no other City that has as many senior communities as Oceanside. He is the Vice-Chair of Housing for AIS, and his assignment is to maintain senior housing. The Chair is involved in getting more senior housing.

What is happening is dangerous. He goes to Sacramento and hears things there that make him shake in his boots. Council needs to do their homework. He lived in a senior mobile home park that had turned to an all-age park, and he could tell Council some horror stories.

ANNA ROPPO, 1121 Glenneyre Street, Laguna Beach, represents the interests of Trico Mobile Estates, a community of mobile homes in Oceanside, and also its management company, Hawkeye Asset Management. On December 15th Trico sent a notice to its residents that it was going to implement new rules and regulations, pursuant to Civil Code Section 798.25, that would permit families with children to reside on the property. The rules and regulations do not provide that the seniors who live there will have to leave. Nor do the rules and regulations as proposed provide that it will not be open to seniors who are desirous of coming to the property. She is concerned that the ordinance and staff report she has reviewed do not make any reference to or analyze the issue of federal preemption. Those 2 words, if Council listens to nothing else that she says this evening, are key in the City's analysis as to whether or not the ordinance that Council is proposing is lawful or unlawful. Attorneys differ in their opinions. In this particular case she respectfully requested that Council not adopt this ordinance this evening without analysis of the Fair Housing Act provided for in Title 42 of the United States Code. She has brought with her the relevant Code sections for Council's review and the City Attorney's consideration.

Title 42 USCS Section 3617 reads it shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by the various sections cited. Very importantly to this evening and the discussion of the adoption of this ordinance is Title 42 USCS Section 3604 of the Federal Fair Housing Act, which states it shall be unlawful to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status. It is unlawful to discriminate in the sale or rental of a dwelling unit on the basis of familial status. Her client is exercising its right and advancing its right to protect the rights of families with children to enjoy affordable housing in Oceanside. She asked Council to please reconsider staff's recommendation and these statutes. They are prevailing law. Congress has preempted this area of the law with the Fair Housing Act. An ordinance of this nature is unlawful.

The City Attorney's analysis within the staff report relies on an Attorney General opinion, which is devoid of any discussion of the Federal Fair Housing Act. She asked Council how they can ignore the Federal Fair Housing Act on the issue of affordable housing for families with children. She encouraged Council to please reconsider this, take it back and analyze the Fair Housing Act applicability to this situation before you adopt this ordinance. The ordinance is unlawful and will become even more so in the interference of Trico Mobile Estate's rights to offer housing to families with children.

FRANK MERRIFIELD, San Luis Rey Mobile Home Park, 200 North El Camino Real #92, thanked staff for getting an opinion from the Attorney General, who opined that Council could obtain a use permit or County ordinance permitting them to adopt a parcel of land to be designated for senior only parks. On behalf of Oceanside Manufactured Home Alliance, of which he is President, he urged Council to adopt this ordinance.

He attended a Trico meeting about a week ago with Mr. Iles, Vice President of Hawkeye Management, and their attorney where they stated they were going to change the mobile home park in 6 months. They also stated that they could recoup more revenue by changing it to an all-family park. He asked how they could arbitrarily do this in a 6-month period of time and require leases to be signed when the park will still be under rent control.

DIRECTOR PIERCE clarified that the Rent Control Ordinance in Oceanside regulates the space; it does not regulate the resident that is residing on the space. The Commission would have to approve any rent increase for any space that is currently regulated by the Rent Control Ordinance. Of course, there are some abilities for individuals to make private contracts between the park owner and the resident that could set a different space rent, and that would clearly delineate on the front page of the lease that they were exempting themselves from any local rent control ordinance, pursuant to Mobile Home Residency Law. However, just by offering a lease doesn't necessarily mean that they can secure more rent for the space because every resident and prospective buyer has the right to choose to enter into a lease exempting them from rent control, if it is offered, or to choose to rent on a month-to-month basis under the City's Rent Control Ordinance. There wouldn't be any guarantee that they would be able to get more revenue simply by opening it as a family park. If the lease is really the issue, the owner could offer leases to the seniors as well and see if there are seniors willing to pay a higher rent and give up their right under rent control. The only other way that the park could raise rents is to file a Special Adjustment Application. Simply by changing from a senior park to a family park does not make sense if they are talking about that being a cause to increase revenues.

She is very much aware of the Fair Housing Act, both the federal and State. In 1988 the Fair Housing Act was amended to protect children, basically to open housing available for children. In the late 1970's and early 1980's there were a lot of apartment complexes, etc. that were excluded to adults only. That became illegal when the Fair Housing Act was amended. But, when they amended the law, they recognized the need for senior housing. In addition to protecting families, they also made 2 exclusions, which are that if a community was clearly designated for seniors and 100% of the residents were 62 years of age and older, they are exempt from the Federal Fair Housing Act in terms of including families, or if a minimum of 80% of the residents were 55 years of age and older. As long as that is documented that 80% are 55 and older, they have a right under the Fair Housing Act to declare them as senior-only communities.

TIM SHEAHAN, San Marcos, volunteer leader with the Golden State Manufactured-Home Owners League (GSMOL), expressed his appreciation to the City for taking a proactive step to help protect seniors in mobile home communities. A few years ago, seniors in non-mobile home communities were facing the threat of losing their lifestyle. Now it is happening at places like Cavalier and other communities in the state. It is distressing to see that the residents of Trico are facing this same threat. The owner and management of Trico portray this as a simple rule change. He assures Council that for these seniors it is more than just a simple rule change; it's a lifestyle change.

He lives in a community in San Marcos that was converted in the late 1980's. His parents are seniors, and a year after they bought into that community it was switched to an all-age park. For his parents' sake, he wishes it had never been converted because

he has seen how their quality of life and that of the other seniors has gradually deteriorated as time goes on and more families have moved into the community. He has seen children harass seniors. Children play in the streets because no amenities are required to be added to address the needs of families such as parking and playgrounds. Seniors are impacted in a great way.

One of the hallmarks of the Mobile Home Residency Law protection is that of peaceful enjoyment of one's residency. No matter how strict the rules are in a converted park, the quality of life and the peaceful enjoyment of a senior in their dwelling is going to be impacted. He encouraged Council's support of the ordinance.

JOAN BROWN, 511 Rockledge Street, stated Oceanside has quite a few mobile home parks, some of which are very small and run down. In the valley the mobile home parks that were built in the 1940's and 1950's still look like the 40's and 50's. The people who own these have done nothing to maintain the mobile home parks. They have graffiti on their walls, and they don't bother painting them. The walls are broken and there is trash around, and yet the park owners want fair return on their money. It should be mandatory that if the park owners want more money like opening the park to families, which should not happen in a senior establishment, they should be responsible for fixing up their property. There are too many mobile home parks in Oceanside that are run down and need more enhancements.

WILLIAM HENRY, 221 North El Camino Real #42, representing Trico Homeowner's Association, stated there is a fight to keep Trico's mobile home park a senior only park. It is a loving, sharing community, mainly composed of retired senior citizens aged 60-90. Most are frail, live alone and can no longer drive. Several residents are in wheelchairs; several are blind; a number have fallen and broken hips; and several use walkers, crutches or a cane. Some of the younger residents, in their late 50's, took care of their parents until they died and remain in the park. Very few residents still work. All they ask is to live their remaining lives in quiet dignity. The residents are not against families. Sons, daughters and grandkids visit there often. These are the reasons why the residents are fighting to remain a senior park.

DAN ARMENTROUT, 1391 Corte Bocina, is concerned that from the landowner's perspective, they are looking to enforce the law. We've heard a great deal of statistics and interpretation of the law, and his fear is that the City is doing something that the courts probably should do, which is take this matter under advisory and make the final and ultimate decision. He fears that the actions of the City possibly interfering with this issue are going to cost the City and the taxpayers a great deal of money. We all know the recent past, and no one wants to incur those types of expenses or bills again. This is a very politically and humanly sensitive issue. He asked that the landowners get together with the Council and with some of these seniors and see if they can work something out prior to a lawsuit or this moratorium going into affect. There has to be some concessions that can be made. This matter is better taken up in the courts and he hopes Council gives that careful consideration.

CITY CLERK WAYNE reported that Anna Roppo, representing Trico Mobile Estates, has asked for additional time.

ANNA ROPPO, representing Trico Mobile Estates and Hawkeye Management, noted that Director Pierce referenced the Fair Housing Act and the exemptions provided therein for senior housing. The exemption is controlled by the owners and management of a mobile home park, and that has been stated clearly in recent cases.

Specifically, she referenced a case because it is controlling and prevailing law. *United States vs. the City of Hayward* is a matter taken up to the Ninth Circuit, the United States Court of Appeals, which California is in that District. The City of Hayward attempted to prevent a mobile home park owner from converting to all-age, and the United States Attorney took on the matter, maintaining that the ordinance interfered with the property owner's right to open housing to families of all ages. The United

States won the argument; the City of Hayward ordinance was ruled unconstitutional and unlawful. She asked the City to look at that case as it is prevailing in this situation. The exemption belongs to the owners and managers of the park, not cities, counties, or public agencies. It does not provide the City with the authority to implement this ordinance. Do not approve the moratorium this evening without looking at the case, the analysis and the Act.

MAYOR WOOD stated this is a temporary measure regarding the conversion of age-restricted parks that will allow Council time to address these issues. It is an important issue to the City and to the seniors of this community. Allowing Council to address these issues in a public forum to get input regarding this and the legalities for a 45-day period of time is only reasonable.

INTERIM CITY ATTORNEY WALLS clarified this ordinance and urgency measure is not intended to override the Fair Housing Act or any State or federal law. The Federal Fair Housing Act recognizes an exemption for housing for older persons. This moratorium and ordinance would be subject to those restrictions. The City does not intend to override them; we intend to act in compliance with and not in conflict with the law. The mobile home parks that have been traditionally operated as senior parks have also traditionally operated in compliance with this Federal Fair Housing Act, and we intend to do nothing different but to maintain the status quo while we look into this matter further.

COUNCILMEMBER SANCHEZ moved approval of staff's recommendation [to adopt urgency **Ordinance No. 05-OR0014-1** "...placing a moratorium on the conversion of any mobile home park currently existing in the City from a park occupied primarily or exclusively by residents over the age of 55 years (senior residents) to a mobile home park allowing residents of all ages"].

It is disingenuous to say it is against federal law to establish senior-only mobile home parks and basically say they have been violating the law the entire time. Ms. Roppa then comes back up to the podium and says that only private action, not public action, can do this. That is disingenuous. There are public policy reasons why laws are enacted. If building and establishing senior communities was not in the public interest, we would not have the public senior communities that we have now. Council understands, recognizes, and accepts that senior communities have certain requirements for quality of life issues. Families have other quality of life issues such as parks, open space, larger streets and larger community areas. The City's own mobile home parks have traditionally been senior parks because of the way they were built. There are no family amenities in any of these parks because from the beginning until now, a majority of our parks have remained senior.

That turning into a family park would somehow increase the funds in the pockets of these owners is just not true. The City still has mobile home parks under the Rent Control Ordinance. In order to be able to get even the $\frac{3}{4}$ of the Consumer Price Index (CPI) increase the following year, the park owner still has to show that they are providing a certain quality of life for these seniors with basic amenities. In some of these senior mobile home parks, the owners spend practically nothing. We need to have the City Attorney and staff look into this. The City will be able to be within the letter of the law, and we must address the issues of the senior communities.

MAYOR WOOD reminded everybody that a short time back, Council indicated that there was an affordable housing crisis, especially in the senior community. The mobile home parks are those senior housing communities that are affordable. Council declared a crisis, and everyone agreed. He does have concerns. This is a temporary measure to address this. He **seconded** the motion.

COUNCILMEMBER FELLER said the motivation to change this park from a senior park to a family park escapes him. He can't understand why if everything has to remain the same regarding rent control, the park owner is thinking about changing to a

family park. He is for this park owner making a reasonable profit on his investment, but he is not grasping the reason to change the park. If somebody within the next 45 days can explain it to him so that it is in reasonable form, he might support the change. However, he can't support changing the park for the reason that the park owners have given.

This is a community that he served for 10 years with his sandwich shop. A hundred times he wanted to raise a \$.25 cup of coffee to \$.35, but he just kept thinking that he couldn't do that to this community. It probably hurt the sales in his business a lot, but it was worth it to him to do that for the community. He does not understand the treatment people received from the management company. For a management company to treat a community with so little respect, if he were the owner he would get a new management company. He will be supporting this moratorium. This is a discovery period.

Following the reading of the title, **motion was approved 4-0.**

[Recess was called from 7:16 to 7:24 PM]

The Mayor determined to hear Item 22 at this time.

HARBOR DIRECTOR, ECONOMIC/REDEVELOPMENT DIRECTOR, and HOUSING DIRECTOR REPORTS

22. Economic/Redevelopment Director's Report

JANE McVEY, Economic Development Director, presented computer slides from some of the business visits that staff has done through the quarter.

Ashworth is a golf wear apparel manufacturer in Ocean Ranch with 200,000 square feet. They are doing the custom embroidery of various hats and shirts.

Neet Feet, Inc., makes rubber flip-flops that are sold world-wide. They are customized for various companies. For just about every company people can think of, Neet Feet has done some custom work creating corporate marketing items for various companies around the world.

Mr. and Mrs. Marvin Dennis own Wood Crafters and are down in the valley. They make fabulous customized cabinetry: commercial and residential. It is very high end woodwork.

The next business is Tony Alva, who is a world renowned skateboarder. Go anywhere in the world, and all of the skateboarders know who he is. He does his manufacturing at various places around the country, but his corporate office, all of his design work and a small distribution facility are here in Oceanside.

In December staff visited California Creative Foods. Chachi's Salsa or Santa Barbara Salsa is produced by California Creative Foods, who are the country's largest supplier of fresh salsas.

Chachi's/California Creative foods is building a building on the corner of Benet and State Route 76. The walls have been tilted up now. With the rain, many of the construction sites have turned into swimming pools, so until things dry out people will not see a lot of construction activity out there.

Weiland Doors and Windows is located on Industry Street, who produce custom wood windows and doors.

She showed the progress of the Nitto Denko building on Jones Road by Hydronautics. Nitto Denko is the parent company of Hydronautics, a Japanese

Company. They spend \$100,000,000 a year in pure research. The City competed about 5 years ago for the U.S. research facility and won over San Jose and Connecticut. Their building is filled with academics who do straight research that creates a distinctive market for Nitto Denko's new products.

Rayo Wholesale is a local company who has built a new building in Ocean Ranch. Native Floral Bouquet is also having a building built in Ocean Ranch.

Schnell Company will do business as GMS Distributors and distribute consumer products. This is also a new building.

Oceanic Business Park, Phase II, is on the south side of Oceanic Drive off Corporate Center Drive in Ocean Ranch. She showed some of the build-to-suits and also some of the spec buildings that are going up. Their walls have been starting to get tilted up and, prior to the rains, it was a hotbed of activity.

Simba International is on Vista Pacific, and they are a recycler of plastics. It is all contained within the building.

The Hoot Winc Building is on Vista Way and will have offices above for the Hoot Winc Corporation and then the restaurant on the ground floor.

The Old Grove Marketplace is a relocation and not a new store. She showed a photograph of the Ralph's Center by Lowe's where the Ralph's construction is going up.

Mission Square Shopping Center, off the freeway on Mission Avenue, has new construction there; it is Panda Express.

Chick-Fil-A has opened in Quarry Creek. They are very popular.

The Pac Bell Building has a lot of work being done and have added 2 floors. She showed the live/work lofts (located right across from the post office downtown).

She presented photos of the hotel proposals as they stand today. Staff received the latest proposals on the 15th. They all have received letters asking for additional information, and staff will be meeting with them again to go over additional details and questions about their latest submissions.

Faulkner USA substituted floor 2 and 3 that was previously office to timeshares, and they have added a 4th floor of timeshares.

Pacifica has opened up a wide plaza area, and it is not quite as linear as it was.

She showed a photograph of S.D. Malkin. They have modified the north block, have smaller scale buildings, lower buildings, a boutique hotel, timeshare units and then the plaza area in the center between those 2 buildings. Staff, the technical review team and consultants will be analyzing the latest submission over the next week.

Northbound Interstate 5 on Mission Avenue is a landscaping project. This is the Brian Grove Design to dress up that particular intersection. It is stalled a bit with the rain, but will really improve that exit.

MAYOR AND/OR COUNCILMEMBER ITEMS

23. **Request by Deputy Mayor Chavez for a discussion and appointment of one of the following individuals to the vacant Council seat: Marie Swan, Roy Youngblood, Rob Howard, Tom Hartley, George Barrante**

DEPUTY MAYOR CHAVEZ said that the City has in the next 6 months major decisions that will not only impact us now but for decades to come, i.e. decisions on

citywide traffic concerns and congestion; whether or not the City will have a quality hotel project in the Redevelopment Area; balanced development for jobs, which provide improved quality of life; crucial economic revenue; and priority within the 2-year budget for public safety, services and personal retirement benefits. It is for these reasons that he has asked the Council to discuss the appointment of the 5th Councilmember.

Unfortunately, misinformation has been given to the public regarding how different mayoral candidates thought the potential vacant seat should be filled. To clarify our previously stated positions and reaffirm why we are having this discussion tonight, he played a tape from October 1, 2004, which was at a candidate forum held by the League of Women Voters, which shows him and Jim Wood and their statements about the fair thing being to have a discussion among the 4 Councilmembers. The tape shows Council needs to have a discussion. We both agreed about it.

Tonight, he is looking forward to a discussion we both offered to the public. The unwillingness of some Councilmembers to discuss this over the past 2 weeks has positioned Council at this deadline. He hopes to have an honest discussion and save precious time and financial resources from a special election. Barring an election, at a cost of \$330,000, he believes that an appointee agreed upon by all elected officials would most represent the interests of the Oceanside residents. There are hundreds of qualified appointees in the City. However, he brought forward five community servants who are willing, able and qualified to continue their service to the community by filling this vacant Council seat. An appointment is about qualifications, where an election is about politics.

He looks forward to a good discussion by the Council and an agreement to appoint 1 of these qualified individuals. He abbreviated the biographies because they are rather significant for each of the 5 people: George Barrante, Tom Hartley, Rob Howard, Marie Swan and Roy Youngblood.

There are hundreds of qualified people in the City. He just had these 5 highlighted because he was trying to show a diverse group of people from all walks of life within the City, and as these biographies testify, they meet that concern. Why Council even has an appointment process he believes is for 2 reasons: one is to save time, and the other is to save money. For those reasons, he hopes to have a discussion, as was promised back in October to the public, on the appointment process.

Public input

JIMMY KNOTT, 124 Sherri Lane, stated Council needs to have an orderly process and procedure written into the ordinances to handle any situation like this that may occur in the future. He encouraged Council to set aside time for a workshop and develop such an ordinance. The \$330,000 it would cost for a special election could be used to provide 5 years of homeless shelter or 2 years of senior nutrition.

ZEB NAVARRO, 1316 Buena Street, noted that Council had an opportunity to appoint a well-qualified candidate to the empty Council seat. That candidate was Shari Mackin. Oceanside is in the same predicament that Escondido and San Marcos were in. Both cities had Councilmembers run from a safe seat for mayor, and in both cases the Councilmember won. The cities dealt with the vacant seats in a different manner. Escondido City Council could have appointed the 3rd place finisher but was deadlocked 2-2 and decided to vote for a compromise candidate. It turned out to be the wrong decision as this compromise candidate turned out to be part of a 3-2 voting block. In San Marcos the Council decided to go to a special election.

History has repeated itself. One of the actions this Council should take is to put a process in place in the event of a vacant Council seat. He has a lot of respect for the nominees, but they did not go through the election process like Shari Mackin did. The public knows where the current Council stands on the issues. He does not know where the proposed nominees stand on some of the issues. Shari Mackin has done all of the

above.

He then read a letter from **JUNE KRISTAPOVICH**, who could not attend the meeting due to health reasons, supporting the appointment of Shari Mackin as the candidate with the third highest votes to the vacant Council seat.

DENISE SAIZ, 544 Big Sky Drive, stated she was one of the 19,000+ who voted for Shari Mackin to sit as a Councilmember for the rest of the 18 months of Councilmember Wood's unexpired term. She will vote for her again.

MAYOR WOOD requested the speakers address Council as a group.

BRADLEY HAYWOOD, P.O. Box 1151, suggested if this happens again, Council should have the City Attorney or the City Manager sit in as the alternate voter. The City Attorney would know about legalities, and that is why she is there. It is too bad Council can't work things out, but that's politics.

JERRY McLEOD, 1517 Del Mar Road, thinks Deputy Mayor Chavez should not complain about \$330,000 for a special election when he had the opportunity to appoint Shari Mackin. Council should take the steps and get this matter corrected so that if we come up with this situation again, we are not going to have to go through all of this.

The biographies of these 5 individuals are very impressive. He has spoken to a few of them, and any of them would be great. However, we don't know what they think on the issues. Shari Mackin campaigned, and we know where she stands on issues. Councilmembers need to make sure that this does not happen again. The vacancy should have been filled a couple of weeks ago with the appointment. He may be wrong about this, but Council should go ahead and have the election. If these people want to run, let them run.

LARRY SOSNA, 815 Wisconsin, stated democracy is messy, but it works. The City needs to structurally take care of this problem by enacting legislation that fixes it so it doesn't happen again in the future.

SLEENE KOSINAR, 711 Pier View Way, said that Council should let the voters choose who they want to fill the vacancy. It is the peoples' right to choose.

JOAN BROWN, 511 Rockledge, said that tonight she listened to the Governor speak at the State of the State Address where he mentioned the fact that the legislature gave him a hard time on money issues. What he referred to was that they did not agree on anything, so measures and decisions were not reconciled. He said they were working in their own best interest. When he said this, she thought of Oceanside's City Council, who refuse to agree on anyone to fill the vacant seat for 2 years. This is for their own best interest, not for the best interest of the people that elected them. The \$300,000 that would pay for an election could go for landscaping, infrastructure and finishing projects like the dog park. She has a prophecy that if the Council spends the \$300,000, Shari Mackin will win again.

DAN ARMENTROUT, 1391 Corte Bocina, said this is Politics 101. There may be some changes and addendums that can be made in the future to offset costs and so forth, but right now it is what we have. The people that Deputy Mayor Chavez enlightened us on this evening are very impressive with their degrees, but that doesn't mean it's the right choice. Based on what they have, the best decision is to allow the people to vote again. Shari Mackin may win. If he has his way, Shari Mackin will not win.

To help offset the costs of this election, he will not take any money to be the next elected Councilmember to fill that seat. He knows that Oceanside is at a crucial and vital crossroads in the City's history. We have to do things now. Get to know the candidates. Challenge them. We should learn from this experience and apply it going

forward.

He admires the Councilmembers. He knows what the commitment is and what they go through having to expose their family to things in the press. It is a tough job and it's not for everyone. He hopes that Council will allow the election to go forward.

MARJORIE FORBES, 4810 Northerly, does not envy Council their job. She has given this a lot of thought and thinks Council should change the City Charter to make the Mayor an honorary position, and the person who gets the most votes in an election would be the alpha Council person. They would become the honorary Mayor until the next election. If they were still the high vote getter, they would be the Mayor for another 2-4 years. That is one way of fixing it.

Public input concluded

MAYOR WOOD noted that each Councilmember received input on this matter by telephone, email and personal contact. He was surprised how many people offered to fill the position for free. He did not think they knew what they were asking for.

This is political in nature. Some of this is motivated by items in the press and gets each side going in a different direction. He needed to clarify something that was said at the last Council meeting. Every vote at that Council meeting was 4-0. Things do get done, the City does move forward; and Council does the right thing. There are select issues, issues that are political in nature or with special interests involved from either side. Council does not always vote together or see eye-to-eye on things.

Filling the vacant Council seat is an important issue to the City. Deputy Mayor Chavez brought up many names. Mayor Wood had dozens of names brought up to him by his friends, supporters, neighbors, etc. He hopes that everyone out there who wants to sit in the seat runs for it and gives it a try.

With all the comments he received since the last Council meeting, he had a fair and reasonable approach to the most common opinion, which was take the highest vote getter in the Council race. That did not fly; it is political. Council tries to work together.

The people Deputy Mayor Chavez has on his list are outstanding citizens of the community. The people he was approached by who said they wanted to serve also have credentials.

He promised people when he ran for office that he would try to take into consideration the best interests of the City. The City has approximately 180,000 residents. He won with the most votes for Mayor with about 21,000 votes. That means many people did not vote for him, and it is the same thing for the rest of Council. We are winning, but the whole City did not back us. Shari Mackin got a lot of votes. That is why he thought it was reasonable to bring her name up.

The biggest feedback he has received recently is that it is not Council's right to appoint a person to the vacant Council seat. It is the people's right to vote for a person to fill the vacancy. Someone recently mentioned that people are dying overseas to allow citizens the right to vote. It is hard to argue that point. In the back of his mind, the Mayor is always thinking money, and the money can be used for a better purpose in the City. What it all seems to come down to is the public wants to know who the people that want to become Councilmembers are. They want to be able to ask questions and have the candidates respond to the issues that are important so the public knows where the candidates stand. That is why he went along the line of appointing the next highest vote getter to the vacancy. The public and the press had the opportunity to ask her questions. The people mentioned by Deputy Mayor Chavez tonight are outstanding, but have not been through the same scrutiny as the candidates. It is probably the best value of the \$330,000 to have the public decide who they want to vote for.

He was told by Deputy Mayor Chavez that he had some apolitical people that could be appointed to fill the vacancy, but he has yet to see their names.

COUNCILMEMBER SANCHEZ said Shari Mackin's name was brought up more often than anyone else. There seems to be a tie between having a special election and then discussion about possibly addressing this as a process.

She does not know if the people that Deputy Mayor Chavez suggested are friends of his or what relationship he has with them. Most of them campaigned against her. She has known them mostly from working on the opposite sides. She has no idea what life would be like with them sitting on the dais. But certainly if the public elects them, then obviously that is a mandate to work together, recognizing that we have certain differences of opinions.

Mr. Barrante treated Jim Wood horribly 2 years ago by kicking him out of a meeting. Now, Jim Wood is the Mayor. She does not know what it would be like to work with someone who does something to another person like that. She appreciates their qualifications and desire to serve. Dozens of people asked her if they could also serve. The Mayor brought forth the name Shari Mackin. Most of the people that spoke today said Shari Mackin. Short of that, it is a special election. She can't go along with any of the 5 names submitted by Deputy Mayor Chavez.

She **moved** to deny all 5 names (Marie Swan, Roy Youngblood, Rob Howard, Tom Hartley and George Barrante) as possible appointments to the vacant Council seat.

DEPUTY MAYOR CHAVEZ appreciated that we discussed this issue as was promised in October. Appointment for a vacant seat is part of the democratic process. The appointment process is available to address the issues of time and money, and he thought it was fair to the public to have the discussion. He wishes we could have had a longer process over the holidays. He had said he would be willing to work every day through the holidays to go through this process. But, we did not.

Appointments are about qualifications. An election is about politics. They are 2 different things. He hopes the public understands that we are talking about an appointment process, not an election.

He **moved a substitute motion** to go down the list of appointments, starting alphabetically with George Barrante, and appoint Mr. Barrante to the vacant Council seat.

MAYOR WOOD seconded the original motion made by Councilmember Sanchez.

CITY ATTORNEY WALLS asked if there was a motion to amend the first motion.

DEPUTY MAYOR CHAVEZ clarified that his was a **substitute motion**.

CITY ATTORNEY WALLS said there is a motion on the floor.

COUNCILMEMBER FELLER seconded the substitute motion for the sake of discussion. He wants to go back to the fact that the City had an election. If 2 Councilmembers had to give up their seat to run for an election, there could have been 4 new people on this Council. He believes that we need to investigate and discuss the possibility of this dilemma for the future. If a Councilmember does what has happened and Council is faced with this dilemma, should they ethically give up that seat to run for another seat? He believed they should. He does not know if that is even possible in our purview. If it is not something we can do, then we can't do anything about it. He would like to investigate to see if that is a possibility. He believes in the right to vote and is glad to hear that Councilmembers and the Mayor have now decided that is what they

want to do because they were trying to get an appointment. He too has names of people that could fill the vacant Council seat who said they would like to be involved in this process. He would be amenable to appoint Mr. Barrante only because it would save the City the \$330,000. It is against his better judgment. He would not want it if the vote was not 4-0 because that would not be a fair thing.

He had seconded the motion knowing full well that the other side is not interested in any of the 5. He is still of the opinion that the election process is the right way to go. He had some second thoughts after the last Council meeting. He made the statement somewhere along the line and he sticks by that. If somebody surprised him and the vote was 4-0, he would live with that.

CITY CLERK WAYNE clarified that Councilmember Sanchez's motion to deny all 5 names was seconded by Mayor Wood. According to the Council's procedures ordinance, which Council must follow, substitute motions are not allowed.

INTERIM CITY ATTORNEY WALLS explained the ordinance allows for an amendment of a motion but not a substitute motion.

CITY CLERK WAYNE reiterated the motion is to deny all 5 names.

Main motion failed 2-2; Councilmembers Feller and Chavez - no.

DEPUTY MAYOR CHAVEZ moved to appoint George Barrante to the vacant Council seat.

COUNCILMEMBER FELLER seconded the motion.

Motion failed 2-2; Mayor Wood and Councilmember Sanchez - no.

DEPUTY MAYOR CHAVEZ moved to appoint Tom Hartley to the vacant Council seat.

COUNCILMEMBER FELLER seconded the motion.

Motion failed 2-2; Mayor Wood and Councilmember Sanchez - no.

DEPUTY MAYOR CHAVEZ moved to appoint Robert Howard to the vacant Council seat.

COUNCILMEMBER FELLER seconded the motion.

Motion failed 2-2; Mayor Wood and Councilmember Sanchez - no.

DEPUTY MAYOR CHAVEZ moved to appoint Marie Swan to the vacant Council seat.

COUNCILMEMBER FELLER seconded the motion.

Motion failed 2-2; Mayor Wood and Councilmember Sanchez - no.

DEPUTY MAYOR CHAVEZ moved to appoint Roy Youngblood to the vacant Council seat.

COUNCILMEMBER FELLER seconded the motion.

Motion failed 2-2; Mayor Wood and Councilmember Sanchez - no.

MAYOR WOOD asked City Clerk Wayne for clarification on the next action for the item.

CITY CLERK WAYNE explained that the election process would automatically begin tomorrow. Since Council has used up their option for the 30-day appointment process, she would be bringing back the election resolutions at the next meeting on the Consent Calendar (to establish the date of the election and pertinent details).

CITY COUNCIL REPORTS

24. **Mayor Jim Wood**

MAYOR WOOD stated Council will try to do the best for the general public and would like the public to show up and address their issues and concerns. He offered to visit any community to address any issues or concerns. Council wants to be open to the people and their concerns.

25. **Deputy Mayor Rocky Chavez**

DEPUTY MAYOR CHAVEZ highlighted a new business in Oceanside in the Redevelopment Area called Tremont Street. It is a family sports bar and restaurant located at 311 North Tremont.

A few meetings ago, Council requested that an ad-hoc committee be set up on gangs. He will be presenting a brief back to the Council on where they are at and to ask direction from the Council.

There will be many discussions regarding different committees and commissions. Since the Mayor not asked yet, he would like to publicly state that he is currently assigned to Economic Development, Manufactured Home Fair Practices and Utilities Commissions, Beach Protection Committee and Harbor Advisory and would be happy to serve on those in the future.

26. **Councilmember Jack Feller**

COUNCILMEMBER FELLER said anyone can call Oceanside Eyes at (760) 435-4200, for anything such as a tree down, graffiti, potholes, etc. He wants to be sure that the public is aware of this telephone number because staff does respond to those calls.

The North County Transit District has an orientation that Councilmembers or support staff can go to. The Sprinter is full speed ahead. There is a lawsuit with San Marcos, but it is going to be settled. They have awarded all of the construction at this point, and it's going forward.

There have been some problems with the derailment for the Coaster and its schedule, but they managed to accommodate everybody with the buses through Sorrento Valley, which is where that occurred.

27. **Councilmember Esther Sanchez**

COUNCILMEMBER SANCHEZ has no report but wanted to say that she enjoyed the last 2 meetings. She knows that the biggest complaints that they had with the former Mayor was his treatment of the public and fellow Councilmembers on the dais. She has really enjoyed the leadership that Council has on this dais and looks forward to great things from Mayor Wood.

She does want to encourage the public that they have a right to speak for 3 minutes. Council is asking people to be professional about it, which doesn't mean that Council is trying to regulate or censure the content. Councilmembers are the people's representatives.

ADJOURNMENT

January 5, 2005

Joint Meeting Minutes
Council, HDB and CDC

MAYOR WOOD adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 8:51 PM on January 5, 2005 [The next regular meeting is at 4:00 PM on Wednesday, January 19, 2005].

ACCEPTED BY COUNCIL/CDC/HDB:

Barbara Riegel Wayne
City Clerk, City of Oceanside