



CITY OF OCEANSIDE

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

FEBRUARY 2, 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
Esther Sanchez

Councilmembers
HDB Directors
CDC Commissioners
Jack Feller
Rocky Chavez
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 4:01 PM, February 2, 2005.

ROLL CALL

Present were Mayor Wood, Deputy Mayor Sanchez and Councilmember Feller. Councilmember Chavez arrived at 4:02 PM. Also present were City Clerk Wayne, City Manager Jepsen and Interim City Attorney Walls.

COUNCIL, HDB AND CDC CLOSED SESSION ITEMS

INTERIM CITY ATTORNEY WALLS titled the following agendized items to be heard in Closed Session: 1.A, 2.A and 3.A)1. [Item 2.B was not discussed]

[Closed Session and recess were held from 4:03 PM to 5:08 PM]

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

In Closed Session, direction was given to staff.

2. **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

In closed session the vote was 2-2. Since a majority vote is required to sell/dispose of the property, negotiations for the sale of the property were suspended.

- [B) **CONFERENCE WITH REAL PROPERTY NEGOTIATOR** – Property: Property bounded by Pacific Street, Myers Street, Seagaze Drive, and Civic Center Drive (APN 147-261-01 through 12; 147-076-1, 2, 3, 10, 11, 12); Negotiating Parties: Community Development Commission and Pacifica Companies, Faulkner USA, SD Malkin Properties; Negotiator for the City: Jane McVey, Economic Development and Redevelopment Director; Under Negotiations: Price and Terms]

No closed session was held on this item

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

A) **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

1. Significant exposure to litigation pursuant to Subdivision (b) of Section 54946.9: Two cases

Direction was given to staff

5:00 PM – ROLL CALL

Mayor Wood reconvened the meeting at 5:09 PM. Present were Mayor Wood, Deputy Mayor Sanchez and Councilmembers Feller and Chavez. Also present were City Clerk Wayne, City Manager Jepsen and Interim City Attorney Walls.

INVOCATION – Pastor Carl Souza

PLEDGE OF ALLEGIANCE – Boy Scout Troop 789 – Camp Pendleton

PROCLAMATIONS AND PRESENTATIONS

Presentation – Certificate of Recognition to Kayla Vanaselja for community service

Presentation – Certificates of Recognition to Julie Sobolewski, Casey Sobolewski and

John Henke for their efforts in assisting the December 2004 Tsunami victims in South Asia

Presentations were made

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 1.A, 2.A and 3.A)1 above. [Item 2.B was not discussed]

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

MICHELLE DAVIS, 306 South Pacific Street, President of Soroptimist International Oceanside, announced that they will be hosting their 25th Annual Salad Luncheon at the Beach Community Center.

PATRICK GORHAM, 710 Valley Drive, Vista, has owned Gianni's Pizza in Oceanside for 12 years. He also makes independent movies. In association with Harmonious Developments in the Interspace Museum in San Marcos, they are making an interesting, philosophical movie. They are marketing this movie as a people's movie and want to sell shares at \$20 apiece. If they could get the right amount of money and the right kind of excitement, they can really establish Oceanside as more of an independent movie-making place.

GLEN QUARANTA, 3910 West Vista Way, #108, discussed the importance of individuals making art.

JIMMY KNOTT, 124 Sherri Lane, stated people don't recognize the reading and background research Council does every week for Council meetings and the other regional committees they attend. He asked Council to consider allowing KOCT to follow them around for a week or so to show the public what a Councilmember does.

BRADLY HAYWOOD, P.O. Box 1151, Oceanside, complained that the Police Department has a tendency to enforce laws that they feel need to be enforced but are not posted; at the same time, they do not enforce laws that are clearly posted, written and quite visible. Police go after certain groups in the City, and the City will end up with legal issues over this. He had brought up this issue before, but nothing was done.

CONSENT CALENDAR ITEMS [Items 6-17]

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:

City Clerk Wayne announced that there was a request from the public to speak on Item 14. Mayor Wood pulled Item 16, and Councilmember Feller pulled Item 9.

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 March 21, 2001, 10:00 a.m., adjourned 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 in the amount of \$138,855.20 to Active Community Solutions of Sacramento for REC WARE, a recreation software system for the Parks & Recreation Department; authorization for the Financial Services Director, or designee, to execute the purchase order; and authorization for the City Manager to execute the associated agreement [**Document No. 05-D0066-1**] and related documents
9. **Removed from Consent Calendar for discussion - Councilmember**
10. City Council: Approval of Amendment 2 in the amount of \$118,069.14 to the prisoner transportation contract with Rancho Santa Fe Security Systems, Inc., extending the term of the contract retroactively from January 23, 2005 to July 22, 2005, and authorization for the City Manager to execute the amendment [**Document No. 05-D0068-1**]
11. CDC: Approval of one loan application under the Community Development Block Grant (CDBG) Housing Rehabilitation Program in the amount of \$30,000
12. City Council: Approval of a five-year agricultural lease agreement, including one two-year renewal option, with Refugio Valencia for the purpose of low-intensity farming on 6.75 acres of City property south of Mission Avenue between Jeffries Ranch Road and Ridge Road, and authorization for the City Manager to execute the agreement [**Document No. 05-D0069-1**]
13. City Council: Approval of a grant of easement, located at the intersection of Benet and Eddie Jones (private) roads, to Pacific Bell Telephone Company for utility purposes to serve the Deutsch Company, and authorization for the Mayor to execute the deed [**Document No. 05-D0070-1**]
14. City Council: Approval of a one-year extension in the amount of \$142,500 to the professional services agreement with Rancho Santa Fe Security Systems to provide alarm monitoring and security guard services at the Civic Center and various other City facilities; adoption of budget **Resolution No. 05-R0071-1**, "... amending the budget for the 2004-2006 fiscal years," transferring \$31,250 from the City Building Service Fund balance to fund the extension; and authorization for the City Manager to execute the document (**Document No. 05-D0072-1**)

JIMMY KNOTT, 124 Sherri Lane, spoke on Item 14, also referencing Item 15 and an idea he had brought up before to save the City some funding. They need to have a police presence at City Hall, not just security presence. If the public had an ancillary station to go to at all hours that could be minimally staffed, it would provide the service as well. On Item 15 will it have an effect on the amount of service that Rancho Santa Fe will be providing for the City.
15. City Council: Adoption of budget **Resolution No. 05-R0073-1**, "... amending the budget for the 2004-2006 fiscal years," transferring \$83,888 from the City Building Services Fund balance to the City Building Services Operating accounts for the purchase and installation of security camera systems at the Civic Center and the City Operations Center; approval of a professional services agreement in an amount not to exceed \$83,888 with Com Sec Security for the design and installation of the security systems; and authorization for the City Manager to execute the agreement [**Document No. 05-D0074-1**]
16. **Removed from Consent Calendar for discussion - Councilmember**
17. City Council: Approval of a standard form [**Document No. 05-D0075-1**] for Tenant

Relocation Assistance Agreement and attachment for each of the upcoming condominium conversion projects in the City; and authorization for City Manager to execute the Agreements

DEPUTY MAYOR SANCHEZ moved approval of the balance of the Consent Calendar [Items 6-8, 10-15, 17].

COUNCILMEMBER FELLER seconded the motion.

Motion was approved 4-0.

Items removed from the Consent Calendar for discussion

9. **City Council: Approval of Amendment 2 to the professional services agreement in the amount of \$137,145 with Dokken Engineering for preparation of plans and specifications for Phase II of the Coastal Rail Trail project, and authorization for the City Manager to execute the amendment**

COUNCILMEMBER FELLER asked for a brief update on the coastal rail trail, now it is going to connect to the bike trail around the San Luis Rey River, and when that will happen.

PETER WEISS, Public Works Director, reported that the portion of the coastal rail trail that is subject to this action will complete the design effort from Morse Street north to Neptune. A lot of that goes through the North County Transit District (NCTD) right-of-way. They will be building a separate bike path to make that connection. The portion from Morse Street to the southern City limits has been built, with a final list of construction items that need to be resolved. For the construction portion for design and pending resolution of some issues with NCTD, since a good portion of this segment of the bike path will be in their right-of-way, they have some of the construction funding allocated to them, but not 100%; that is still being pursued through SANDAG. Toward the end of this calendar year, they will be in a position to initiate a construction contract for that portion.

COUNCILMEMBER FELLER inquired about the connection to the bike trail.

DIRECTOR WEISS responded that it will be part of the construction that will take it all the way to Neptune, which connects to that portion of the bike path along the river.

COUNCILMEMBER FELLER asked if they anticipate completing to Pacific Street.

DIRECTOR WEISS responded affirmatively. The segment along the river under the railroad tracks is currently under construction. Pending weather issues, it should be done within the next 30 to 60 days.

DEPUTY MAYOR SANCHEZ had attended a public hearing on the San Luis Rey River Master Plan held by the County. Public hearings are being held for a couple more months. Several people from Oceanside attended and were very excited about the Master Plan, which talks about pedestrian, bike and horse trails along the San Luis Rey River up to I-15. They asked how this is going to connect to the park. They also asked for a presentation to the Council about the master plan. She will be bringing that forward sometime soon.

She **moved** approval [of Amendment 2 to the professional services agreement with Dokken Engineering (**Document No. 05-D0067-1**).]

COUNCILMEMBER FELLER seconded the motion, which was **approved 4-0**.

16. **City Council: Authorization to submit an application for a State of California Department of Transportation Aeronautics Program revenue-generating loan in the amount of \$850,000 to fund completion of the first phase of the south side airport hangar project and the initial engineering and design for the remaining phases of the south side airport remodel project, and authorization for the City Manager to execute the necessary documents**

MAYOR WOOD had voted no on this item the last time because he was concerned about the quality of the hangars. He wanted something first class for Oceanside because it is along the main corridor of Highway 76. He asked staff to address some of his concerns.

PETER WEISS, Public Works Director, reported that the item is a request to submit for an additional loan that would fund the next phase of the airport improvements and provide for design and construction funding. It has been staff's understanding that the next set of hangars would be the enhanced hangars. As they get ready to build those additional hangars, they will need to come back to the Council for authorization. They will be showing those enhanced hangars, not as an alternative, but as the primary bid item that will be moving forward. After they get the loans and finish the designs, they will come before Council. It was his understanding that they will be moving forward with those enhanced hangars at the airport.

MAYOR WOOD wanted the grade of the hangars to be first class.

DEPUTY MAYOR SANCHEZ questioned how this loan is going to be paid back and if this additionally obligates the City in terms of the airport and its maintenance.

DIRECTOR WEISS responded that the loan will be paid back by the revenues from the hangar rents. As they build new hangars, the hangar rents are going to be adjusted to market rate and are going to be set at a point high enough to pay back both the State aeronautics loan that they are looking at here, as well as, with the Council approval, a 5-year payback on the General Fund loans that had been previously issued to the airport.

DEPUTY MAYOR SANCHEZ asked if it will take five years to pay it back.

DIRECTOR WEISS responded that the General Fund loans are over a five-year period. The State loans have been set at a 15-year period to coincide with the point in time when the obligations to the FAA will expire.

COUNCILMEMBER CHAVEZ said we all want a quality airport, and there are a number of developments online that are going around it. He asked for a projection of how much the cost has gone up for the hangars in the past two years that they have been discussing this whole process.

DIRECTOR WEISS reported that the grading work had been completed, and the foundation work has been started. They expect the hangars to be constructed probably between the end of March/April. Based on the bids for hangar prices they received last time, the hangar prices had gone up 30% - 50% because the price of steel had gone up.

COUNCILMEMBER CHAVEZ stated that the price of the hangars had gone up significantly by 30%. He noted that they raised the rent of the hangars last spring. He did not want to raise the rate until they actually start getting the hangars. It is going to be one of the jewels in the City so he asked that they quickly go forward. He knows there are other issues like fuel and maintenance. He agrees with the Mayor on wanting quality hangars.

DEPUTY MAYOR SANCHEZ said she is voting against it because she does not want to tie the hands of the City for such a long period of time.

Public Input

ALAN CRUZ, 1517 Lucky Street, President of the Oceanside Airport Association, addressed the concern about the 15 years. He recalled that they had already encumbered 15 years for the first loan. This is a payback schedule for 15 years. The Oceanside Airport Association supports the enhanced hangars.

COUNCILMEMBER CHAVEZ moved approval [to authorize staff to submit the loan application].

COUNCILMEMBER FELLER seconded the motion, which was **approved 3-1**, Deputy Mayor Sanchez - no.

The Mayor determined to hear Item 22 at this time.

GENERAL ITEMS

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

22. **City Council: Introduction of an ordinance of the City Council of the City of Oceanside amending Chapter 7, Article XI of the Oceanside City Code by the addition of Section 7.101, prohibiting the sale of tobacco and drug paraphernalia at a fair, street market, event or location other than in an enclosed building or tobacco and drug paraphernalia establishment**

LIEUTENANT TOM JONES, Oceanside Police Department, reported that the Police and Fire Commission and staff recommend that the City Council introduce, and subsequently adopt, an ordinance amending Chapter 7 of the City Code prohibiting the sale of tobacco and drug paraphernalia at fairs, street markets, events and other locations other than in enclosed buildings or tobacco and drug paraphernalia establishments. Recently, it came to their attention that there have been reports of persons selling tobacco and drug paraphernalia, i.e., bong, ceramic pipes, etc. at outdoor locations easily accessible to minors. State law prohibits the self-service of tobacco products or paraphernalia to be accessible to the general public without the assistance of the retailer. Additional subsections allows for local governments to compose greater restrictions on the sale of tobacco products.

Public Input

JOHN BYROM, 1745 Fire Mountain Drive, reported that he attended a reggae concert last summer at the bandshell. In the adjacent parking lot was a crafts fair, where there were booths that had drug paraphernalia and a lot of T-shirts promoting the use of marijuana. He brought this to the attention of the Council because he saw 12-year-old kids going up to this booth.

The White House Office of National Control Policy has actually seen the ordinance that Oceanside had previously passed, and in their 25-cities initiative, has identified it as one of the priorities for the cities in San Diego County. This year, the County of San Diego has started a marijuana initiative. They see ordinances like these as what we are charged to do. He works for the Tri-City Prevention Collaborative, which is funded by the County of San Diego. These types of businesses, i.e., head shops and anything that promote the use of marijuana to our youth is harmful. We are charged with raising the perception of the harm of marijuana to our youth.

CANDICE PORTER, 1713 Kennington Road, Leucadia, is representing San Diego County Health and Human Services Marijuana Initiative. The County has recently adopted three initiatives as a five-year work plan for the nine-county prevention collaboratives. They include the underage drinking initiative, the meth strike force, and

the new marijuana initiative. Protecting the children from the exposure to drug paraphernalia would go a long way toward creating a healthy atmosphere for children to grow and thrive. She encouraged Council to adopt this ordinance. It is an extremely important action to take and sends the right message to the youth and families that outside sales of drug paraphernalia will not be tolerated.

JIMMY KNOTT, 124 Sherri Lane, agreed as long as the ordinance is equitable. If they are going to prohibit the sale of drug and tobacco paraphernalia, the Council should also prohibit alcohol paraphernalia. They should be treated equally because alcohol is a drug. He encouraged the Council to also regulate the advertisement, sale, distribution and availability of alcohol.

BRADLY HAYWOOD, P.O. Box 1151, Oceanside, said he would agree with drug paraphernalia. He disagrees with including the tobacco products.

COUNCILMEMBER CHAVEZ supports any effort that protects the youth. He **moved** approval [of the **introduction of an ordinance**, "...amending Chapter 7, Article XI of the Oceanside City Code by the addition of Section 7.101, prohibiting the sale of tobacco and drug paraphernalia at a fair, street market, event or location other than in an enclosed building or tobacco and drug paraphernalia establishment"].

COUNCILMEMBER FELLER commented that tobacco is not gaining momentum in the schools so he is not worried about tobacco. It is also a legal drug. They are talking about illegal drugs and drug-related products, which is a high priority for the City. When they first brought this ordinance forward a couple of years ago, the intention was that it would be great if they could eliminate such sales completely, but at least they have them restricted to small areas in their stores. This discovery that Mr. Byrom presented was that kids can walk up to the table and be able to have a taste of a marijuana laced sucker is alarming. It is unbelievable that it is even something that children could have access to. He **seconded** the motion. He asked if there was something that they could do about clothing, etc. whether that is a freedom of speech issue because they are not in this ordinance.

INTERIM CITY ATTORNEY (ICA) WALLS clarified that it is a first amendment issue to regulate speech on posters and T-shirts, so they would refrain from doing that. That is why they limited it only to the tobacco and drug-related paraphernalia.

DEPUTY MAYOR SANCHEZ commented that, as an attorney who practices law in court every day, sometimes they do split hairs as to whether something qualifies as a pipe or not. Lieutenant Jones can confirm that a pipe used for methamphetamine is illegal and considered drug paraphernalia, but a pipe to smoke marijuana is not illegal; such is our law. Our laws have basically decriminalized marijuana in this country. She recalled reading cases where a small amount of marijuana was a felony, with up to several years in prison for the offense of just possession. Now, less than an ounce is a \$100 ticket. It does not even stay on the record after two years. She felt that the language of the ordinance was broad. She would vote against it because it is not just geared towards children, and it conflicts with our state and federal laws.

COUNCILMEMBER FELLER asked the City Attorney how this would conflict with State and federal laws.

ICA WALLS drafted the original ordinance and this amendment. She researched both state and federal laws in connection with the drafting of this ordinance. State law allows for municipalities to regulate in the area of tobacco paraphernalia to the extent that we are doing so here. There are also state laws that address access to minors and drug paraphernalia. This was designed to close a gap, where they have a situation where drug paraphernalia is labeled as being used for tobacco purposes and to close that kind of loophole. State statutory authority for that is even mentioned in our ordinance.

MAYOR WOOD expressed his concerns about the drug paraphernalia that is openly sold at places where there are a lot of children. It is up to the City to address the issues; it is something that they have to look at for the well-being of the community.

Following the titling of the ordinance, **motion was approved 3-1**, Deputy Mayor Sanchez - no.

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.

18. City Council: Approval of a ten-month and fifteen-day extension, pursuant to Government Code section 65658(a), of interim ordinance 05-OR0014-1, adopted January 5, 2005, which placed a moratorium on the conversion of any mobile home park currently existing in the City of Oceanside from a senior designated park to an all age park

- A) Mayor opens public hearing – Public hearing opened
- B) Mayor request disclosure of Councilmember and constituent contacts and correspondence – Mayor Wood, Deputy Mayor Sanchez and Councilmember Chavez reported contact with staff and the community; Councilmember Feller reported contact from Trico Mobile Estates, as well as citizens and staff
- C) City Clerk presents correspondence and/or petitions – None
- D) Testimony, beginning with:

MARGERY PIERCE, Director of Housing and Neighborhood Services, reported that staff is recommending that Council approve a 10-month and 15-day extension of the urgency ordinance that Council adopted at the January 5th meeting that put in the moratorium for 45 days, which was allowed by law. There is a requirement that, to extend beyond the 45 days, Council must conduct a public hearing pursuant to the Government Code. It will require additional time for staff to complete the necessary surveys and studies to determine what the impact would be if the mobile home parks that are currently operating or existing as senior parks become all-age or family parks and what the impact might be on the affordable housing stock for seniors. It is estimated that it would cost approximately \$28,000 to complete the study. If Council approves this extension, staff would be preparing a budget resolution for their consideration to transfer \$28,000 from the General Fund to pay for this survey. There has been no commission review.

Public Input

JIMMY KNOTT, 124 Sherri Lane, is the homeowner residents' representative for La Salina Mobile Village, a senior only 55+ community. He encouraged Council to support the extension.

Even though Council passed the temporary moratorium this past month, Trico Estates has purposely told the public through numerous advertisements that it is an all-age park. They put ads in the *North County Times* that there is a rental at their place. There is a pre-existing family that was allowed to move in. This ordinance will establish senior-only communities. Hopefully as part of the study, they will look into the differences between all-age communities, where they have to have certain amenities, and senior-only communities. There are health and legal considerations that have to be looked at, and these cannot be done overnight.

JERRY HOUSEMAN, 221 North El Camino Real, Vice-President of the Trico Homeowners Association, said they are upset when people do not keep their word. In

their park, they have a statement that this is a senior park and will remain a senior park, for adults only. They were glad when they heard about the 45-day moratorium but wonder how much weight that really carries. They are having younger generations within their park, which is not set up to handle children at all.

BRADLY HAYWOOD, P.O. Box 1151, Oceanside, suggested that the City Attorney review the wording of the ordinance. The City of Omaha, Nebraska went through this previously. It is now illegal in Nebraska for any facility that receives any federal or state aid to be discriminatory against families.

DELORIS EUSTED, Trico resident, told the Council about her experiences with Trico. On December 22, before the purchase of her mobile home in Trico, she was told that it was a senior park. Then she heard that it is now a family park. This is not what she wanted; she would not have bought there. She discussed problems that she had during the first month, which included them giving her 36 pages of rules and a 37-page lease agreement. They also told her to sign a paper stating this was a family park. She questioned that, and they told her they were turning this into a family park. She had already purchased her home and was not backing out of the deal, but she does not think that children should be there. There are no gates on the pool; there is no security for the children; and there are no playgrounds.

MARY JO ROSSI, 401 West A Street, San Diego, is with Trico Mobile Estates. For the record, she read a handful of letters written by some mobile home park residents who were unable to attend and who like the park environment and feel older and younger people can live together.

MAYOR WOOD asked where those people live.

MS. ROSSI responded that they live in different Oceanside mobile home parks.

TIM SHEAHAN, Villa Vista Mobile Estates, 2907 S. Santa Fe Ave., #2, San Marcos, Golden State Manufactured Owners League, Inc., a volunteer homeowner advocate, encouraged Council to extend the moratorium. Further study is warranted, and he hopes they started contacting seniors who live in some of the communities that have been converted. Thomas Starbuck, a former park manager in an all-age park who now lives in this 55 and older community, sent a letter to the Trico Park Owner. He outlined a myriad of reasons why it is not in the best interest of a park owner to convert and how it is unfair to the seniors in the community. It is more than just a simple rule change for the seniors; it is a lifestyle and quality of life change, and has potential health and safety impacts. Council needs to explore those adverse impacts and not put the need for affordable housing on the backs of senior citizens in our communities. They have an implied contract that their lifestyle is not going to be dramatically changed from how it currently exists. He hopes Council will not be dissuaded by Terry Dowdall's [counsel for Trico] 12-page letter to the Council citing the court cases why the Fair Housing Act should open these senior communities to all-age status.

It was ironic that four years ago, in the case of Taylor versus Rancho Santa Barbara, Mr. Dowdall took the opposite position to defend a park that had precluded residency to a 41-year old person, citing HOPA (Housing for Older Persons Act). That case went to the US Court of Appeals Ninth District Circuit and was upheld in that it was in the public interest to provide safe and secure environments for our senior citizens.

He also hopes that the Council will not be dissuaded by the park's impression that this is to provide fair housing for these families. He thinks an article in the mobile home park's report, January 2005 edition, sheds actual light on what is occurring. In an article entitled "Escondido: Residents' Political Clout Wanes in November Elections," the editor and park owner reported the success of a park owner political action committee that contributed \$70,000 to support two council candidates who were ultimately elected. He hopes that the park owner will change their position and think of the ethics involved and the duty to our seniors.

TERRE CATALANO, 1121 Glennerye, Laguna Beach, Hawkeye Asset Management, also read letters that were written by residents from mobile home parks in Oceanside that could not be at the meeting. These people were concerned over the talk about excluding families from senior mobile home parks, feeling that life is more pleasant with these families around.

JOHN MARCHANT, lives in Trico Mobile Home Park, which has been a senior park up until he signed the agreement four months ago. Seniors living in family parks have a dovetailing of needs and accommodations. He thinks that another ordinance is needed guaranteeing that there will always be family parks.

TOM ILES, 1121 Glenwyn Street, Laguna Beach, a resident of Oceanside, is representing Trico Mobile Home Park and Hawkeye Asset Management. He resides in an all-age mobile home park. He also read letters written by residents of parks in Oceanside who stated housing is hard to acquire, and that a mixture of people and backgrounds makes a healthy living environment.

MYRTLE CARVALHO, Terrace Gardens Mobile Home Park, 3030 Oceanside Boulevard, stated this was a senior park when she moved in. They did not allow animals. Now, the park has changed, allowing children and pets. It is not for the better. She urged the Council not to make any more parks a family park. There are plenty of family parks that we already have. The seniors need parks for themselves.

LEWIS CAMACHO lived in the Cavalier Mobile Estates for 10 years after he retired in 1988 from NYPD. He had to move out of there because of drugs, prostitution and murder. He moved to Trico Mobile Estates 6½ years ago because it was a wonderful park owned by Mrs. Margaret Levins, who would always keep it a senior park. When she became old and ill her son, Mike Taylor, took over. They want to make it a family park because there is plenty of money in it. They do not have the dumpsters, parking facilities or any playground for children. They have a Jacuzzi, which could be detrimental to small children. He feels that once it becomes a family park, crime comes in. Also, they won a big lawsuit against Alexander Alex, who owns Cavalier Mobile Estates, for something similar to what is going on now.

L. W. MICHAEL CULPEPPER, 200 North El Camino Real, expressed his opposition to having kids at Trico. His mother still lives in Trico. Already a second family has moved in with young kids. He lives in a senior mobile home park and loves his senior living. He has been around the Trico people for eight years; they are his family. Now Trico wants to take away their quality of life, their tranquility, their peace by throwing kids in their neighborhoods. He already has seen little kids running the streets. What happens when they start become teenagers? Sooner or later there will be drinking and parties. The senior citizens' whole life will be turned upside down because of these younger neighbors. He thinks what is being done to Trico residents is unfair. They have earned their right to their privacy of life.

RICHARD C. JOHNSON, 221 North El Camino Real, #18, lived in Trico Mobile Estates for 18 years. He moved to this park because he wanted some peace in his later years; however, since Hawkeye Management came in, they have been very arrogant and confrontational. They are ruining the lives of the senior citizens. The average age of the residents in Trico Mobile Estates is 74 years. They have 26 veterans living in the park; 20 of the residents are disabled. This is not a place for children to be playing. He read a petition to Mrs. Margaret Levins and Michael Taylor that he circulated in October to relieve Hawkeye Asset Management of its authority to function as their agent in Trico Mobile Estates to stop its destructive influence in Trico and save the reputation of this highly regarded park. He also read a letter signed by 98% of the park residents that he sent to Mrs. Levins regarding their dissatisfaction with Hawkeye Asset Management.

ANNA ROPPO, 401 West "A" Street, Suite 2400, San Diego, represents the interest of Trico Mobile Estates and Hawkeye Asset Management. One of the owners of

Trico Mobile Estates, Michael Taylor was not able to attend, but he prepared a statement which she read. He said there is one purpose to this ordinance and that is to stop his family from admitting families and children into their mobile home park. Not only is this action illegal, it is a direct violation of his rights as a private property owner in this City. The park is not owned or managed by the City of Oceanside; he is a private property owner. He abides by their laws, and he has rights allowed to him by law, which includes his being able to decide who can live in his park as long as he does not discriminate in any way. He urged Council to vote against the ordinance and refrain from spending tax dollars for the sole purpose of limiting his individual property rights.

Ms. Roppo reviewed the staff report. She is disappointed in the lack of analysis of the Fair Housing Act and relevant cases. Her client has the right by State law to change the rules and regulations of his property as long as he abides by that law. He has done that. The City cannot interfere with his right to protect the interest of families who have just as much right, if not more so, to affordable housing in the city. She cited the *Cedar Hills Developers Inc. vs. Township of Wyckoff* case that she asked the City Attorney to consider in further analysis of this matter.

ICA WALLS asked Ms. Roppo for clarification. It was her understanding, based on the testimony here today, that Trico has had long standing rules limiting occupancy to senior citizens. She recalled that at the last hearing Ms. Roppo mentioned that she felt the cases supported that only the park owner and manager could assert the senior housing exemption in the Fair Housing Act. She is wondering if Trico felt that it was in violation of the Fair Housing Act when it had its senior-only restriction.

MS. ROPPO responded that it was never addressed in terms of whether or not Trico felt it was in violation when the change came about. The reason that she addressed the exemption issue the last time that she was before the Council was because Ms. Pierce had indicated that the exemption existed under the Federal Fair Housing Act, saying that the City had the power to exercise that exemption or to insist that the property owner exercise that exemption. The property owner has decided to no longer exercise that exemption, and it is based on that decision that the property owner is moving forward, not necessarily because it felt that it was in violation of the Federal Fair Housing Act initially. If it wanted to exercise the exemption under that act, it could do so as long as it met the requirements of the exemption.

ICA WALLS asked if the owner felt that Trico Park met the requirements of the federal Fair Housing Act. She believes it still has the regulations in place.

MS. ROPPO responded that the rules and regulations that were presented at the December 15th meeting with the Homeowners Association provide for the opening of the park to all ages. It does, in the new set of rules and regulations, lift the restriction. She asked if Interim City Attorney Walls meant from when the park was built.

ICA WALLS meant up until December 27th when a decision was made to change. Apparently decisions have been made now to change the rules. She was just curious if the park met the federal Fair Housing exemptions since it was being held as a senior-only park.

MS. ROPPO responded affirmatively.

ICA WALLS asked if, when the meeting on December 27th occurred, notice was given to all the residents, and did they have that period under the Civil Code, the requirement for the park rule change.

MS. ROPPO responded affirmatively. She said that Interim City Attorney Walls was probably referring to Civil Code 798.25. That code section provides that the park owner has to give notice 10 or 15 days before the actual meeting with the Homeowners Association. That notice was provided on December 15th, and the rules and regulations as revised were provided with that notice.

INTERIM CITY ATTORNEY WALLS clarified that she was referring to the notice that requires six months before there is a change in the rule, unless the tenants consent.

MS. ROPPO responded that code also provides that unless a resident signs his/her consent to the rules and regulations as revised, six months must elapse at which time, whether there is consent or no consent, the rules will take effect.

ICA WALLS commented that it sounds like the rules have not taken effect.

MS. ROPPO responded that the rules have taken effect with respect to those residents that have signed them. The rules have not taken effect, but the time period is running from the December 15th notice period. The 6-month time period is running from that date forward so that effectively June 15th, or whatever six months is from the date of notice, the rules will take effect whether the residents consent to them or not.

DELORIS EUSTED, speaking again, said she was given an eight-page list of rules when she picked up her application in November. She was not given a 36-page list of rules until two weeks before she could actually sign the lease. She was given eight pages to start with, and that is what she bought her mobile home on.

SHARI MACKIN, 1469 Marino Street, found family parks to be far different from the senior-only parks. Senior parks are quiet, peaceful, and enjoyable for most seniors. Family parks, on the other hand, are very busy, with kids running all over, and running off to the pool. The City needs to stay on its path to keep Trico a senior park. They have family parks, and they have some affordable housing on line. They should allow seniors the quality of life that they have worked for.

BILL FERGUSON and his wife live in Trico. It was stated that there should be a 6-month period before these things go into effect and it was sometime in December that it was initiated. He asked how Trico was then able to get two families into the park, which they have done.

SAMUEL SPOONER, Rancho San Luis Rey Mobile Home Park, 200 North El Camino Real, #274, said that one of the issues presented here tonight has been health and safety. He has a serious neuromuscular disease and he needs the peace of a senior mobile home park. It is not something that they will have if they start mixing young people with elderly citizens. This is not the kind of environment that elderly people who have bought into this senior park would expect to have. It really is a health issue.

JACKIE KALTER, 4073 Vista Calaveras, said that after hearing some of the comments, it is clear to her that Mr. Taylor has no right to be doing what he is doing with these people. If she signs a contract saying that she is going to live in a community that is 55 or older, she expects that to be maintained throughout the time period that she is there. That means not signing any document under duress to change it midway through the race into a family park.

BRADLY HAYWOOD, P.O. Box 1151, Oceanside, did not know that they had two different types of parks in Oceanside. He assumed that the owners were just trying to increase the rent. After the lady read the letter from the owner, he suggested that Council extend this moratorium forever.

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

COUNCILMEMBER CHAVEZ commented that Council has chosen their path on where they are going on this. He is going to strongly support this extension of 10 month and 15 days because integrity does matter.

Oceanside is a growing city, and know there is an affordable housing shortage.

We need to address that.

He has met with a number of Trico residents and been to the meetings when Hawkeye Management discussed this with them. It is clear to him that the people who live in Trico do not dislike children; however, people have a right to live in the environment that they choose. He believed the gentleman on the health issue is exactly right. You make a decision for not just the quality of life for the senior but also for the young child. Imagine the tragedy seniors would have driving their car, their reflexes are not as fast, and one of those children in a little tri-wheel got in front of the cars. It is really a comfort and safety issue. Trico and a lot of senior parks do not have the amenities for children because they were designed for seniors.

This will probably get decided in a court of law. These 10 months and 15 days will allow them to do all this discussion and figure out the best way to go as a Council, not as lawyers. As far as he is concerned, he made a commitment to the community for the senior parks. He **moved** approval [of **Extension Ordinance 05-OR0076-1**, "...extending for ten months and fifteen days the 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 (seniors residents) to a mobile home park allowing residents of all ages"].

DEPUTY MAYOR SANCHEZ stated it is clear that Oceanside and the State have an interest in senior housing. It is also clear to her that the owners and management at Trico have no interest in the welfare of the residents that live there. She has listened through the reading of letters that were obviously made under duress and after given false information. They are not there to turn family parks into senior parks. It is near criminal to put this kind of pressure and stress on our seniors and families. She **seconded** the motion.

The City has a dire need for senior housing, and our senior parks supply needed senior housing. She was amazed at the kind of information and the scare tactics presented by the owner. Council has no desire to violate any laws of the city and the state. Our desire is to make sure that we have senior housing.

COUNCILMEMBER FELLER commented that it was still not very clear to him why this was even presented in this way. It said in the staff report that 9 of 19 parks in Oceanside are senior. Has Trico been considered a senior park.

MS. PIERCE responded that Trico has been declared a park for persons 55 and older for many years. It has always been a senior park and declared itself as such in 1989 when the Fair Housing Act was amended.

COUNCILMEMBER FELLER stated that there are 10 parks that are not senior housing in the City.

MS. PIERCE responded affirmatively.

COUNCILMEMBER FELLER believes Mr. Taylor has his property rights. However, the people have been living here for years under the assumption that this is a senior-only park. He does not believe Mr. Taylor, as the owner of this property, is following the wishes of his mother. He does not understand how Hawkeye Management Company can be so confrontational and condescending. He asked how many homes in this park are on rent control.

MS. PIERCE responded that there are 97 spaces, and other than the two that were owned by the park owner, all of the spaces are regulated under the Rent Control Ordinance.

COUNCILMEMBER FELLER does not get what Mr. Taylor is trying to do. It is only fair that the City continue this ordinance for the 10 months and 15 days as part of a

plan for these people. They bought their homes for the same reason Mrs. Levins bought the park many years ago. They have rights too, and we have to try to figure out a way to honor their rights as well as Mr. Taylor's in the next 10½ months.

MAYOR WOOD said that everybody else has covered the issues of affordable senior housing. This was still part of the senior affordable housing. He asked how many people are on waiting lists for senior affordable housing in Oceanside alone.

MS. PIERCE responded that she does not have a number, but there are various senior affordable housing developments that have a long list. In their department, under their Section 8 program, which is granted to both seniors and families, they have a great number of seniors on that waiting list. It will take about 5 years for anyone to get assistance.

MAYOR WOOD said that this was really to look into the issue and give them time to do it to be fair. He went to a meeting at Trico, and the seniors were treated poorly by Hawkeye Management.

ICA WALLS clarified that the ordinance was directed not just at Trico but for the benefit of all the senior communities and senior mobile home parks within Oceanside. She then titled the ordinance.

Motion was approved 4-0.

[Recess was held from 7:30 PM to 7:44 PM]

19. **City Council: Consideration of a resolution denying an appeal to a revision to Development Plan (D-23-01) and a new Conditional Use Permit (C-2-04) for the construction of an 807-square-foot drive-through carwash on a .82-acre site located at the southwest corner of North River Road and Douglas Drive – Douglas Drive/North River Road Commercial Center Carwash – Applicant: San Luis Rey Service Station, Inc. – Appellant: Laura Hemple**

COUNCILMEMBER CHAVEZ excused himself from the dais for this item due to a conflict of interest since he owns property within 500 feet. [He left the dais at 7:45 PM]

- A) Mayor opens public hearing – Public hearing opened
- B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Mayor Wood and Councilmember Feller had contact with the applicant and staff; Deputy Mayor Sanchez had contact with the applicant and received emails
- C) City Clerk presents correspondence and/or petitions – None
- D) Testimony, beginning with:

JERRY HITTLEMAN, Senior Planner, reported that the project site is located at the southwest corner of Douglas Drive and North River Road. There is a Sav-on drugstore on the north side, commercial and residential uses to the east, and a new condominium project around the project site. The original site plan was approved by the Planning Commission in July of 2002. The Sav-on is built on the corner; a Carl's Jr. drive-through restaurant will be under construction soon; and a 3,000 square foot mini mart and gas station is approved but not built.

On December 20, 2004, a conditional use permit was approved by the Planning Commission by a vote of 5-2 for a revised site plan for the southern-most portion of the site with the mini-mart. An 807-square foot carwash was approved in this location. The 3,000 square foot mini-mart was reduced to 2,710 square feet to accommodate some of the car wash issues, such as the queuing area and the carwash itself. The setbacks

from the property lines were also increased. The actual carwash in this location is 48 feet from the property line, and then 58 feet to the adjacent building. On the south side, the car wash is set back 15 feet from the property line and then 25 feet from the nearest residence. At the entrance to the carwash, there is a noise attenuation, what they call a wing wall, that would be built. That would be approximately 15 x15 feet to the west, and then the other wing wall to protect these residents from the noise is about 20 feet in length and 15 feet high. There is also a six-foot solid masonry wall between the commercial and residential properties on all sides.

Using computer graphics, the top elevation is the actual carwash structure, which is a one-bay carwash for one car at a time. The other structures that have been incorporated into the architecture are the sound attenuating wing walls on either side. The lower elevation is the front of the mini-mart structure.

Noise impacts from the carwash on the neighboring residents was the main issue discussed at the Planning Commission by the surrounding residents. A detailed noise report was prepared by the applicant that analyzed the potential impacts and required numerous mitigation measures. The noise limit between the commercial and residential portions of the site is 57.5 decibels at the property line. The carwash with no mitigation, with open doors and without the wing walls was found to produce in excess of 60 decibels on the west side of the facility and 65 decibels on the south. With the noise mitigation measures that were incorporated into the mitigated negative declaration, the noise was reduced to 45 decibels on the west side and 51 decibels on the other side, which is 6 decibels below what is required in the City's noise ordinance. It is below the ambient noise or the existing noise in that area, which is 52 decibels from the traffic on Douglas Drive.

Mitigation measures were to incorporate a noise reduction package for the car wash dryers, construct the wing walls, limit hours of operation from 7:00 a.m. to 10:00 p.m. and also use sound-reducing roll-up doors on the entrance and exit of the car wash. The Planning Commission went a step further on the mitigation conditions and voted to limit the hours from 9:00 a.m. to 7:00 p.m., 7 days a week, just during the daylight hours. There are no deliveries between 12:00 a.m. and 6:00 a.m. They wanted to provide some extra sound-insulating foam within the roof of the structure. Also the car queuing area between the residents and the commercial area will be closed from 7:00 p.m. to 9:00 a.m. when the carwash is closed so there will be no unauthorized activity back there. They also required security lighting and security cameras in that area to ensure extra protection for the residents. The conditional use permit is to be reviewed by the Planning Commission six months after the Certificate of Occupancy is issued, and a new noise study will have to be produced at that time to show that these regulations are being met.

Another public concern was air quality. An air quality report was produced and found that the idling cars, there can be up to five, would not exceed any of the Air Pollution Control District or any air standards enforced by the State or the Federal governments. The City does not have any local regulations on air quality. The applicant has met a number of times with the neighbors to attempt to work out issues related to the carwash. The project was reviewed three times at the Planning Commission, where conditions were added each time. They asked for more information on noise, and they were satisfied that the noise was reduced to acceptable levels. Staff recommends that Council affirm the Planning Commission approval of the project and deny the appeal.

COUNCILMEMBER FELLER asked what kind of mitigation can be done after the six months if there is a problem at that point.

MR. HITTLEMAN responded that other noise walls may be added, and if those are found not to work, the actual carwash could be shut down. This is a conditional use permit, so the Planning Commission would have the right to do that. They would try to work it out. Maybe some extra foam or limiting the hours to even a greater extent might be some other measures that can be looked at.

MAYOR WOOD was quite impressed by the efforts made by the applicant with the sound wall, the distance that they moved it away, and changing the location and design. He asked if it was correct that the door in the back and the front of the carwash is automatic. That is, it opens and lets you in and then shuts behind you, and then opens the other side as you come out. He also asked what time the carwash is opened.

MR. HITTLEMAN responded affirmatively. The doors will be closed during the entire operation of the car wash itself. The carwash is open 9:00 a.m. to 7:00 p.m.

Appellant

LAURA HEMPLE, 634 Sumner Way #1, appellant, requested a summary of the position of each wall and the height. It was unclear to her.

MR. HITTLEMAN reported that the entrance to the carwash will have a wing wall 15 feet high and 15 feet in length. It was designed to match with the architecture of the structure. At the exit of the carwash, the western-most wing wall is 20 feet by 15 feet.

Applicant

ERIC RUBERY, Senior Associate with Sapetto Group, applicant's representative, has been hired by Jack Kofdarali [applicant] to help with the project. The Douglas Drive Commercial Center was approved in July 2002 with the existing Sav-On Drug, the future Carl's Jr., the mini-market and gas station. On February 11, 2004, the applicant filed the request for a conditional use permit and the modification to the previous approval to allow the carwash. From there, in working with staff during July and August, the project went back to the Planning Commission a couple of times with consideration of noise, quality, design and landscape issues, etc. In September it was continued one additional time to allow for some more dialog between Mr. Kofdarali and the City staff, as well as the residents, to help address some of the noise concerns and other concerns. In December, the project was approved by the Planning Commission with the addition of the wing walls. There are some roof extensions over both the entrance and exit of the carwash that tie those wing walls back into the main portion of the building. Then the project was appealed.

Addressing the proposed noise reductions, he stated the carwash will only be operational between 9:00 a.m. and 7:00 p.m. There will be 6-inch thick foam installed between all the studs on both the walls and the roof of the building. Inside the carwash, there is a noise absorbent paint to help further mitigate any noise issues. The automatic roll up doors at each end of the tunnel and the vacuum system and dryer system are both noise reduced. Finally, with the Planning Commission, there was the addition of the Cyprus trees along both the rear and the side property line to help mitigate noise and the visual impact for the adjacent neighbors. As staff indicated, the results of the noise reduction show that the carwash is going to be quieter than the ambient noise from Douglas Drive.

Regarding the air pollution issue, there was an air pollution study done, which showed that none of the toxins that were observed were anywhere near any established threshold. In fact, they were 1/1,000,000th of any state or federal threshold.

Regarding landscaping, there was concern about landscaping and screening of both the carwash and the convenience store from the adjacent properties. Seventeen percent of the property is landscaped while only 15% is required. The landscape materials over time have increased in size and quantity. At the request of the residents, as well as the Planning Commission, the Cyprus trees were added along the side and the rear property lines, the intent being that these trees will ultimately reach a height where they will completely screen both the carwash and the convenience store from any of the adjacent neighbors.

Finally, Mr. Kofdarali personally walked the neighborhood, knocking on doors and hoping to have interaction with the residents. He did visit as many residents as he could. He got 44 signatures from people in the immediate neighborhood, including at least five of those who had signed the previous petition opposing the project and one of whom signed the appeal document that is before the Council.

Appellant's Rebuttal

LAURA HEMPLE, appellant, cited Section 38.2 of the City Noise Ordinance, which states that it is the policy of the City to prohibit unnecessary, excessive and annoying noises from all sources subject to the police power. At certain levels, noise is detrimental to the health and welfare of the citizenry. She also noted that Section 38.17 lists horns, radios, etc. as specific types of noise that can be considered nuisances.

Her husband has a degree in theoretical mathematics. She is a research physicist and in the Ph.D. program in physics at UCSD, so they reviewed the sound report. She stated that they found discrepancies, omissions and misleading figures on the sound report. The document states the carwash is 48 feet from the adjacent residences, and the first car is 60 feet. It states the average washing unit is 58.7 decibels and the average blower noise is 68.4 decibels. However, no location is given for the reference for these figures. Therefore, they are meaningless. The door noise at 44 feet was at a certain level; however, table 7 shows the roll up doors are 54 decibels, including the noise from Douglas Drive. Table 7 also states that a 6-foot wall and a 15-foot wall at the bottom floor would reduce the noise by 5 decibels, but on the second floor would reduce the noise by 19.5 decibels. How can this be?

There are also misleading figures in the document. More than once they state the distance from the noise source to the residence, when the ordinance states they are to be concerned with the noise at the property line. Her main concern about the noise report is that in all of the figures, they have given Council the contributions from individual sources, one at a time, and they have concluded that each of these sources is less than the ambient noise. However, the requirement of the City ordinance is the total noise level at the boundary. This information was not presented to the Planning Commission. She did not have the data before the meeting, and she did not see that they have given further acoustical analysis.

She presented her calculations of the noise level from the carwash. She used the figures given in the December 20th Planning Commission staff report on how to add decibel levels. If she added the ambient noise due to the first car and Douglas Road, it is 53.21 total. If she adds the ambient noise from the first and second cars, the total is 57.83 decibels, which is higher than the City Ordinance allows of 57.5 decibels. Therefore, if at any time, there is an average of two cars consistently waiting in line for an hour, then they will be over the noise allowed by the City ordinance.

She was also curious to see exactly how long it would take three cars to wait in line to violate the noise ordinance, so she used another figure from one of their acoustical analyses where they found the one hour average decibel level. If there were three cars waiting in line for any period of 13 minutes, including the noise from Douglas, they will be over the allowed decibel levels. She could not find anywhere in the report where they added these figures together. They are presented separately, and it states that they individually meet the requirements. This is not what the City ordinance says. She did not add any effects from stereos, the louder noise from cars actually driving through the queue, revving engines, associated noise from the Carl's Jr. queue, which is already approved, or any associated gas station noise from patrons yelling, deliveries or air conditioning units. Is it a possible scenario that they can have three cars waiting in line for 15 minutes? They visited the carwash on Mission and Canyon, and for 15 minutes there were consistently three cars in line.

The other reason why they are protesting this carwash is because it is a

significant change to the plan that was in place when they bought their condominium. There was just going to be a wall there that would help reduce the noise from the street. Now, they are having noise that is very close to, if not over the ordinance levels. It was also noted in the Commission hearings that our residence is a high impact area, and that this car wash will only increase the density of an already impacted area. She also pointed out that in the original plan when the Carl's Jr. was approved, there was a 40-foot setback from the wall. Here the setback is not nearly as much. If that was what the Planning Commission required in the original plan, then if the carwash had been in the original plan, they would not have allowed it in this location.

The applicant mentioned he went around the neighborhood and tried to find people that were in his favor. She has a petition with 52 signatures of people that are opposing the carwash. There have been no changes added to the carwash since she collected these signatures. There have also been no changes added to the carwash since she collected the 25 appeal signatures.

Their main concern is the noise from the queuing cars. It is also the number one condition for the appeal. The applicant finally provided the acoustical data for the queuing cars, so now she knows that it is an even bigger problem than she thought it was. The other thing that they offered is to post signs reminding customers to be considerate. They have not suggested any alternate locations. They can just twist the figures and make it sound like they are obeying the ordinance. This noise level, when everything is combined, exceeds what is allowed by the City ordinance. The plan would have a significant effect on their property values. The applicant has a record of being bad neighbors in that they have not listened to the residents' primary concerns. She asked Council what is going to happen in six months when they get the data that the carwash is not meeting its expectations?

NIKKI HART, 642 Sumner Way, currently works at one of the top law firms doing both employment litigation and intellectual property litigation. The owners of the property have asked the Planning Commission to compare what was before with what is now, the two carwash proposals, improved landscaping and some architectural design changes. They did not change where the cars would be queued up; the cars are going to be queued up right against the Hemple's house.

When people purchased their townhouses in this development, the plan was to have their community next to a commercial plot that had Sav-On, Carl's Jr. with a 40-foot space between the fence and the drive-through, and a gas station and mini-mart. That was what was then. The gas station came in at the 11th hour wanting to change the plans to include this drive-through carwash. They are doing it now because they knew that when the original plan was approved for the community as a whole, two businesses with two drive-throughs causing a queue of cars right next to residents' fences, living rooms and bedrooms would not have been approved. This drastically changes what the original plan of the community was.

Additionally, they have only provided the noise level for each separate source of noise that will be coming from their project. Under Section 38.12 of Chapter 38 of the City Code, it is unlawful for any person to cause or allow the creation of any noise to the extent that the sound level exceeds the limit set forth within that chapter. Under Section 38.3 noise is defined as the composite noise from all sources near and far. If they combine the noise level from the carwash and the queue of cars that is going to be in line for the car wash, the noise level of just those two things alone, excluding any other reasonable and relevant sources, is going to exceed 57.5 decibels. They have never disclosed that to the Planning Commission, Council, and the residents of the community. This is a blatant and inexcusable error.

The commercial space needs a conditional use permit, and that use has to be consistent with the surrounding neighborhood. This clearly is an inconsistent use with their residential neighborhood. Within the community, 5 of the 7 units that directly surround the project site have recently sold for a lesser value than the homes were

previously selling for in their community. If they are having a hard time selling now, it is going to be even worse once the project is built. Most of Brisbane consists of first-time homeowners, a lot of military families and a lot of working class families who worked hard to buy their first homes. This is devastating to all of them. They used to have almost 100% of their units owner-occupied; now only 70% at most are owner-occupied. They asked the Council to protect their investments and the plan that was in place when they purchased their homes so that they can reap the benefits.

There are very few car washes that go into such close proximity to residential neighborhoods. Anyone sitting in this room would say that they would not want a car wash 15 feet from their bedroom window. There are two carwashes in Oceanside. One is at Old Grove Road, which is across the street from any residential neighborhoods and is purely on a commercial lot. Then there is one at Mission Avenue and Canyon, with at least 35-60 feet between the carwash and the fence that blocks the commercial line from the residential apartment complex. Here, she can stand in the walkway between the fence and apartment complex and be able to touch both the front door of the house and the fence of the carwash.

There has been a lack of concern for the residents' voices. Not only has the applicant not considered an alternate location for the queue of cars, which has been the residents' main concern, they also have not disclosed the composite noise level as is required. A few weeks ago, there was rain. The owners of the property allowed their contractor to come in and pump water out of the site one night well after 9:00 p.m. and one night between midnight and 2:00 a.m. At least 80% of the people from her community were awakened that night because of the noise. If they allowed that kind of conduct while trying to gain this conditional use permit?

Public Input

JIMMY KNOTT, 124 Sherri Lane, said the doors are going to be closed during the operation of this, how are they going to certify that the engine of the car is off? How will that be handled and what form of ventilation will be installed. The second thing is the fire hazard. What safety procedures are going to be implemented if the cars are blocked in? If by chance, a vehicle caught on fire, what will be the protections for the building and the surrounding community?

BRADLY HAYWOOD, P.O. Box 1151, Oceanside, said if they look at the carwashes around Oceanside, no matter what they do to their landscape, there is always garbage that is thrown from the cars. He does not care about the noise. He will adapt to that as part of living in the City, but does not want the excess trash.

ROBERT HOWARDS, 1931 Bush Street, lives in the back of a carwash, and it is atrocious.

BROOK BARNETT, 4499 Brisbane Way, has a four bedroom in the complex, and three of the windows border the car wash directly over where the 15-foot wing wall is proposed. He personally does not have a problem with the noise the carwashes are going to create; he believes anything can be soundproofed. He does have a problem with the fact that directly in the corner of this where the staging area is going to be is also the common area for the development. Besides all the residences, this is where their hot tub and community pool is, and he feels that the noise impact will be large. While anyone can close their windows, turn their air conditioning on, or sound proof, it is harder when they are in a community environment. He also purchased his home within the last six months from the former President of the Homeowners Association, and his primary reason for leaving was the proposed carwash that was going into the development.

STEVE HEMPLE, 634 Sumner Way, #1, said that they talked about the different car washes, and it seems that the Planning Commission is not very consistent. They obviously see that these apartments need to be set back 50 feet from the carwash, as

well as the 48-foot setback from Carl's Jr., but the queue of the cars is set back about 10 to 15 feet from their bedroom window.

CHERYL GROSSO, 4499 Brisbane Way, #4, asked Council to continue taking into consideration their constituents' concerns. She just came back from Iraq, and her husband is currently serving there. They also are considering living here on a permanent basis. She just wants to feel that they are addressing all of the residents' needs as well as the businesses.

GINA NOCITO, 4490 Brisbane Way, said she recently moved away because they want to start a family and also because they knew that this carwash was going to be put in. They were concerned with the security issues. Many of the homeowners can attest to the fact that they had to call the police a number of times because people are vandalizing their restrooms next to the pool and spa area. There is a wall that is probably 15 feet tall that is right next to where the car wash is going to be. She is wondering what kind of lighting or additional security features they are going to be providing, and clarify security features after hours.

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

DEPUTY MAYOR SANCHEZ feels that because of all the conditions that have been placed on this project, it will work here. It is a commercial area; it was not changed from residential to commercial. The Planning Commission has added a condition that the conditional use permit will be brought back to the Commission for review six months after the issuance of the Certificate of Occupancy. At that time they will address any issues.

She **moved** approval [of **Resolution No. 05-R0077-1**, "...denying the appeal of Planning Commission Resolution No. 2004-P36 approving the supplemental mitigated negative declaration and approving revision to Development Plan (D-23-01) and a new Conditional Use Permit (C-2-04) for the construction of a 807-square foot drive through carwash on a .82 acre site located on the southwest corner of Douglas Drive and North River Road (San Luis Rey Service Station, Inc. – Applicant) (Laura Hemple – Appellant)".

COUNCILMEMBER FELLER asked for clarification about the 48 feet.

MR. HITTLEMAN responded that the 48 feet comes from the entrance of the carwash to the property line, which is to the west. The cars will be queued behind that from the actual entry door.

COUNCILMEMBER FELLER questioned that a statement was made that the second car in the queue was further away.

MR. HITTLEMAN responded that the second car in queue would be probably 10 to 20 feet, a little bit closer, so it will be more like 38 feet. He did not see the error in the staff report that the speaker referred to, but it will definitely be closer in the queue.

COUNCILMEMBER FELLER stated that he just wants to understand how further away can be closer.

MS. HEMPLE stated that if they read Item 8 of the staff report from December 20, it is reprinted in the February 2nd report that they have; she was trying to prove her point that there are errors in this report; this is an oversight and these figures have not been completely calculated. This error that she is referencing says that the carwash is located approximately 48 feet east of the adjacent residences. Later in the same paragraph it says the second vehicle waiting in line is located approximately 60 feet away from the residences. So the first car waiting in line would be closer to the residences. Mr. Hittleman did correct himself, but she just wanted to show that there are errors here.

COUNCILMEMBER FELLER asked how long it takes to go through the carwash.

MR. HITTLEMAN responded that according to the applicant it is close to three minutes.

COUNCILMEMBER FELLER stated that the cars seemed to be moving pretty fast through there. One speaker said that she can touch the wall from the front door.

MR. HITTLEMAN responded that according to their drawings and all the reports that they have, it looks like it is 10 feet. There is a retaining wall inside there that might be a little bit closer, but then there is also a wall that separates the commercial from the residential; it appears to be 10 feet.

COUNCILMEMBER FELLER clarified that wall is the six-foot wall on the project property, and the shorter wall is the retaining wall.

MR. HITTLEMAN responded affirmatively.

COUNCILMEMBER FELLER asked if there is some way that on that back wall, they could have a curved Plexiglas to deflect the noise.

MR. HITTLEMAN responded that from an engineering standpoint that would be feasible but they would have to bring that back to the Planning Commission because the wall will then exceed their height limit of six feet. He said that is one of the measures they could look at if there is a problem after the six-month review.

COUNCILMEMBER FELLER hoped that they could think of a way to deflect the noise if the residents' concern is the queue. A wall above the queuing area might solve the problem completely. He does not know if they want to wait or do it now.

MR. HITTLEMAN responded that is something they can certainly look into. He stated the applicant indicated they could do that.

COUNCILMEMBER FELLER would like the Planning Commission to ask for that. It may take a little longer, another month, but it would be something that these people would not have to live with for six months.

MR. HITTLEMAN clarified that they will design a wall and bring it back to the Planning Commission in about a month.

ICA WALLS clarified that if they are going to modify the conditions to the approvals tonight, they should send it back to the Planning Commission.

COUNCILMEMBER FELLER said that was a suggestion.

JACK KOFDARALI, applicant, would prefer if there was a solution that it would not have to go back to Planning Commission; they have been at this for a while. He asked if that could be part of their building permit process; they would submit that as part of their building permit. They would agree tonight that they would do that. Whether it would be in Plexiglas, a concrete wall, or whatever Council prefers, they would do. However, they would hate to go back for another hearing.

COUNCILMEMBER FELLER asked if this is a done deal if agreed to tonight.

ICA WALLS understood that the project proponent is amenable to making project modifications to address some of the issues that have come up, and the project applicant can agree to those modifications. Typically, if you are modifying the project, it would go back to Planning Commission. However, it sounds like the project applicant is

amenable to doing that.

GERALD GILBERT, Planning Director, stated that if the applicant is amenable to this and if the Council wants to do this, there are a couple of different methods to address this. They can do it as conformity to the original approval, which is an administrative process that staff will review. If they do not come to any agreement, they will kick it into a formal process. If they come to an agreement, it can be done administratively. If the Council takes that action tonight and their desire is to do that, staff can make sure that occurs.

COUNCILMEMBER FELLER stated that if that is agreeable to Deputy Mayor Sanchez, he would **second** this.

DEPUTY MAYOR SANCHEZ modified her motion to include: with an additional wall design detail as agreed upon by the applicant (a curved possibly Plexiglas design on the back wall to further attenuate the noise). She also thinks that the Planning Commission is going to be looking at this anyway, so there is a fix.

ICA WALLS clarified that the substantial conformity would be an administrative matter that could come back before the Planning Commission on this particular issue to ensure that the condition is addressed. It would ultimately be an additional step after the approval.

MAYOR WOOD stated that the applicant came in with his staff to talk to them. This gentleman seemed to go far and beyond in trying to rectify a problem. However, it concerned him that the applicant changed the original plan to one with a carwash. He wants to make sure that the neighborhood is happy. Their quality of life is important. The applicant has tried to rectify a problem. Councilmember Feller is giving this gentleman an opportunity to address some concerns for the neighborhood. If this passes now, along with the conditional use permit, they should be back here in six months to tell Council what they think. It is hard to monitor sound when the project is not built. You do not know what it is going to be until you are there. He does not think that anybody that has a condominium sitting right next to that wall is going to be very happy, but this applicant has gone to a lot of effort and is willing to work with the community.

Motion was approved 3-0, with Councilmember Chavez absent (due to conflict of interest).

[Councilmember Chavez returned to the dais at 8:57 PM]

20. **CDC: Consideration of a resolution approving Tentative Parcel Map (P-204-04), Development Plan (D-206-04), Variation (V-208-04) and Regular Coastal Permit (RC-205-04) for a four-unit condominium project located at 130-132 South Pacific Street; the project site is located within Subdistrict 5 of the "D" Downtown District and is situated within the Townsite Neighborhood and the Coastal Zone – Hibiscus Condominiums – Applicant: Janina Wachsberger**
- A) Chairperson opens public hearing – Public hearing was opened.
 - B) Chairperson requests disclosure of Commissioner and constituent contacts and correspondence – Mayor Wood and Councilmember Chavez had contact with the applicant and staff; Deputy Mayor Sanchez had contact with the applicant's representative; Councilmember Feller had contact with the applicant's representative, staff and neighbors and has been on the site.
 - C) Secretary presents correspondence and/or petitions – None
 - D) Testimony, beginning with

RITA BAKER, Senior Planner, reported that the project had been previously approved in 2002. The applicant pursued it and was ready to pull a building permit; however, he was not able to do so due to issues beyond his control so the application lapsed. A new application was filed and a new process begun. This is where they are today with this application. The site is located in the block between Seagaze Drive and Tyson Street. Part of the application's prior approval involved the demolition of two buildings on site that had historical analysis and photo documentation accomplished.

Building A has two units, and Building B also has two units. The units are two stories above the garage and are approximately 1,200 square feet in size. They have a Normandy architecture, similar to St. Malo. The applicant is requesting two variations. The first variation is for shared open space. The applicant contends that they are providing almost double of what would be required for private open space. A lot of the original drawing of the site plan is encumbered with a driveway to accommodate the parking. The applicant is also requesting a variation for the requirement to provide a trash enclosure and trash bin for the building. He is asking instead that individual containers be allowed and that they be stored in the garage and brought to Pacific Street on trash day. There is also a request to defer undergrounding the overhead utilities for the project. There are overhead utilities at the rear of the project, and the project does qualify under the subdivision ordinance for the deferral.

The focus of staff's analysis was the compatibility of the project with the surrounding neighborhood, taking into account that the project is essentially the same as one that had previously been approved two years before. The outstanding issue was the possibility of providing a trash enclosure, which is something that the City has routinely required since the Zoning Ordinance was enacted in the late 1980's.

The project came before both the Redevelopment Design Review Committee (RDRC) and the Redevelopment Advisory Committee (RAC). Both committees spent a lot of time on this issue. While they both unanimously recommend the project to Council, they do recommend that the variation not be approved for the trash. They recommend that it be studied further, brought back to the Design Review Committee for further review and that they preserve the Zoning Ordinance requirement for the trash enclosure. The reason for this is principally an image issue. They want to make sure that trash is picked up and collected in a timely manner and that they do not have bins on the curb on a very scenic street; it is a requirement that they are expecting to have accommodated on new projects. With that, staff recommended that the Council approve the project subject to further study on the trash enclosure issue - with eventual approval by the Planning Director and the Design Review Committee.

Applicant

LOUIS TASCHNER, 322-B North Nevada Street, applicant's representative, concurred with most of what staff has said. The architect worked over 17 months to put buildings on this site. At the end of his work, he turned it over to the engineer to finish up the project. A trash enclosure may not be absolutely necessary. He disagreed with staff when he appeared before the RDRC. There was a recommendation that this project be approved including the trash enclosure. That motion was then modified. The modification was that the issue of trash receptacles be brought back to the RDRC, with the understanding that there is going to be a Homeowners Association; that if the trash cans are going to be kept in the garages, they want to know that they are going to be in the garages except on trash day; that there is going to be someone responsible to bring those cans from the garages up to the street; that the cans will be adequately sized for the garbage that they need to collect; that there will be education as far as recycling; and that someone will be responsible for the green waste bin. All of those issues were discussed. It was further brought out when he went before the RAC that he would ask for the variation because the trash enclosure would be in front of both front doors. He asked that they condition this project to go back to the RDRC; and that the method for trash removal, as well as the containers and the person in charge, go through that review and become a condition in the homeowners association. Other than that, the

project speaks for itself. It meets every rule. It is 10 feet less than could be allowed because the neighborhood bulk is 27 feet. This one comes in at 25 feet. He hopes that Council will be pleased with this product because it is going very near the new hotel. It is something that will be quite visible to most of the people that are coming into the community.

MAYOR WOOD pointed out that the driveway into the back is the area where the two front doors are.

MR. TASCHNER commented that there is not enough room for the trash truck to turn around in that area to pick the trash up.

Public Input

BOB WILLIAMS, 134 South Pacific Street, said that he is very familiar with this property and is in favor of the project. His property is the Williams Apartments. He has had those apartments in the family since back in the late 1940s. This property [project site] has had some difficulties for the last two years. Tenants and prospective tenants he had for his apartments saw this piece of property with trash and old foundations. For two years he put up with this. This property should have been cleaned up, cared for and then redeveloped. He also is in favor of the push containers with lids. A dumpster in that area would look horrible. He is in favor of the push containers kept in the garage and then taken out on trash day. Each owner that buys a condo could be responsible.

He wants to address the loud noise from contractors. There will be different contractors that will be coming to this property. His tenants will be facing and looking right at this project every day until it is finished. He understands if the contractors are hammering and sawing, but he does not understand loud stereo music and radios.

Regarding the fence, he asked what type of fence it is going to be replaced with. There is a concrete fence there now. Is it going to be the same, or is it going to be wood? He is for the project.

BRADLY HAYWOOD, P.O. Box 1151, Oceanside, agreed with the City's idea of requiring trash enclosures. If it is in front of people's front doors, then redesign the building and move the front doors.

Applicant's rebuttal

MR. TASCHNER responded to Mr. William's question, stating that the walls will be demolished, and a 6-foot concrete wall will be placed all around the property, except for the front 10 feet which is the front yard setback. Therefore, there will be total security for his property for this project. As to the issue of the birds getting into the dumpsters, that is the reason why the Redevelopment Advisory Committee made the recommendation they did. They wanted to see the trash cans used so things like that could be prevented.

MR. WILLIAMS said that the alley comes right to his garage and his property. Stuff does fall out of the dumpsters, and dumpsters are not always that clean either. He is for putting trash receptacles in the garage.

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

DEPUTY MAYOR SANCHEZ asked if it is possible to condition the construction to not have radios on.

MS. BAKER responded that the noise ordinance does have prohibitions against loud noise. It is very difficult to enforce because it is weighted over a period of time. Somebody at lunch eating their sandwich and playing a radio loud might not have it on for hours. Certainly staff works on a complaint basis. They want contractors to be good

neighbors, and she knows that Code Enforcement and the Police Department do go out and issue warnings periodically.

DEPUTY MAYOR SANCHEZ asked Mr. Taschner if he would be willing to make sure that the noise is down, and that his client is aware of this concern.

MR. TASCHNER responded that as staff has pointed out, they have a very restrictive noise ordinance. Hopefully with the distance from these buildings to Mr. Williams' property, as well as the contractors' need to be responsible, he does not think it will be a problem. They can monitor it during construction to make sure a problem does not occur.

DEPUTY MAYOR SANCHEZ likes the project. She prefers the idea of having the trash receptacles stored in the garages and that there is going to be a homeowners' association. She **moved** approval [to approve **Resolution No. 05-R0078-3**, "... approving a Tentative Parcel Map (P-204-04), Development Plan (D-206-04), Variation (V-208-04) and Regular Coastal Permit (RC-205-04) for open space, and approving individual trash containers and granting deferral of underground conversion of overhead utilities for a 4-unit condominium project located at 130-132 South Pacific Street – Applicant: Janina Wachsberger," with the variation for certain type individual trash containers stored in garages rather than building a trash enclosure].

MAYOR WOOD **seconded** the motion.

COUNCILMEMBER CHAVEZ asked staff what the thought process was on the issue of the trash receptacles per household and the idea of having a dumpster there.

MS. BAKER responded that as they outlined in the staff report, this morning she counted seven dumpsters in the alley near this project and a couple of toters that were out. These buildings were built before the ordinance was there. As the neighbors said, they have problems with dumpster divers, and they have problems with overflow. It can be unsightly to have trash containers out all day while people are at work, and they do not retrieve them right away. That was part of the decision citywide to require trash enclosures for projects that are over 4 units in size.

COUNCILMEMBER CHAVEZ pointed out that this site is going to be near the hotel. He asked which would be the most aesthetically pleasing - to have the individuals have their separate trash containers and their recycle things taken out every week or to have a receptacle or a dumpster in the area.

MS. BAKER said they believed that picking up the trash at one time and replacing the dumpster would be more aesthetically pleasing.

COUNCILMEMBER CHAVEZ thinks it is a great project. It is going to have a significant, positive impact in the redevelopment area. He likes the idea of the open area on top of the structures. There are a lot of nice things about this project, but he is also concerned about how it is going to look for somebody walking down the street. What is going to be the most positive image? He is in agreement with staff's position in addressing the trash issues.

COUNCILMEMBER FELLER stated these toters really work. They are clean and on wheels. He suggested they condition the project to not have anything except these toters. They would be in the garage so the only time that they would be out is on trash day. He does have concerns about the green waste and recyclables, which could also be handled. They had these rules in place for every four to six units. He reviewed all the plans for five years at Waste Management, and it said that every four to six units require one trash enclosure. That was not feasible sometimes. Sometimes it just has to be a number of pick-ups required. This is one of those flexible situations. Having had experience with trash, this is a reasonable project and a reasonable way of using these toters - requiring them to have the toter as opposed to their own separate trash cans

sitting in their garage. The only time that seagulls will be in this trash is the day that trash is put out, and these all have lids. He will support this. He asked Ms. Baker to explain which committee she mentioned and what their input will be.

MS. BAKER responded the RDRC. The RAC's direction to her is that the location of the trash removal system they recommended be reviewed by the RDRC and then approved by the Planning Director.

COUNCILMEMBER FELLER could agree with that as long as it is not a trash dumpster. He added that the use of totes is something that the CC&Rs of this project can be conditioned for.

Motion was approved 3-1, Councilmember Chavez - no.

GENERAL ITEMS - continued

21. City Council: Introduction of an ordinance regarding a Citywide Preferential Parking Permit Program

PETER WEISS, Public Works Director, reported that this is a request for consideration of the introduction of an ordinance approving a citywide preferential parking permit program. This is the result of some actions Council took early last fall in regards to a neighborhood that is looking at having some parking restrictions put in place as a result of intrusion into that neighborhood from the adjacent high school. As part of that action, and approving those parking restrictions, Council also directed staff to return with some type of a permit program that would allow residents on those streets during the times that would otherwise be prohibited. The result of that effort is an ordinance that will establish the ability for residential areas to petition the City and go through a process to initiate a permit program that would otherwise restrict vehicles from parking on the local residential streets. It is set up in such a way that the parking permit program would be the last step in a process that would look at other correctable measures that could address the problem before going to a permit program. However, in the event those are tried and not deemed successful, it will allow the residents, in working with staff, to determine the area of the permit program, solicit a petition from the residents in that neighborhood, and through a separate public process, come before the Council to request the adoption of a permit program.

The item before the Council does not create any permit programs within the City. It just allows for those residents in neighborhoods that feel they are affected to come before the City to ask for that permit to be included in their neighborhood.

However, Council has received a letter from the representative of the neighborhood adjacent to El Camino High School asking for the Council's consideration, although in the letter they have asked to be grandfathered in. Staff would support that neighborhood's request that they would not have to go through the petition process again should the Council introduce this ordinance tonight. Staff will just consider at such a time as the ordinance becomes effective that they have gone through that process and make those permits available to that neighborhood. If Council introduced the ordinance, it would have to go through a second reading for adoption and becomes effective 30 days after that. If the Council approves it this evening, staff will move forward with ordering a number of permits and begin the process of identifying at least that one neighborhood and sending letters out to the residents in anticipation of that. Staff is aware of at least one other neighborhood that has an interest in this, and Council may hear from them this evening.

MAYOR WOOD commented that this does not address the coastal region or coastal zone area where they have their beach parkers. He does not want to impose, or in any way get to the situation where they are blocking parking because that is a problem. He asked if that is going to be involved in this.

DIRECTOR WEISS responded that at this point the ordinance does not differentiate the coastal area from any other part of the City. If there would be a request in the coastal area, he thinks that staff would have a difficult time considering that a parking intrusion. It is a public access issue for the beach. There may be some residential neighborhoods that have some issues, but he is not aware of them at this point. Anyone that feels that they have that issue has to come before Council for that consideration. They have had a parking issue and request along Pacific Street. That area probably would not be eligible for this program primarily because putting any type of additional restriction to limit public access will be a coastal issue.

MAYOR WOOD stated that was his concern. He understood the neighborhood at El Camino High where all the kids are parking in their neighborhood; they cannot even get to their house. However, he is adamant not to limit the beach community or the downtown area with restrictions, where they already have a parking problem. He clarified that it will come back to Council in some form.

DIRECTOR WEISS stated that is correct.

DEPUTY MAYOR SANCHEZ reported that six or eight months ago, she had been invited, along with other Councilmembers, to Foster Street. Foster Street has also been challenged in terms of the parking that they have to suffer through in terms of the apartment complex across the way on Canyon. They have tried to deal with this issue, including red striping a part of the street. People come in, even blocking driveways and then move their vehicles at 3:00 or 4:00 a.m. in the morning with a lot of noise. She knows that there are other neighborhoods that had this kind of problem, but Foster Street has to suffer through problems because of the inability of the management at the apartment complex to deal with their own problems. Foster Street should be next in line on this.

CITY CLERK WAYNE reminded the Council that they have received a letter from Robert and Gilda Warnemuende. They have requested that their letter be read into the record. It is the Council's decision.

MAYOR WOOD did not think it is necessary to read because they all received the letter.

Public Input

CAROLYN KRAMMER, 904 Leonard Avenue, knows specific neighborhoods have problems with parking. El Camino does, and the Foster neighborhood has overpopulated apartments surrounding their neighborhood. However, the coastal zone is one that concerns her. If the Council proceeds with this ordinance throughout the entire City, she would like the Council to go back and have staff specifically exclude this ordinance pertaining to the coastal zone. She is sure the Coastal Commission would have grave issues with citywide preferential parking that does not exclude the coastal zone.

GEORGE GOSTING, 2138 Foster Street, is selling his house because of this parking problem and moving to Fallbrook. It has been over two years, so he gave up.

RICK KRATCOSKI, 2110 Foster, said that he was not able to muster a lot of his neighbors to attend this meeting; most of his neighbors are senior citizens. They have been there most of their life. He is here to kind of represent them. He knows this is not an easy problem, but their neighborhood has suffered long enough. Five years ago he recalled problems they had with all the gang shootings in the complex and the murders out in the streets. The City did quite a bit of work with the Gang Task Force. They got rid of basically half of the complex when 180 Canyon was gang bangers. He thought that solved the problems. They have a new owner in there, and he thought they were going to spruce the place up. Unfortunately, as part of the agreement for the new owner, the City required gates in there to keep some of the people out. When the gates

went in, that is when their second problem began. We ended up getting all the apartment people parking in our neighborhood.

No matter what the case is, the residents can no longer park on their street. Our civil rights are being abused by the owner of the apartment complex allowing overflow and crowding from his apartment complex. The residents cannot have guests in their own neighborhood after 5:00 p.m. After that time, there is this rush for all the apartment dwellers to get all the available spots on our street. At this point, residents are putting cones out so they can make sure that they have a place to park in front of their houses. Now they are getting to towing and all sorts of battles.

There has been a lot of effort. They tried one effort of putting 12 parking spaces out on Canyon for the 180 Canyon people, thinking that would take them off their street. However, they filled that street up, and they still keep coming. That is not a solution. They red zoned some areas. That has helped a little bit. It has taken 30 – 40 excess apartment dwellers. Now maybe they only have 20. All those little things have helped, but there is still the issue that the residents cannot invite people to their house. They cannot have more than one person there because there are no parking spots.

Another problem is the noise. They have that constant noise from some of these people. These people all have different hours, 2:00 a.m. – 5:00 a.m. His wife likes to have the windows open for air. He could not sleep because all night long there are bangs, slams, talking, radios, etc. That has become an issue. His civil rights are being abused again. His father lives down the street, and he cannot even find a parking space for his father who is handicapped.

They have a myriad of problems in their neighborhood. Because of poor planning, these apartments were placed in the middle of a residential neighborhood. Not only does he have people walking from Greenbrier by his house every day, but they have the people parking in their neighborhood. Now we have these additional people walking through our neighborhood also; we have strangers in our neighborhood all day and night long. He would appreciate any help the City can provide.

BLANCHE LINDSEY, 2139 Foster Street, underscored what was already said. When she and her husband bought the house in 1959, they did not realize that Foster Street would become a public parking place. We thought that their friends and families would be allowed to park on our street. Now it is getting so bad that people park on both sides of the street. You can hardly get through, and it is not the neighborhood residents; it is the residents in the apartments. Her husband died four years ago, and she lives alone. She does not appreciate someone parking in front of her house all hours of the night that she does not know; they do not live on the street. It is a big concern and she hopes that the Council can do something to help them.

DAVID LINDSEY, a resident since 1959, can appreciate concern about the ordinance regarding the coastal areas because he lives in the coastal area now. He trusts that the Council will screen any request for the parking permits very closely. That would not affect the coastal area, like they are talking about regarding Pacific Street. It is obvious they are not going to give parking permits there. For Foster Street, he would like to see the ordinance passed so at least that area could petition. He visits his mother weekly. He often could not park in front of her house. He hates to see the apartments overflowing to this neighborhood. The problems could be solved in the apartments and not on their street.

Public input concluded

COUNCILMEMBER FELLER had no idea this [Foster Street] was a problem before today. He would be glad to support this effort to take back the parking. He has a question about permitting in apartment areas and how that would actually work.

DIRECTOR WEISS clarified that for this particular neighborhood they would

initiate a permit program. Part of the process would be to meet with the residents who would need to petition to figure out what times they would want some restrictions; for example, if they want to restrict parking between 6:00 p.m. and 6:00 a.m. If that were approved by the Council, staff would put signs up that there is no parking from 6:00 p.m. to 6:00 a.m. except by permit. The residents would have permits. Anyone else that is parked on the street between those hours would get cited.

COUNCILMEMBER FELLER said that is a good idea. He **moved** approval [to introduce an ordinance, "... amending the Oceanside Traffic Code adding Section 13.27 to establish a preferential parking permit program," excluding the coastal zone].

DEPUTY MAYOR SANCHEZ thanked Mr. Watanabe for attending several meetings at Foster Street. She **seconded** the motion. She is looking forward to seeing this in force on Foster Street, as well as behind El Camino High School.

COUNCILMEMBER CHAVEZ passed on his strong support to the residents of Foster Street.

MAYOR WOOD said Council is trying to address the residents' concerns. It is really important when they go out to the neighborhoods to hear from residents. They have tried everything. Staff has been out there talking to the apartment complex owners, telling them the policies, etc. Everything has been done, but it is a slow process. This finally and hopefully is going to resolve that.

Following the titling of the ordinance, **motion was approved 4-0.**

[Item 22 heard earlier]

[Councilmember Feller left the dais at 9:52 PM]

23. **City Council: Approval to remove the existing temporary barricade on the south end of Mira Monte Street and provide for pedestrian access at the southern terminus of Esplanade Street wall with appropriate street barrier at College Boulevard; and introduction of an ordinance establishing a 45-mph speed limit on College Boulevard from Lake Boulevard to the south City limits and establishing a school zone "25 MPH when Children Are Present" on College Boulevard from Lake Boulevard to the south City limits.**

JOHN AMBERSON, Transportation Planner, reported that this item is an overview of the traffic analysis in the Mira Monte and Esplanade Streets neighborhood area. The area in question is located in the southeast quadrant of the City bounded by College Boulevard to the west and Lake Boulevard to the north, with the south city limit border with the City of Carlsbad to the south. In August of 2004 the concerns of citizens regarding the barricade at the Mira Monte Street southern terminus was brought to Council's attention, along with additional concerns for pedestrian safety to the neighborhood. Subsequent to that, staff had coordinated with the City of Carlsbad and conducted a joint neighborhood meeting at the Calaveras Hills Middle School to get input from residents on both sides of the border to understand what their concerns and issues were related to the Mira Monte barricade. They conducted another neighborhood meeting in December of 2004 at the Salvation Army facility located on Lake Boulevard. From the two meetings they were able to identify four primary areas of concerns involving the neighborhood: 1) pedestrian safety, 2) the issue of the barricade on Mira Monte Street, 3) the issue with the access at the Esplanade wall and 4) concerns with the traffic congestion and safety on Lake and College Boulevards.

There are a number of basic characteristics that influence the way pedestrians travel to the neighborhood. First, they have the introduction of the new middle school in the City of Carlsbad, which produces pedestrian volumes to traverse down Esplanade Street and to also traverse down Mira Monte Street. In addition to that, the neighborhood is largely divided by topography down the middle of the neighborhood,

where they have streets sloping at around 14% on Vista Calaveras and Alto Street, a fairly steep grade of 12% on Mira Verde and a fairly level street on Mira Costa. This divides the neighborhood into a western area and an eastern area, where most of the houses are located. There is a relationship with each east-west area to Esplanade Street with access over the wall to the school, for example, and vice versa with Mira Monte Street, with pedestrians traveling southerly there to Foothill and Tamarack and to the school.

[Councilmember Feller returned to the dais at 9:55 PM]

There were concerns raised by residents about congestion occurring on Lake Boulevard, between Mira Monte and Thunder; speeds on College; and traffic congestion in the afternoon peak hour at College and Lake. With the topography, it is difficult for somebody who lives north of Lake on Thunder Drive to walk up Mira Monte through Foothill and Tamarack. It is a circuitous route. Observations revealed that people who come north of Lake at Thunder prefer to travel west on Lake, through Esplanade, over the wall and then up to College. It is a shorter route and an easier walk. The pedestrians and kids who live on the western portion of the neighborhood also just walk downhill, down Esplanade and up that way. Most of the kids in the easterly part walk downhill and then through Mira Monte to Foothill and Tamarack.

The barricade located at the southern end of Mira Monte is currently being studied by the City of Carlsbad. They are scheduled to go to their City Council in March with their recommendation to either remove or to maintain some kind of barrier there. They are going to be doing traffic analyses to determine that. The other area is the Esplanade wall. Staff has done pedestrian counts at all the locations – the Esplanade wall, the Mira Monte barricade, the intersection of Mira Monte at Lake, and the intersection of Lake and Thunder. The majority of the pedestrian volumes were observed at the Mira Monte barricade. Staff made some observations of pedestrians climbing over the wall. There was one instance where a parent was observed handing their kids over the fence. That demonstrated to staff that there is a demand for pedestrian access through the wall. Whether there is a gate or not, people are going to take that route because it is an easier walk.

Staff also did a traffic analysis along College and Lake, as well as the primary internal streets of Mira Monte and Esplanade Street. They do have an exceptional level of service on all the roadway segments and intersections, with the exception of the intersection of Mira Monte at Lake in the afternoon peak hours, particularly due to the heavy eastbound traffic that occurs on that segment of Lake. That is due in part to some of the traffic calming that was implemented years ago. They have a little bit of congestion, but they also have some slower speeds during the heaviest peak traffic times. The people who live on Lake Boulevard really benefit from that. One of the things that staff will be looking at in March, depending on what the City of Carlsbad does with the barricade on Mira Monte, is continue to monitor that intersection to determine if it meets signal warrants. If a signal is warranted at that intersection, they may consider constructing the signal to increase progression and reduce congestion through there. The same thing applies to the intersection of Esplanade at Lake. There is an error in the study where they said that the signal at Lake and Esplanade was not warranted; it did meet one of the volume warrants. The reason why they see higher volume on Esplanade versus Mira Monte is that typically people like to avoid traveling through the delay that they experience at the all-way stop and similarly with Thunder. It is much easier to come out Esplanade, turn left and go west that way. Most people travel west, which is why they have the higher volume. With the removal of the barricade, they would expect to see some of the traffic volume increase on Mira Monte. That would change conditions somewhat, so staff will have to revisit conditions there. Beyond that, they did realize a slight increase in traffic volume with the extension of College Boulevard, south of Lake. They actually had 32,000 cars where it was previously around 23,000. So it will increase about 8,700 cars a day. Lake Boulevard east of College actually increased about 2,700 cars a day.

Regionally speaking, staff is looking at Cannon Road, and Carlsbad might be a future relief to that as far as east-west travel. They looked at travel speeds on College Boulevard, where they actually did an engineering speed survey and determined that a 45 mile per hour (mph) speed limit should be posted there, with a '25 mph while children are present' sign.

With that, the findings and conclusions include that: 1) they want to establish a preferred walk to school route, 2) map and coordinate that with Calaveras Hills Middle School as part of their pedestrian safety program, 3) the Transportation division and the Transportation Commission are recommending removal of the barricades on Mira Monte Street, 4) recommend establishing a gated access at the Esplanade wall, 5) introduce an ordinance establishing a 45 mph speed limit on College Boulevard, south of Lake and a 25 mph speed zone while children are present, and 6) continue to monitor conditions in the neighborhood as conditions in the future change.

City Clerk Wayne reported that Thomas Dempsey had submitted information, and Council has copies of that.

Public Input

JIMMY KNOTT, 124 Sherri Lane, read the comments from Nancy Dickeson, 4047 Alto Street, who had to leave due to the lateness of the hour. She wrote that she has concerns for the safety of the children walking to the school. She does not believe the apartment managers are doing background checks on those they rent to, and there are two registered offenders in the neighborhood at her last check. The last thing that she wants to convey to Council is to open the wall and provide the quickest route to school and home.

SUE NOVICK, 4001 Mira Costa Street, is delighted that the gate will be provided. It has been a real problem in the neighborhood. She lives on the corner of Mira Costa and Esplanade. A lot of people who are going east on Lake are making that right turn going down Mira Costa at a very fast clip to Mira Monte, turning left because there is a stop sign there. Then they can beat the slow traffic. On Mira Costa Street, there a lot of little kids who ride their bicycles, skateboard, etc. These cars go down that street very quickly. She felt that they have to think about speed bumps to slow the traffic. Her other concern is on Lake Boulevard. If they are going south, or toward the new WalMart, and want to turn in at Esplanade, there is no way to do that when the traffic is moving. There should be a stop sign or light at the corner of Esplanade and Lake. They had two accidents there in the past few months. She is thrilled that the City is promoting the opening of Mira Monte.

ED PORTER, 3661 Esplanade, has spoken in opposition to the passageway through the wall on Esplanade Street and for the removal of the barrier on Mira Monte. He wants to straighten out a misconception that some of the proponents have for putting an entry way through the wall. The block wall was built according to code. There is no knockout space in it. The code calls for expansion joints in a long wall. That is where the proponents have said the wall should be knocked down because it was built that way. For a specific location of an entryway, if they insist on having one, he suggested looking for the best one. There is a street light near the easterly end of the street. In his opinion, that would be the most desirable place for a passageway. The street light is on College just east of Esplanade. It is there.

JIMMY KNOTT, 124 Sherri Lane, stated College Boulevard was being blocked by Carlsbad and through Council efforts, that blockage is gone. A lot of the same recommendations that were given at meetings back then, designed, requested and agreed to by the community, are being proposed again today. He thanked the different commissions who have endorsed the opening on Esplanade, the removal of the barricades on Mira Monte and the College Boulevard opening. He encouraged the Council to vote for these reasonable recommendations that staff has brought before them.

ANGELA FARRELL, 4001 Vista Calaveras, is here for one reason only and that is for them not to put in a gate or open up the Esplanade wall. At the last City Council meeting when they were discussing the same issue, there was a car accident. The car came down College Boulevard and actually went up the embankment and took down two of their neighbors' trees, whose backyard is facing College Boulevard. A month later there was a truck that went in the center median and knocked down a tree right behind their house. This is not a safe route for children to walk. She commented that staff has made an error when saying that the children that lived on the other side of Lake come down Esplanade and climb the wall. She lives on that corner, and they do not do that anymore. They may have done it in the past but not now. The Day Care across the street from them does not even walk their kids over there anymore. They drive them because it is faster and safer. There are small children who ride their bikes in the cul-de-sac; they ride on the sidewalk. They do not ride in the street because they are not allowed to ride in the street. Who will be the responsible party if one of those children opens that gate and goes onto College Boulevard? Who is going to have that on their heads if one of them gets hit by a car? It is all about protecting our children and giving them the safest route to school or anywhere. It is not about one man who has this mission for his convenience; it is about the safety of the children. The safety is not to let them walk on a freeway.

JEAN KORBACHER, 3649 Esplanade Street, said that if Council goes along with staff's recommendations and puts in a speed area of 25 mph during the times that the schools are there, it will take care of the existing problem with speeders. Also, if they go along with the staff's recommendations that they put in some type of a barrier or walkway along there, then they will not have to walk right in traffic. They do that along the coast in Carlsbad where they have the beach wall. There is a lot of speeding traffic there. If Council puts up some type of a barrier, it will be a deterrent because people will not want to hit that with their cars. Their biggest deterrent would be the flashing yellow lights. She would like the wall open because she would like to go for a walk. If she could go down Esplanade, walk around Mira Monte and then back, that would be a nice exercise. On a daily basis she leaves to go exercise because she cannot do it on her own neighborhood. It was surprising to hear that they are taking shortcuts down the street to get over to the lesser traffic at the stop sign. She would hate to see another light. If it is safety, that would work. She would like to have the wall open if possible.

DAYNA SCHRAMM, 4005 Vista Calaveras, showed the neighborhood safe route to school as designed by the City staff, and it does not show Esplanade. It just shows Mira Monte. This situation has changed 100% since College has opened. They started this in 1999, but it was peaceful. It is not like that now. 16,000 cars a day travel on College vs. 1,200 on Mira Monte. In the area where people used to hop the fence, there was vegetation planted. There was a very well-worn path there because people trampled it. Now the vegetation has grown because people are not hopping that wall anymore. There are very few people who are actually walking on College.

They are talking about lowering the speed limit to 25 mph. It is already 25 mph on the upper portion in Carlsbad. She drives it 2 to 3 times a day. Even when the lights are flashing, people do not go 25 mph. It is not enforced. For the lower section where they want to make it 25 mph, they have to have law enforcement if it is going to work. There are not enough cops to patrol this area full time. A life is worth a lot more than a few extra minutes' wait. Children are unpredictable, and they need to make it as safe as possible for them.

THOMAS J. DEMPSEY, 3641 Esplanade Street, requested that a letter of transmittal for resubmission of the three neighborhood petitions dated October 1999, June 2002 and November 8th should be included in the record. The minutes from the Planning Commission dated September 1984 said that Esplanade should not be connected to College for automobile traffic. He reviewed various plans presented over the years. With the wall and other changes, the residents have been discriminated against by losing their freedom of travel after 31 years of unobstructed access to College

Boulevard. The Transportation Manager and staff are correct in establishing a gated pedestrian access within the wall at Esplanade Street at this time.

JACKIE KALTER, 4073 Vista Calaveras, said that she has only been here for about seven months. She moved in when College was still barricaded. There was zero traffic going through and had there been a gate there, it would not have been an issue because there was no traffic there. Now with that barricade gone, she can see the increased traffic, the way people speed. She travels a lot so she is going up and down Esplanade all the time. Never once has she seen anybody near that fence or climbing over it. She rarely sees people walking.

The shortcut from Esplanade going over to Mira Costa was brought up. Throwing in a couple of speed bumps deters people immediately. If they are going to do them there, then they should also do it on other streets. She does not have a problem with veering into Esplanade, but she does have a problem when she wants to go left because the people on Lake are speeding. For a resident on Vista Calaveras to get out of Esplanade onto Lake is very difficult. A stop sign or something will slow people down on Lake so the residents have a chance to get out of their neighborhood. As far as the safety issue for the kids back on the barrier, she does not think it should be opened up at all. If she was a parent she would forbid her kids going to that gate.

Public input concluded

DEPUTY MAYOR SANCHEZ said that Council did ask that this come back to Council with the thorough study. Several community meetings were held, with a lot of community input on these issues and others. The recommendations that have been presented are things that we should do. If they still have people going over the wall, it is a road that people travel, and she believes that public safety means to make it safer and easier for people to go through. She **moved** approval [of staff's recommendations].

COUNCILMEMBER CHAVEZ stated the two things that strike him the strongest is Figure 4, which highlights the safe route to school, and the map (Figure 5) that talks about the elevations and why people go the way they do. He asked for a division of the motion because there are four issues here: 1) moving of the temporary barricade in Mira Monte, 2) pedestrian access at Esplanade wall, 3) ordinance for 45 miles speed limit on College and establishing the school zone, and 4) 25 mph when children are present at College Boulevard and Lake Boulevard. He would like a division of these because he wants to be clear to the public what he is voting on -- safety for the children. Figure 4 clearly showed the safe route to school. He was there at 1:00 p.m. and checked it out. It is not traveled as much as it used to be, and he thinks the reason is because parents are seeing what is happening on College with 16,000 cars. He asked for the division of the motion on those four areas. He would be supportive of the Mira Monte barricade removal and the 45 mph speed limit and 25 mph when children are present, but he would not be in support of the pedestrian access at Esplanade Street.

MAYOR WOOD seconded Deputy Mayor Sanchez's motion.

COUNCILMEMBER CHAVEZ could see possibly that without a division they may not be able to approve some of the items. He thinks that a good compromise position would allow them to divide the motion.

MAYOR WOOD stated that he has decided to go with the motion as it sits.

COUNCILMEMBER FELLER moved to call for the question.

COUNCILMEMBER CHAVEZ seconded the call for the question.

Call for the question failed 2-2, Mayor Wood and Deputy Mayor Sanchez - no.

On the motion and second, **motion failed 2-2**, Councilmembers Feller and Chavez - no.

COUNCILMEMBER CHAVEZ stated that they have a serious issue in the community. A lot of good work has been done. It is extremely important that they, as a City make a strong statement on the Mira Monte issue because it is going before Carlsbad soon. They need to address that. As identified already, the speed limits need to be addressed. It is up to the dais to call for a division of items because they will find that all four of them agree on $\frac{3}{4}$ of these issues. That is a compromise.

MAYOR WOOD stated that they had a motion. All the issues are important. They made a motion, and it failed. They are going to move forward.

MAYOR AND/OR COUNCILMEMBER ITEMS - None

CITY COUNCIL REPORTS

24. **Mayor Jim Wood**

MAYOR WOOD stated that one of the items that is very important for the community is public safety. He is going to form a Mayor's Public Safety Study Committee with the City Manager to address some of these concerns and get back with staff.

The Chamber of Commerce held a dinner for the Evening with the Mayor. Hopefully they raised some money that can assist them.

Quite a few people showed up for Major General Murray's flagpole event. He was a great general and an American hero.

He addressed the issue of slippage issue on Arroyo Street. He and the City Manager went out there on several occasions and contacted people. They have been on site and looked at the damage and destruction. There is a geologist that is working on this. He thanked everybody who attended the fundraiser at the band shell. Oceanside's turnout for the fundraiser showed that it is a great community with a big heart.

25. **Deputy Mayor Esther Sanchez**

DEPUTY MAYOR SANCHEZ invited all seniors to come to the Senior Center on February 7. The County Office of Aging and Independent Services is holding a meeting to get input on the five-year Area Plan. The is a document required by the Federal and State governments in order for area agencies on aging to receive funding for the Older Americans Act's program. Ultimately, at the local level, the plan must be reviewed and approved by the Board of Supervisors and reflects County policy on aging services. This office provides very important services to our seniors. All seniors are welcome.

26. **Councilmember Rocky Chavez**

COUNCILMEMBER CHAVEZ said that the Water Utilities Commission met on January 26. They approved the change order amount of \$156,000, which has to do with 24" in. - 30" in. water lines in Mission Avenue.

KOCT celebrated their 20th anniversary last Friday.

Major General Murray's honor is now at the bridge. It is an appropriate gateway into Camp Pendleton and Oceanside.

He plans on bringing forward a discussion on childcare. He has been talking to families and educators. The City needs to address this. They have not had a Childcare Committee formed for some years. It is an important issue.

27. **Councilmember Feller**

COUNCILMEMBER FELLER mentioned that the Carlsbad 5000 is on April 3. The City could participate because they have a lot of people who run all the time. It would be great if they could do that.

SANDAG has sent out an invitation to apply to serve on the Independent Taxpayer Oversight Committee for the new TransNet Program. It is going to oversee how SANDAG will use their \$14,000,000,000 that they will generate. It is the equivalent of a \$42,000,000,000 tax over 40 years that will be used for roads and transits. He has applications in his office.

TransNet got some early actions last Friday. The Board approved some projects that are really considered early action. Highways 76 and 52 and the mid-coast trolley are the first on the drawing board for action. They have already sent out the proposals for consultants to help them through the bonding against future TransNet. That would speed up Highway 76 probably by a couple of years. With this bonding, they should be able to possibly have the part from Melrose to Mission in Fallbrook/Bonsall completed by late 2008 or early 2009, which is several years earlier than they originally thought.

He announced that he placed some brochures in the back regarding the State of the Commute. It has some interesting information about what is going on with the commute and how it has changed over the years.

He asked the Mayor and Councilmembers to leave their BlackBerrys in their offices so they cannot receive, operate and handle messages while they are sitting on the dais. It is totally distracting. He is sitting there listening to buzzing. It is inconsiderate of them as Councilmembers to be handling messages on their computers while a speaker is at the podium. He hopes Council will be receptive to that request.

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 10:53 PM on February 2, 2005 [The next regular meeting is at 3:00 PM on Wednesday, February 23, 2005].

ACCEPTED BY COUNCIL/CDC/HDB:

Barbara Riegel Wayne
City Clerk, City of Oceanside