



A G E N D A

**IMPERIAL BEACH CITY COUNCIL
REDEVELOPMENT AGENCY
PLANNING COMMISSION
PUBLIC FINANCING AUTHORITY**



SEPTEMBER 1, 2010

**Council Chambers
825 Imperial Beach Boulevard
Imperial Beach, CA 91932**

**CLOSED SESSION MEETING – 5:30 P.M.
REGULAR MEETING – 6:00 P.M.**

**THE CITY COUNCIL ALSO SITS AS THE CITY OF IMPERIAL BEACH REDEVELOPMENT AGENCY,
PLANNING COMMISSION, AND PUBLIC FINANCING AUTHORITY**

The City of Imperial Beach is endeavoring to be in total compliance with the Americans with Disabilities Act (ADA). If you require assistance or auxiliary aids in order to participate at City Council meetings, please contact the City Clerk's Office at (619) 423-8301, as far in advance of the meeting as possible.

CLOSED SESSION CALL TO ORDER BY MAYOR

ROLL CALL BY CITY CLERK

CLOSED SESSION

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8:

Property: Unimproved site of 1.15 acres with a paved Class I bike path,
Imperial Beach, CA 91932, APN 616-021-10

Agency Negotiator: City Manager and City Attorney

Negotiating Parties: San Diego County Regional Airport Authority

Under Negotiation: Instruction to Negotiators will concern price and terms of payment

RECONVENE AND ANNOUNCE ACTION (IF APPROPRIATE)

REGULAR MEETING CALL TO ORDER BY MAYOR

ROLL CALL BY CITY CLERK

PLEDGE OF ALLEGIANCE

AGENDA CHANGES

**MAYOR/COUNCIL REIMBURSEMENT DISCLOSURE/COMMUNITY ANNOUNCEMENTS/
REPORTS ON ASSIGNMENTS AND COMMITTEES**

COMMUNICATIONS FROM CITY STAFF

PUBLIC COMMENT - Each person wishing to address the City Council regarding items not on the posted agenda may do so at this time. In accordance with State law, Council may not take action on an item not scheduled on the agenda. If appropriate, the item will be referred to the City Manager or placed on a future agenda.

PRESENTATIONS (1.1)

1.1 PRESENTATION REGARDING THE IMPENDING PROJECTS WITHIN SOUTH BAY NATIONAL WILDLIFE REFUGE. (0150-40)

City Manager's Recommendation:

1. Receive report.
2. Receive the presentation from the two project proponents.
3. Provide comments and questions to the project proponents as necessary to understand the project and its impact on the City.

Any writings or documents provided to a majority of the City Council/RDA/Planning Commission/Public Financing Authority regarding any item on this agenda will be made available for public inspection in the office of the City Clerk located at 825 Imperial Beach Blvd., Imperial Beach, CA 91932 during normal business hours.

CONSENT CALENDAR (2.1 - 2.4) - All matters listed under Consent Calendar are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items, unless a Councilmember or member of the public requests that particular item(s) be removed from the Consent Calendar and considered separately. Those items removed from the Consent Calendar will be discussed at the end of the Agenda.

2.1 MINUTES. (0660-430)

City Manager's Recommendation: Approve the minutes of the Regular City Council Meetings of June 15 and July 7, 2010.

2.2 RATIFICATION OF WARRANT REGISTER. (0300-25)

City Manager's Recommendation: Ratify the following registers: Accounts Payable Numbers 71470 through 71582 with the subtotal amount of \$1,275,570.50 and Payroll Checks 43014 through 43037 for the pay period ending 08/12/10 with the subtotal amount of \$181,992.94, for a total amount of \$1,457,563.44.

2.3 RESOLUTION NO. FA-10-02 – SETTING REGULAR MEETING SCHEDULE FOR IMPERIAL BEACH PUBLIC FINANCING AUTHORITY. (0417-95)

City Manager's Recommendation: Adopt resolution.

2.4 RESOLUTION 2010-6934 – AUTHORIZING THE ACCEPTANCE OF CALTRANS RELINQUISHMENT OF PROPERTY TO FACILITATE THE REALIGNMENT OF THE PALM AVENUE/STATE ROUTE (SR) 75 INTERSECTION ADJACENT TO THE PROPOSED 9TH AND PALM REDEVELOPMENT PROJECT. (0150-30 & 0640-20)

City Manager's Recommendation: Adopt resolution.

ORDINANCES – INTRODUCTION/FIRST READING (3.1 - 3.2)

3.1 ORDINANCE NO. 2010-1110 – ADDING PROVISIONS TO THE CITY OF IMPERIAL BEACH MUNICIPAL CODE, ADDING CHAPTER 9.80 OF THE IMPERIAL BEACH MUNICIPAL CODE, PERTAINING TO ADULT ENTERTAINMENT ESTABLISHMENTS. (0280-95)

City Manager's Recommendation:

1. Receive report;
2. Mayor calls for introduction of Ordinance No. 2010-1110, adding Chapter 9.80 to the Imperial Beach Municipal Code pertaining to Adult Entertainment Establishments;
3. City Clerk reads title of Ordinance No. 2010-1110; and
4. Motion to dispense with first reading and introduction of Ordinance No. 2010-1110 by title only and waive further reading, set the matter for adoption at the next regularly scheduled City Council meeting, and authorize the publication in a newspaper of general circulation.

3.2 ORDINANCE NO. 2010-1109 – AMENDING THE PROVISIONS OF THE CITY OF IMPERIAL BEACH MUNICIPAL CODE, AMENDING SECTION 1.12.020 OF CHAPTER 1.12 AND SECTIONS 1.22.030, 1.22.060, 1.22.070, 1.22.080, 1.22.100, 1.22.110, 1.22.120, AND 1.22.160 OF CHAPTER 1.22 OF THE IMPERIAL BEACH MUNICIPAL CODE REGARDING CIVIL PENALTIES, ADMINISTRATIVE CITATIONS, AND FINES. (0470-95)

City Manager's Recommendation:

1. Receive report;
2. Mayor calls for introduction of Ordinance No. 2010-1109, amending Section 1.12.020 of Chapter 1.12 and Sections 1.22.030, 1.22.060, 1.22.070, 1.22.080, 1.22.100, 1.22.110, 1.22.120, and 1.22.160 of Chapter 1.22 of the Imperial Beach Municipal Code regarding civil penalties, administrative citations, and fines;
3. City Clerk reads title of Ordinance No. 2010-1109; and
4. Motion to dispense with first reading and introduction of Ordinance No. 2010-1109 by title only and waive further reading, set the matter for adoption at the next regularly scheduled City Council meeting, and authorize the publication in a newspaper of general circulation.

ORDINANCES – SECOND READING & ADOPTION (4)

None.

PUBLIC HEARINGS (5.1 - 5.2)

- 5.1 AT&T MOBILITY (APPLICANT)/EMMANUEL DANIEL (OWNER); CONDITIONAL USE PERMIT (CUP 080046), DESIGN REVIEW CASE (DRC 080047), AND SITE PLAN REVIEW (SPR 080048) TO INSTALL A TELECOMMUNICATION FACILITY IN THE FORM OF A CLOCK TOWER ATTACHED TO AN EXISTING COMMERCIAL BUILDING LOCATED AT 1497 13TH STREET (APN 633-223-47-00) IN THE C-3 (NEIGHBORHOOD COMMERCIAL) ZONE. MF 992. (0600-20 & 0800-50)**

City Manager's Recommendation:

1. Declare the public hearing open;
 2. Receive public comment;
 3. Close the public hearing; and
 4. Adopt Resolution No. 2010-6928, approving Conditional Use Permit (CUP 080046), Design Review Case (DRC 080047), and Site Plan Review (SPR 080048), which makes the necessary findings and provides conditions of approval in compliance with local and state requirements.
- 5.2 RESOLUTION NO. R-10-227 – RESOLUTION OF NECESSITY OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY PERTAINING TO THE ACQUISITION OF CERTAIN PROPERTY OR INTEREST IN PROPERTY, LEASEHOLD INTEREST IN PROPERTY, IF ANY, AND LOSS OF GOODWILL PURSUANT TO SECTION 1263.510 OF THE CODE OF CIVIL PROCEDURE, IF ANY FOR USE BY THE AGENCY IN THE DEVELOPMENT OF 9TH & PALM REDEVELOPMENT PROJECT IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 1245.230 OF THE CODE OF CIVIL PROCEDURE OF THE STATE OF CALIFORNIA. (0640-20)**

City Manager's Recommendation:

1. Declare the public hearing open,
2. Receive public comment;
3. Close the public hearing; and
4. Adopt Resolution No. R-10-227.

REPORTS (6.1 - 6.9)

- 6.1 REDEVELOPMENT BOND FUNDING. (0340-10)**

City Manager's Recommendation: Provide direction on the highest priority projects.

- 6.2 TIMELINE RELATED TO CONSIDERATION/ADOPTION OF MEDICAL MARIJUANA REGULATIONS. (0610-95)**

City Manager's Recommendation: Approve the proposed timeline and direct staff to proceed accordingly.

- 6.3 LEAGUE CONFERENCE RESOLUTIONS. (0140-10 & 0460-20)**

City Manager's Recommendation: Review and discuss resolutions and provide direction on a city position on each resolution.

- 6.4 ARMY CORPS OF ENGINEERS SAN DIEGO HARBOR MAINTENANCE DREDGING PROJECT AND ADOPTION OF RESOLUTION NO. 2010-6931 – AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF AGREEMENT (MOA) BETWEEN THE ARMY CORPS OF ENGINEERS AND THE CITY OF IMPERIAL BEACH. (0150-40 & 0220-70)**

City Manager's Recommendation:

1. Support the San Diego Harbor Maintenance Dredging Project subject to the conditions described in the staff report including the environmental commitments, the preparation and implementation of a detailed Debris Management Plan for the project, including during- and post-project debris monitoring and a plan for removal of any debris found; and
2. Approve and adopt Resolution No. 2010-6931 authorizing the Mayor to enter into a Memorandum of Agreement (MOA) between the Department of the Army and the City of Imperial Beach subject to the conditions described therein and as summarized in Recommendation No. 1 above.

Continued on Next Page

REPORTS (Continued)

- 6.5 **RESOLUTION NO. 2010-6932 – AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE SAN DIEGO UNIFIED PORT DISTRICT AND THE CITY OF IMPERIAL BEACH FOR PARTICIPATION IN THE ARMY CORPS OF ENGINEERS SAN DIEGO HARBOR MAINTENANCE DREDGING PROJECT. (0150-70 & 0220-70)**
City Manager's Recommendation: Adopt resolution.
- 6.6 **RESOLUTION NO. 2010-6929 – AWARDING A CONTRACT FOR CERTAIN PUBLIC WORKS CONTRACT – PUBLIC WORKS ROOF REPAIR CIP (P05-10A). (0910-30)**
City Manager's Recommendation: Adopt resolution.

Item No. 6.7 will be discussed at 7:00 p.m. – TIME SPECIFIC

- 6.7 **COMMERCIAL ZONING REVIEW – COMMERCIAL ZONING RECOMMENDATIONS DOCUMENT. (0610-95)**
City Manager's Recommendation: Review the materials presented by staff and provide direction and input on the Commercial Zoning Review Recommendations document.
- 6.8 **RESOLUTION NO. R-10-226 – DECLARING INTENTION TO REIMBURSE EXPENDITURES FROM THE PROCEEDS OF CERTAIN OBLIGATIONS AND DIRECTING CERTAIN ACTIONS; AND RESOLUTION NO. R-10-225 – APPOINTING PROFESSIONAL CONSULTANTS IN CONNECTION WITH PROPOSED TAX ALLOCATION BONDS. (0340-10)**
City Manager's Recommendation: Adopt resolutions.
- 6.9 **WEED ABATEMENT – ABATEMENT COSTS REPORT AND ADOPTION OF RESOLUTION NOS. 2010-6933, 2010-6936 AND 2010-6937 – FINDING AND CONFIRMING ABATEMENT COSTS FOR THE ABATEMENT OF VENUES & RUBBISH, REGARDING THE PROPERTY LOCATED AT 336-338 DAISY AVENUE, 1019 IRIS AVENUE, AND 1174 FLORIDA STREET ARE APPROPRIATE AND ASSESSING COSTS OF ABATEMENT.**
City Manager's Recommendation: Adopt resolutions.

ITEMS PULLED FROM THE CONSENT CALENDAR (IF ANY)

ADJOURNMENT

The Imperial Beach City Council welcomes you and encourages your continued interest and involvement in the City's decision-making process.

FOR YOUR CONVENIENCE, A COPY OF THE AGENDA AND COUNCIL MEETING PACKET MAY BE VIEWED IN THE OFFICE OF THE CITY CLERK AT CITY HALL OR ON OUR WEBSITE AT

www.cityofib.com.

Jacqueline M. Hald, CMC
City Clerk

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**STAFF REPORT
CITY OF IMPERIAL BEACH**

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: GARY BROWN, CITY MANAGER
MEETING DATE: SEPTEMBER 1, 2010
ORIGINATING DEPT.: PUBLIC WORKS *GB*
SUBJECT: PRESENTATION REGARDING THE IMPENDING PROJECTS
WITHIN SOUTH BAY WILDLIFE REFUGE

BACKGROUND: Earlier this calendar year, staff was apprised of two separate but related capital projects being planned for South Bay Wildlife Refuge adjacent to the City of Imperial Beach. Staff has been briefed on each project twice in the intervening months. These projects are:

- Western Salt Ponds Restoration Project – Ponds 10 & 11 contracted through Southwest Wetlands Interpretive Association (SWIA); and
- Chula Vista Wildlife Reserve Restoration & Enhancement Project contracted through the San Diego Unified Port District.

Both projects have some implications for residents in the City of Imperial Beach thus represent an interest to City staff and City Council. These implications include:

- One of the accesses for the project work will be at 8th Street across the Bayshore Bikeway. This will create additional traffic in the Bay View Neighborhood, principally on 8th Street and 9th Street and Calla Avenue or Cypress Avenue as vehicles cross between these 8th Street and 9th Streets. Additionally this will create vehicle cross traffic on the Bayshore Bikeway at 8th Street. The impact would be on Bayshore Bikeway users during vehicular crossings and on the Bayshore Bikeway asphalt wear as vehicles cross to or from 8th Street onto the salt flat dikes to the north.
- The existing dikes around Ponds 10 and 11 will be breached allowing for tidal flushing with each tide cycle. This breach will allow the water levels in ponds 10A, 10 and 11 to rise and fall with the tides rather than the pond levels being controlled as part of the salt making cycle. Currently these pond levels are relatively static except as required to replenish the water after a water evaporation cycle which can be months between significant level changes.

DISCUSSION: The parties involved have suggested that the vehicular traffic will not be significant in the Bay View neighborhood – 5 to 10 medium size trucks daily at most. They advise that when crossing the Bayshore Bikeway, there will be traffic control in place to minimize the interface between pedestrians and vehicles. And the parties have agreed to protect the bikeway road surface to reduce the likelihood of bikeway asphalt damage due to vehicular crossing. Should damages occur to the Bayshore Bikeway asphalt surface, the contractors will be responsible for making the necessary repairs.

The parties involved with the project design and construction oversight will be present at this City Council meeting to provide a brief overview of the projects and to respond to questions or concerns of City Councilmembers and community members. Attachment 1 provides a draft fact sheet that further describes the projects. Attachment 2 provides a graphic portrayal of the project area. Attachment 3 provides the completed project with the tidal channels completed.

ENVIRONMENTAL DETERMINATION:

Not a project as defined by CEQA.

FISCAL IMPACT:

There is not fiscal impact to the City for the construction of these projects

DEPARTMENT RECOMMENDATION:

1. Receive this report.
2. Receive the presentation from the two project proponents.
3. Provide comments and questions to the project proponents as necessary to understand the project and its impact on the City.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation.



Gary Brown, City Manager

Attachments:

1. Project Fact Sheet.
2. Location Map.
3. Restoration Plan

SOUTH SAN DIEGO BAY COASTAL WETLAND RESTORATION AND ENHANCEMENT PROJECT

Project Description

Goal: Restore/enhance nearly 300 acres of coastal wetlands and uplands in San Diego Bay

Restoration/Enhancement Sites:

- Western Salt Ponds in the San Diego Bay National Wildlife Refuge
- Chula Vista Wildlife Reserve (Port)
- Emory Cove (Port)

Associated Construction:

Ponds 10, 10A, and 11 will be converted from active solar salt ponds to 223 acres of tidally influenced wetland habitat, including subtidal channels, tidal flats, and salt marsh.



Material removed to create the tidal channels in Pond 10 will be moved into Pond 11 where the elevations must be raised to support salt marsh habitat. No grading is proposed in Pond 10A, but tidal influence will be restored as part of the changes proposed in Ponds 10 and 11. A small dredge will be used to create the tidal channels in Ponds 10 and 11 and to relocate the material generated in Pond 10 to Pond 11. Construction is expected to begin in November 2010, with all earthwork in Pond 10 expected to be completed by March 2011. Additional construction activity will be needed to finish the restoration process in Pond 11. This additional work could begin as early as November 2011 and would take approximately three to four months to complete.

The southern portions of the 50-acre Chula Vista Wildlife Reserve are too high to support wetland habitat, so these high areas will be lowered with land-based construction equipment. The material generated from this activity will be pumped across the bay via a temporary slurry pipe and disposed of in Pond 11, where a shorebird/seabird roosting area will be created. Construction work for this project will begin in mid-September 2010 and will be completed by March 2011.

The enhancement activities proposed at Emory Cove are ongoing and involve removing invasive ice plant, trash, and other debris. With the site clean-up portion of the project completed, volunteers have been assisting the Port in planting the disturbed areas with appropriate native vegetation.

Public Outreach

A newsletter is being distributed to surrounding property owners to inform them of the activities that will be occurring in the vicinity of 7th and 8th Street. An Information Hot Line has also been created so residents can call with questions or concerns related to project construction.

Project Leads:

- U.S. Fish and Wildlife Service
(San Diego Bay National Wildlife Refuge)
- Port of San Diego (\$1.3 Million)

Funders and Other Partners:

- California Coastal Conservancy (\$1.2 Million)
- National Oceanic and Atmospheric Administration (NOAA) (~\$3 Million from the American Recovery and Reinvestment Act)
- U.S. EPA (\$1 Million)
- U.S. Fish and Wildlife Service (~\$1.1 Million)
- Southwest Wetlands Interpretive Association (SWIA)
(project manager/administrator for the western salt ponds restoration)
- Coronado Rotary Club
(assisting at Emory Cove)
- San Diego Oceans Foundation
(assisting at Emory Cove and Chula Vista Wildlife Reserve)
- Ocean Discovery Institute
(assisting at Emory Cove and Chula Vista Wildlife Reserve)
- San Diego Audubon
(assisting at Chula Vista Wildlife Reserve)

Project Benefits

Over the past 150 years, dredging and filling operations have resulted in the loss of 42 percent of San Diego Bay's historic shallow subtidal habitat, 84 percent of its intertidal mudflat habitat, and 70 percent of its salt marsh habitat. Most of the native upland and wetland/upland transition habitat has also been lost to development. In recognition of the need to restore the Bay's historic coastal habitats, a partnership of local, state, federal, and non-governmental agencies was formed to seek funding for and implement a significant restoration project in south San Diego Bay.

The funding has been secured and project construction will soon be underway. When completed, the three restoration and enhancement project will have restored and enhanced habitat to support: five federally or state listed threatened and endangered species, including the California least tern, light-footed clapper rail, western snowy plover, Belding's savannah sparrow, and eastern Pacific green sea turtle; tens of thousands of migratory birds that stop over at San Diego Bay while traveling along the Pacific Flyway; and a diverse array of fish, including fish species important to commercial and recreational fisheries, and other marine organisms.

Project funding is also creating and maintaining construction-related jobs in San Diego County.



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Data Source: FMS, CASIL
Image Source: USGS NAIP 2005



 Project Boundaries
 Salt Pond Number

Figure 1- Location Map
South San Diego Bay Coastal Wetland Restoration and Enhancement Project

Restoration Plan for the Western Salt Ponds

SOUTH SAN DIEGO BAY

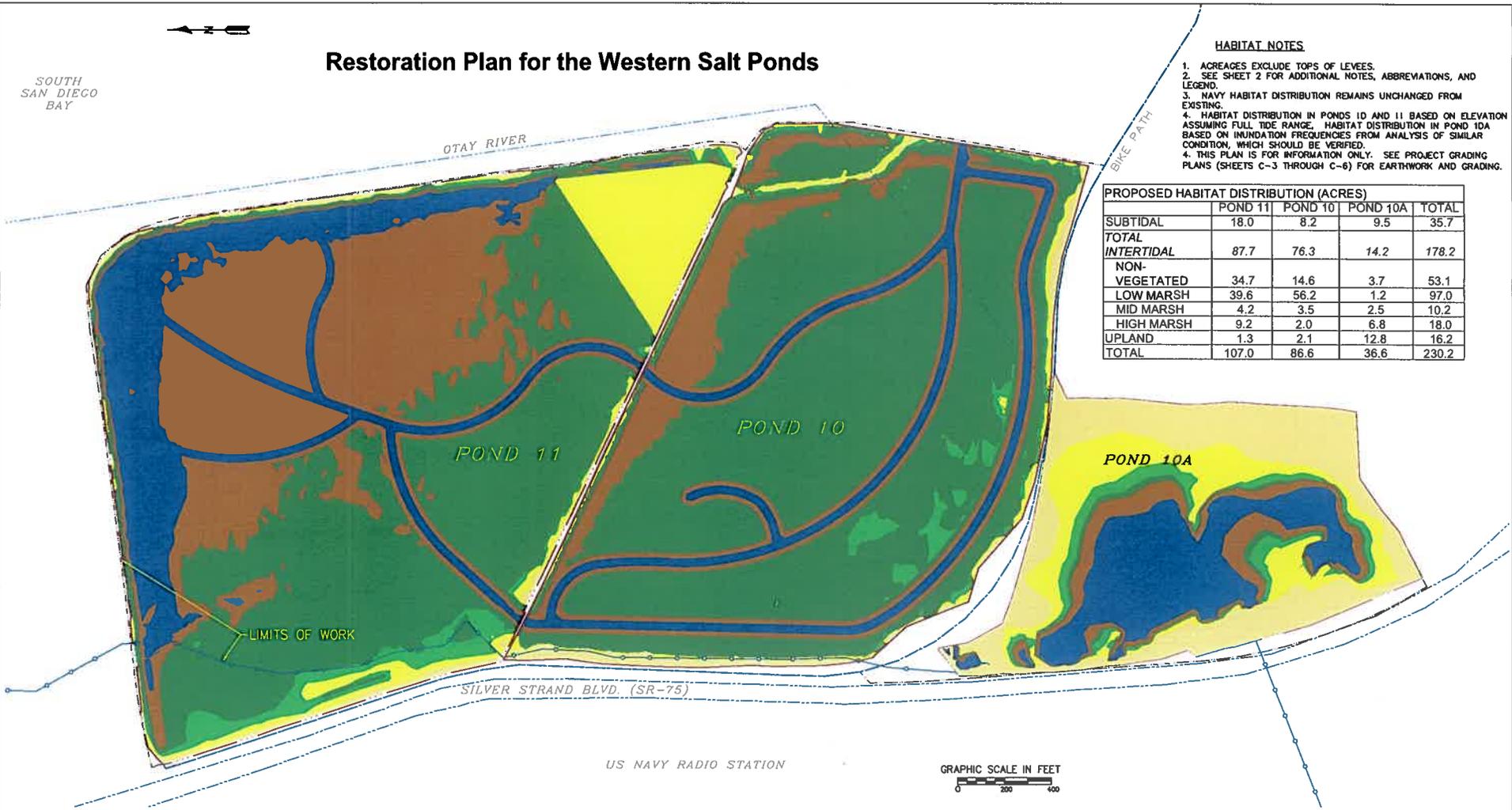
OTAY RIVER

BIKE PATH

HABITAT NOTES

1. ACRES EXCLUDE TOPS OF LEAVES.
2. SEE SHEET 2 FOR ADDITIONAL NOTES, ABBREVIATIONS, AND LEGEND.
3. NAVY HABITAT DISTRIBUTION REMAINS UNCHANGED FROM EXISTING.
4. HABITAT DISTRIBUTION IN PONDS 10 AND 11 BASED ON ELEVATION ASSUMING FULL TIDE RANGE. HABITAT DISTRIBUTION IN POND 10A BASED ON INUNDATION FREQUENCIES FROM ANALYSIS OF SIMILAR CONDITION, WHICH SHOULD BE VERIFIED.
4. THIS PLAN IS FOR INFORMATION ONLY. SEE PROJECT GRADING PLANS (SHEETS C-3 THROUGH C-6) FOR EARTHWORK AND GRADING.

PROPOSED HABITAT DISTRIBUTION (ACRES)				
	POND 11	POND 10	POND 10A	TOTAL
SUBTIDAL	18.0	8.2	9.5	35.7
TOTAL	87.7	76.3	14.2	178.2
INTERTIDAL	87.7	76.3	14.2	178.2
NON-VEGETATED	34.7	14.6	3.7	53.1
LOW MARSH	39.6	56.2	1.2	97.0
MID MARSH	4.2	3.5	2.5	10.2
HIGH MARSH	9.2	2.0	6.8	18.0
UPLAND	1.3	2.1	12.8	16.2
TOTAL	107.0	86.6	36.6	230.2



LIMITS OF WORK

SILVER STRAND BLVD. (SR-75)

US NAVY RADIO STATION



LEGEND		ELEVATION, FT. NAVD'88	
HATCH	HABITAT	BEGIN	END
[Blue Hatch]	SUBTIDAL	-20.00	-0.20
[Green Hatch]	INTERTIDAL		
[Brown Hatch]	NON-VEGETATED	-0.20	2.20
[Dark Green Hatch]	LOW MARSH	2.20	4.60
[Light Green Hatch]	MID MARSH	4.60	5.80
[Yellow Hatch]	HIGH MARSH	5.80	7.60
[White Hatch]	UPLAND	7.60	20.00

65% SUBMITTAL
NOT FOR CONSTRUCTION

DESIGNED BY	M. LEE		
DRAWN BY	K. WOLLMUT		
CHECKED BY	S. BIKES		
IN CHARGE	D. CANNON		
REV	DATE	BY	DESCRIPTION

SOUTHWEST WETLANDS
INTERPRETIVE ASSOCIATION

EVERETT INTERNATIONAL CONSULTANTS, INC.
444 WEST 205TH BLVD., SUITE 100, LINDS BEACH, CA 94041
TEL: (415) 435-0200 FAX: (415) 435-0200

WESTERN SALT PONDS
RESTORATION PROJECT
SOUTH SAN DIEGO BAY

PROPOSED HABITAT DISTRIBUTION
OPTION "A" - "UNCONFINED" SPOILS

ACC. DRAWING	C-2
DATE	07/23/10
JOB NO.	P2146-02
SHEET	6
OF	20

DRAFT

MINUTES

**IMPERIAL BEACH CITY COUNCIL
REDEVELOPMENT AGENCY
PLANNING COMMISSION
PUBLIC FINANCING AUTHORITY**

JUNE 15, 2010

**Council Chambers
825 Imperial Beach Boulevard
Imperial Beach, CA 91932**

**CLOSED SESSION MEETING – 5:30 P.M.
REGULAR MEETING – 6:00 P.M.**

CALL TO ORDER

MAYOR JANNEY called the Closed Session Meeting to order at 5:32 p.m.

ROLL CALL

Councilmembers present: Bragg, McCoy, Rose
Councilmembers absent: None
Mayor present: Janney
Mayor Pro Tem absent: King

Staff present: City Manager Brown; City Attorney Canlas; City Clerk Hald

CLOSED SESSION

MOTION BY MCCOY, SECOND BY BRAGG, TO ADJOURN TO CLOSED SESSION UNDER:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8:

Property: 550 State Route 75, Imperial Beach, CA 91932, APN 625-140-08-00
Agency Negotiator: City Manager and City Attorney
Negotiating Parties: D & A Semi Annual Mortgage Fund LP III
Under Negotiation: Instruction to Negotiator will concern price and terms of payment

Property: Adjacent property east of 550 State Route 75, Imperial Beach, CA 91932,
APN 626-070-33-00
Agency Negotiator: City Manager and City Attorney
Negotiating Parties: D & A Semi Annual Mortgage Fund LP III
Under Negotiation: Instruction to Negotiator will concern price and terms of payment

MOTION CARRIED BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS: BRAGG, MCCOY, ROSE, JANNEY
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: KING

MAYOR JANNEY adjourned the meeting to Closed Session at 5:34 p.m. and he reconvened the meeting to Open Session at 6:01 p.m. Reporting out of Closed Session, MAYOR JANNEY announced Council met earlier in Closed Session, received information from staff, and had no reportable action.

REGULAR MEETING CALL TO ORDER

MAYOR JANNEY called the Regular Meeting to order at 6:02 p.m.

ROLL CALL

Councilmembers present: Bragg, McCoy, Rose
Councilmembers absent: None
Mayor present: Janney
Mayor Pro Tem present: King

Staff present: City Manager Brown; City Attorney Canlas; City Clerk Hald

PLEDGE OF ALLEGIANCE

MAYOR JANNEY led everyone in the Pledge of Allegiance.

AGENDA CHANGES

MAYOR JANNEY stated City staff requested postponement of Item No. 6.8 – REDEVELOPMENT AGENCY PROGRESS REPORT.

MAYOR/COUNCIL REIMBURSEMENT DISCLOSURE/COMMUNITY ANNOUNCEMENTS/REPORTS ON ASSIGNMENTS AND COMMITTEES

COUNCILMEMBER BRAGG reported on her attendance at the League of California Cities Luncheon meeting where they considered bills to oppose or support; she noted that SB1284 (Ducheny) sets mandatory minimum civil penalties for the State Water Resources Control Board; and she requested Mayor Pro Tem King's assistance with arranging a League of California Cities presentation with the IB Chamber of Commerce.

COUNCILMEMBER MCCOY requested a copy of the list of the bills and summaries.

MAYOR JANNEY reported the Sand Replenishment Projects Ad Hoc Committee met and would like staff to bring the projects forward for Council's consideration and direction; and he reported that SANDAG is in the process of reviewing the Regional Transportation Plan.

COMMUNICATIONS FROM CITY STAFF

CITY MANAGER BROWN reported on the recent rabies clinic at Veterans Park, where vaccinations, microchipping, and licensing services were provided.

PUBLIC COMMENT

None.

PRESENTATIONS (1)

None.

CONSENT CALENDAR (2.1 - 2.8)

A revised Attachment A to the agreement with the Port of San Diego was submitted as Last Minute Agenda Information for Item No. 2.6.

MOTION BY MCCOY, SECOND BY BRAGG, TO APPROVE CONSENT CALENDAR ITEM NOS. 2.1 THRU 2.8. MOTION CARRIED UNANIMOUSLY.

2.1 MINUTES.

Approved the minutes of the Regular City Council meeting of April 21, 2010.

2.2 RATIFICATION OF WARRANT REGISTER. (0300-25)

Ratified the following registers: Accounts Payable Numbers 70154 through 70191, 70987 through 71002, and 71003 through 71053 with the subtotal amount of

- \$788,916.85 and Payroll Checks 42615 through 42678 for the pay period ending 05/20/10 with the subtotal amount of \$159,283.63, for a total amount of \$948,200.48.
- 2.3 ANNUAL FINANCIAL REPORT OF THE CITY COUNCIL OF IMPERIAL BEACH FOR THE YEAR ENDED JUNE 30, 2009. (0310-10)**
Received and filed the audited City of Imperial Beach Financial Statements for the year ended June 30, 2009.
- 2.4 RESOLUTION NO. 2010-6903 – ADOPTING THE GANN SPENDING LIMIT FOR FISCAL YEAR BEGINNING JULY 1, 2010 AND ENDING JUNE 30, 2011. (0330-30)**
Adopted resolution.
- 2.5 NOVEMBER 2, 2010 GENERAL AND SPECIAL MUNICIPAL ELECTION RESOLUTIONS. (0430-30 & 0430-40)**
Adopted the following resolutions:
- Resolution No. 2010-6898 - calling and giving notice of the holding of a General Municipal Election on Tuesday, November 2, 2010 for the election of certain officers as required by the provisions of the laws of the State of California relating to general law cities;
 - Resolution No. 2010-6899 - requesting the Board of Supervisors of the County of San Diego to conduct and consolidate a General Municipal Election to be held on Tuesday, November 2, 2010, with the Statewide General Election to be held on the same date pursuant to §10403 of the Elections Code and authorizes the Registrar of Voters to provide services;
 - Resolution No. 2010-6900 - adopting regulations for candidates for elective office pertaining to candidate's statements submitted to the voters at an election to be held on Tuesday, November 2, 2010; and
 - Resolution No. 2010-6901 - adopting a procedure to resolve tie votes by lot.
- 2.6 RESOLUTION NO. 2010-6905 – APPROVING AN AGREEMENT WITH THE SAN DIEGO UNIFIED PORT DISTRICT FOR PROMOTIONAL SERVICES AT THE 4TH OF JULY FIREWORKS SHOW IN CONJUNCTION WITH THE 10TH ANNUAL BIG BAY BOOM FIRE WORKS SPECTACULAR. (1040-10)**
Adopted resolution.
- 2.7 RESOLUTION NO. 2010-6897 – AUTHORIZING THE EXPENDITURE PLAN FOR THE FY 2009-2010 SUPPLEMENTAL LAW ENFORCEMENT STATE FUNDING (SLESF) GRANT, ALSO KNOWN AS THE COPS GRANT. (0260-15 & 0390-86)**
Adopted resolution.
- 2.8 RESOLUTION NO. 2010-6907 – AUTHORIZING RENEWAL OF PARTNERSHIPS WITH INDUSTRY (PWI) GROUP SERVICES AGREEMENT. (0920-20)**
Adopted resolution.

ORDINANCES – INTRODUCTION/FIRST READING (3)

None.

ORDINANCES – SECOND READING & ADOPTION (4.1 - 4.2)

- 4.1 SECOND READING AND ADOPTION OF ORDINANCE NO. 2010-1105 – AMENDING CHAPTER 10.28, SECTION 10.28.020, SPECIAL SPEED ZONE DESIGNATED. (0750-95)**

CITY MANAGER BROWN introduced the item.

MAYOR JANNEY called for the reading of the title of Ordinance No. 2010-1105.

CITY CLERK HALD read the title of Ordinance No. 2010-1105, "An Ordinance of the City Council of the City of Imperial Beach, California, AMENDING CHAPTER 10.28, SECTION

10.28.020, OF THE MUNICIPAL CODE OF THE CITY OF IMPERIAL BEACH RELATING TO SPECIAL SPEED ZONES DESIGNATED.”

MOTION BY KING, SECOND BY ROSE, TO DISPENSE WITH THE SECOND READING AND ADOPT ORDINANCE NO. 2010-1105 BY TITLE ONLY. MOTION CARRIED UNANIMOUSLY.

4.2 SECOND READING AND ADOPTION OF ORDINANCE NO. 2010-1106 – APPROVING AND DESIGNATING A SKATEBOARD PARK IN THE CITY OF IMPERIAL BEACH AND AMENDING IMPERIAL BEACH MUNICIPAL CODE CHAPTERS 9.10 AND 12.56. (0920-40 & 0920-95)

CITY MANAGER BROWN introduced the item.

MAYOR JANNEY called for the reading of the title of Ordinance No. 2010-1106.

CITY CLERK HALD read the title of Ordinance No. 2010-1106, “An Ordinance of the City Council of the City of Imperial Beach, California, AMENDING IMPERIAL BEACH MUNICIPAL CODE CHAPTER 9.10, RELATING TO SKATEBOARD AND ROLLER SKATE RIDING; AMENDING CHAPTER 12.56 RELATING TO USE OF PUBLIC PARKS AND FACILITIES; AND APPROVING AND DESIGNATING A SKATEBOARD PARK IN THE CITY OF IMPERIAL BEACH.”

MOTION BY ROSE, SECOND BY KING, TO DISPENSE WITH THE SECOND READING AND ADOPT ORDINANCE NO. 2010-1106 BY TITLE ONLY. MOTION CARRIED UNANIMOUSLY.

MAYOR PRO TEM KING requested a copy of the new text for the Skate Park signage.

PUBLIC HEARINGS (5)

None.

REPORTS (6.1 - 6.9)

6.1 MONTHLY UPDATE REPORT ON THE REDEVELOPMENT OF THE SEACOAST INN HOTEL. (0660-43)

COUNCILMEMBER BRAGG announced she had a potential conflict of interest on the item due to the location of her former employment and left Council Chambers at 6:15 p.m.

Transcription from the April 21, 2010 City Council meeting (Item Nos.6.1 and 6.2) and May 19, 2010 (Item No. 6.1) was submitted as Last Minute Agenda Information.

CITY MANAGER BROWN introduced the item.

COMMUNITY DEVELOPMENT DIRECTOR WADE reported completion of the second structural and architectural plan check review with staff comments sent to the developer today.

ALLISON ROLFE, Project Manager, stated a letter and updated project schedule were submitted for City Council for review; and reported a term sheet was received from Wells Fargo, bringing them a step closer to the financing of the new hotel; the next steps are to work on the OPA, pay down the existing loan, and secure and record the final map; she responded to questions of Council regarding the project schedule, pending items, and their associated estimated dates of completion; she commented that the recordation of the final map is not within their control.

CITY MANAGER BROWN requested a copy of the term sheet; he disagreed the recordation of the final map is out of the developer's control because the owner has stated in the past he can pay off the existing loan and, therefore, obtain the final map.

COMMUNITY DEVELOPMENT DIRECTOR WADE reported the CCC staff is still reviewing the CC&Rs and he will stress to them that review and approval need to be expeditious; he expressed concern regarding the code enforcement issues relating to the Seacoast Inn.

City Council expressed concern about the review of the CC&Rs and whether the CCC understood the review must be done expeditiously.

MAYOR PRO TEM KING announced he had ex parte communications with Ash Israni regarding vandalism that took place at the hotel.

MS ROLFE responded the broken windows will be boarded up and an onsite security person is pending.

MAYOR JANNEY expressed disappointment with the delay in completion of the paperwork; he asked City Manager Brown to prepare a letter to the CCC and DRE requesting their reviews be done expeditiously; and also stated that Pacifica should have worked harder at ensuring review and approval were done more quickly; he also spoke about the importance and the meaning of demolishing the hotel to the community.

MS. ROLFE pointed out all target dates under their control have been met; she voiced her commitment to the project and stated she is working hard on the project personally; she commented this may be the only hotel to get financing in this economy.

COUNCILMEMBER BRAGG returned to Council Chambers at 6:49 p.m.

6.2 RESOLUTION NO. 2010-6904 – AWARDING A CONTRACT FOR CERTAIN PUBLIC WORKS PROJECT – SEALING AND REPAIRING WET WELLS AND MANHOLES (CIP #W05-401). (0830-35)

CITY MANAGER BROWN introduced the item.

PUBLIC WORKS DIRECTOR LEVIEN gave a report on the item.

MOTION BY ROSE, SECOND BY BRAGG, TO ADOPT RESOLUTION NO. 2010-6904 – AWARDING A CONTRACT FOR CERTAIN PUBLIC WORKS PROJECT – SEALING & REPAIRING WET WELLS & MANHOLES (CIP# W05-401). MOTION CARRIED UNANIMOUSLY.

6.3 ITEM REMOVED.

6.4 RESOLUTION NO. 2010-6895 – APPROVING A FIRST AMENDMENT TO AGREEMENT BETWEEN THE CITY OF CHULA VISTA AND THE CITY OF IMPERIAL BEACH FOR THE PURPOSE OF EXTENDING THE AGREEMENT FOR ANIMAL CARE AND ON CALL ANIMAL CONTROL SERVICES. (0200-10)

CITY MANAGER BROWN introduced the item.

City Council spoke in support for low-cost spay/neuter programs; the high importance of advertising future spay/neuter events; and informing the public of the intake costs the City incurs when pets from Imperial Beach are turned into the Chula Vista Animal Care Facility.

MOTION BY MCCOY, SECOND BY BRAGG, TO ADOPT RESOLUTION NO. 2010-6895 – APPROVING A FIRST AMENDMENT TO AGREEMENT BETWEEN THE CITY OF CHULA VISTA AND THE CITY OF IMPERIAL BEACH FOR THE PURPOSE OF EXTENDING THE AGREEMENT FOR ANIMAL CARE AND ON CALL ANIMAL CONTROL SERVICES. MOTION CARRIED UNANIMOUSLY.

Item No. 6.9 will be discussed at 7:00 p.m. – TIME SPECIFIC

6.9 COMMERCIAL ZONING REVIEW – CONTINUED FOCUS DISCUSSION ON ACTIVE COMMERCIAL USE REQUIREMENTS. (0610-95)

CITY MANAGER BROWN introduced the item.

COMMUNITY DEVELOPMENT DIRECTOR WADE gave a PowerPoint presentation on minimum active commercial use recommendations, he noted the uses should be active pedestrian-oriented at the ground floor level to encourage active, walkable streets.

City Council expressed support for recommendations presented as well as for the proposed overlay; and there was concern about commercial use going down residential side streets.

Consensus of City Council to approve the minimum height of 20 feet for single story commercial buildings and to increase distance to off-site or shared parking facility from 500 feet to 1000 feet.

6.5 RESOLUTION NO. R-10-223 – AUTHORIZING THE CITY MANAGER TO CONTRACT FOR BOND FINANCIAL CONSULTING SERVICES. (0340-10)

CITY MANAGER BROWN reported on the item.

MOTION BY MCCOY, SECOND BY KING, TO ADOPT RESOLUTION NO. R-10-223 – AUTHORIZING THE CITY MANGER TO CONTRACT FOR BOND FINANCIAL CONSULTING SERVICES. MOTION CARRIED UNANIMOUSLY.

6.6 RESOLUTION NOS. 2010-6902 AND R-10-222 – EXTENDING THE AUDIT SERVICES AGREEMENT THROUGH JUNE 30, 2012 WITH TWO ONE-YEAR OPTIONS. (0310-05)

CITY MANAGER BROWN reported on the item.

MOTION BY BRAGG, SECOND BY ROSE , TO ADOPT RESOLUTION NOS. 2010-6902 AND R-10-222 – EXTENDING THE AUDIT SERVICES AGREEMENT THROUGH JUNE 30, 2012 WITH TWO ONE-YEAR OPTIONS. MOTION CARRIED UNANIMOUSLY.

6.7 UPDATE REPORT – PORT COMMISSIONER APPOINTMENT PROCESS AD HOC COMMITTEE. (0150-70)

A revised Application for Port Commissioner and Notice of Vacancy were submitted as Last Minute Agenda Information.

COUNCILMEMBER ROSE reported the Port Commissioner Ad Hoc Committee revised the application to make it specific for the position of Port Commissioner, requested a biography along with the application, and a listing of any financial interests associated with property adjacent to Port property; they also developed interview questions and an interview process.

6.8 REDEVELOPMENT AGENCY PROGRESS REPORT. (0640-90)

Item not taken.

ADJOURNMENT

MAYOR JANNEY adjourned the meeting at 8:17 p.m.

James C. Janney, Mayor

Jacqueline M. Hald, CMC
City Clerk

DRAFT

MINUTES

**IMPERIAL BEACH CITY COUNCIL
REDEVELOPMENT AGENCY
PLANNING COMMISSION
PUBLIC FINANCING AUTHORITY**

JULY 7, 2010

**Council Chambers
825 Imperial Beach Boulevard
Imperial Beach, CA 91932**

**CLOSED SESSION MEETING – 5:30 P.M.
REGULAR MEETING – 6:00 P.M.**

CALL TO ORDER

MAYOR JANNEY called the Closed Session Meeting to order at 5:30 p.m.

ROLL CALL

Councilmembers present: Bragg, McCoy, Rose
Councilmembers absent: None
Mayor present: Janney
Mayor Pro Tem present: King

Staff present: City Manager Brown; City Attorney Lyon; Deputy City Clerk Wolfson

CLOSED SESSION

MOTION BY ROSE, SECOND BY MCCOY, TO ADJOURN TO CLOSED SESSION UNDER:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(a)
Name of Case: Imperial Beach Redevelopment Agency v. Shawki Bochoua
dba Southbay Drugs
Case No. 37-2010-00030617-CL-UD-SC

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(a)
Name of Case: Imperial Beach RDA v. James E. Sides, Jr., et al.
Case No. 37-2010-00075370-CU-EI-SC

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(a)
Name of Case: Imperial Beach RDA v. Deborah A. Sides, et al.
Case No. 37-2010-00075462-CU-EI-SC

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code section 54956.9(b)(3)(A)
No. of Cases: 1

MOTION CARRIED UNANIMOUSLY.

MAYOR PRO TEM KING announced he had a potential conflict of interest on the closed session items and, therefore, recused himself from discussion.

MAYOR JANNEY adjourned the meeting to Closed Session at 5:32 p.m. and he reconvened the meeting to Open Session at 6:00 p.m. Reporting out of Closed Session, MAYOR JANNEY announced Council met earlier in Closed Session, received information from staff, gave direction, and had nothing to report at this time.

REGULAR MEETING CALL TO ORDER

MAYOR JANNEY called the Regular Meeting to order at 6:01 p.m.

ROLL CALL

Councilmembers present:	Bragg, McCoy, Rose
Councilmembers absent:	None
Mayor present:	Janney
Mayor Pro Tem present:	King

Staff present:	City Manager Brown; City Attorney Lyon; Deputy City Clerk Wolfson
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PLEDGE OF ALLEGIANCE

MAYOR JANNEY led everyone in the Pledge of Allegiance.

AGENDA CHANGES

None.

MAYOR/COUNCIL REIMBURSEMENT DISCLOSURE/COMMUNITY ANNOUNCEMENTS/REPORTS ON ASSIGNMENTS AND COMMITTEES

COUNCILMEMBER BRAGG spoke about Imperial Beach's participation in the region-wide Graffiti Tracker, which helped the City prosecute an offender who was responsible for 147 instances of graffiti; she added the \$86,000 in damages were paid by the offender's parents; she praised the Public Safety Department of Imperial Beach and other local agencies for their successful handling of a large fire the previous day; in light of the 5.9 earthquake before tonight's meeting, she reminded citizens to prepare disaster kits; MTS has entered into an agreement with Heritage Security Systems to add security cameras and enhance security on the trolleys.

COUNCILMEMBER MCCOY spoke about yesterday's fire and expressed sympathy to individuals who were displaced by the fire; she commended new Public Safety Director/Fire Chief Tom Clark; she discussed the Climate Change Conference at the Tijuana Estuary in late June, attended by Redevelopment Assistant Project Manager Cumming, planning officials from Solana Beach and Encinitas, and herself; she urged staff to prepare a climate change element to the City's General Plan.

COUNCILMEMBER ROSE voiced her appreciation of City and Port staff, including sheriffs and lifeguards, for their efforts on the 4th of July fireworks spectacular.

MAYOR PRO TEM KING announced his attendance at the SANDAG Transportation Committee meeting where they discussed MTS' Blue Line trolley will soon be upgraded with low-floor vehicles for ADA access; he also spoke about the 4th of July fireworks and commended staff for the successful event; he praised John Haupt (in attendance) for putting together a well-attended music event before the fireworks show.

MAYOR JANNEY spoke about the Graffiti Tracker and thanked County Supervisor Cox for his involvement; he added that MTS, public utilities, and other small cities are considering participation in the program, which may make it more cost effective; he thanked Mayor Pro Tem King and Councilmember McCoy for attending SANDAG meetings in his absence; he discussed SANDAG's moving forward with the regional transportation plan; he also thanked everybody for their efforts in putting together a successful 4th of July fireworks show and noted that those who contributed monetarily will be honored at the Mayor's breakfast on August 6.

COMMUNICATIONS FROM CITY STAFF

CITY MANAGER BROWN welcomed new Public Safety Director/Fire Chief Tom Clark and Sheriff's Captain David Myers.

PRESENTATIONS (1.1)

1.1 RECOGNITION OF "BE KIND TO ANIMALS MONTH" POSTER CONTEST WINNERS. (0410-30)

MAYOR JANNEY introduced Animal Control Officer Springfield and Public Safety Director Clark.

ANIMAL CONTROL OFFICER SPRINGFIELD gave background on the item; she commented the City partnered with June Engel of the IB Library to hold this first "Be Kind to Animals Month" poster contest; the next contest will be held in September.

MAYOR JANNEY, PUBLIC SAFETY DIRECTOR CLARK, and ANIMAL CONTROL OFFICER SPRINGFIELD presented certificates to the following poster contest winners:

Aserette Navarro
Jacqueline Aparicio

PUBLIC COMMENT

JOHN ROCHE spoke about his recent move to IB and his submittal of a permit to do light grading and gravel in the alley behind his property; the permit, however was denied and he was directed to pave the alleyway with concrete, a significant cost difference.

MAYOR JANNEY deferred the matter to the City Manager.

JOHN HAUPT spoke about the 4th of July music event in which most of the musicians were IB locals; proceeds from the event were given to an individual whose electronic larynx was stolen.

JUNE ENGEL, of the IB Library, announced a summer reading program at the library; 55 children attended today's story time; she invited people to Pizza Hut on Coronado Avenue tomorrow night where proceeds would benefit the Teen Advisory Group.

TIM O'NEAL thanked all agencies who helped put out yesterday's fire, especially the IB Fire Department.

SCOTT STYLER, of Misty Dawn's Salon, requested permission to use the existing outdoor canopied area to perform manicures and beauty services this summer.

MAYOR JANNEY deferred the matter to the City Manager.

CONSENT CALENDAR (2.1 - 2.6)

MOTION BY BRAGG, SECOND BY KING, TO APPROVE CONSENT CALENDAR ITEM NOS. 2.1 THRU 2.6. MOTION CARRIED UNANIMOUSLY.

2.1 MINUTES.

Approved the minutes of the Regular City Council meeting of June 2, 2010.

2.2 RATIFICATION OF WARRANT REGISTER. (0300-25)

Ratified the following registers: Accounts Payable Numbers 71054 through 71199 with the subtotal amount of \$1,598,970.02 and Payroll Checks 42679 through 42736 for the pay period ending 06/03/10 with the subtotal amount of \$157,256.66, and Payroll Checks 42737 through 42799 for the pay period ending 06/17/10 with the subtotal amount of \$197,118.16 for a total amount of \$1,953,344.84.

2.3 RESOLUTION NO. 2010-6913 – AUTHORIZING THE SALE OF CERTAIN SURPLUS CITY EQUIPMENT. (0380-45)

Adopted resolution.

2.4 RESOLUTION NO. 2010-6915 – RATIFYING AN AGREEMENT WITH THE SAN DIEGO UNIFIED PORT DISTRICT FOR PROMOTIONAL SERVICES AT THE 4TH OF JULY FIREWORKS SHOW IN CONJUNCTION WITH THE 10TH ANNUAL BIG BAY BOOM FIREWORKS SPECTACULAR. (1040-10)

Adopted resolution.

2.5 RESOLUTION NO. 2010-6909 – AUTHORIZING FIRST AMENDMENT TO THE AGREEMENT FOR CONSULTANT SERVICES TO SERVE AS PART-TIME ASSISTANT CITY MANAGER. (0530-60)

Adopted resolution.

2.6 KAMAL NONA (OWNER)/STOSH THOMAS (ARCHITECT); TIME EXTENSION FOR A CONDITIONAL USE PERMIT (CUP 060398), DESIGN REVIEW CASE (DRC 060399), SITE PLAN REVIEW (SPR 060400) FOR TWO MIXED USE DEVELOPMENTS WITH TWO RETAIL COMMERCIAL UNITS AND TWO RESIDENTIAL UNITS FOR EACH DEVELOPMENT (FOUR COMMERCIAL AND FOUR RESIDENTIAL UNITS TOTAL) LOCATED AT 1120, 1122 13TH STREET AND 1150, 1152 13TH STREET, IN THE C-3 (NEIGHBORHOOD COMMERCIAL) ZONE. MF 863. (0600-20)

Adopted Resolution No. 2010-6910, approving a six (6) month time extension for Conditional Use Permit (CUP 060398), Design Review Case (DRC 060399), and Site Plan Review (SPR 060400), which makes the necessary findings and provides conditions of approval in compliance with local and state requirements.

ORDINANCES – INTRODUCTION/FIRST READING/PUBLIC HEARING (3.1)

3.1 ORDINANCE NO. 2010-1107 – AN INTERIM ORDINANCE EXTENDING AN URGENCY MEASURE PROHIBITING COOPERATIVE, COLLECTIVE, OR OTHER FORMS OF MARIJUANA DISPENSARIES DURING A SPECIAL STUDY PERIOD FOR AN ADDITIONAL YEAR. (0610-95)

MAYOR JANNEY declared the public hearing open.

CITY MANAGER BROWN introduced the item.

CITY ATTORNEY LYON gave a report on the item.

MARCUS BOYD, representing American for Safe Access, gave a video presentation on the item; he expressed concern about the draft response to the Grand Jury and adopting an extension of the moratorium; he commented that the legalization of marijuana will be voted upon in November; he voiced his support for allowing medical marijuana dispensaries. (Additional speaking time donated by Eugene Davidovich.)

TRACEY RIVERA voiced her support for allowing medical marijuana dispensaries and requested the moratorium not be extended. (Additional speaking time donated by Gena Bauza.)

JOHN HAUPT spoke about the side effects of many medications and how more people die of and are in prison for alcohol abuse; he expressed concern that by not allowing medical marijuana dispensaries and implementing quality control the public is at risk of purchasing defective product; he voiced his opposition to extending the moratorium.

LANCE ROGERS, of CannLegal, stated he represents individuals in the IB area; he voiced his opposition to the extension of the moratorium; he discussed the Anaheim case which addresses municipalities preempted by California State law and where the state recognizes qualified patients have access to medical marijuana; he urged Council to regulate medical marijuana now and not wait for decisions from other cases.

MAYOR JANNEY closed the public hearing.

Council discussion ensued. Concerns were expressed regarding law enforcement, individuals abusing the system, dispensaries operating within close proximity to each other in San Diego, which abuts IB; and whether adopting an ordinance would violate federal law; they discussed the length of the moratorium and waiting for standards and criteria to be developed by other agencies; it was noted that the moratorium can be abandoned before a year has elapsed and an ordinance can be enacted when the City is ready; Council also spoke about the need for Coastal Commission review, and manpower and costs required in regulating medical marijuana.

Responding to Council, CITY ATTORNEY LYON stated federal law does not preempt the Compassionate Use Act; with regard to Government Code 37100 that states that cities cannot adopt ordinances that are in violation of state or federal law, that issue has not been specifically addressed in cases; the video presentation from Mr. Boyd acknowledges Government Code 37100 does not apply to counties; the cities that are banning medical marijuana are doing so on the basis that they are not allowed to adopt ordinances that are in violation of federal law because of this Government Code section; it is uncertain what decision and direction will come from the Anaheim case.

Council voiced their support for a more restrictive ordinance; they requested staff return with a reasonable timeframe and costs involved with regulation; they expressed their desire for the regulations to have uniformity and consistency with other agencies, and to see how the November election goes; they suggested contacting legal counsel for the County asking for a status update on their writing of guidelines.

CITY MANAGER BROWN spoke of the need to work closely with the Sheriff's Department and how there should not be separate regulations in the enforcement in incorporated versus unincorporated areas.

MAYOR JANNEY called for the reading of the title of Interim Ordinance No. 2010-1107.

DEPUTY CITY CLERK WOLFSON read the title of Interim Ordinance No. 2010-1107, "An Interim Ordinance of the City Council of the City of Imperial Beach, California, EXTENDING AN URGENCY MEASURE PROHIBITING COOPERATIVE, COLLECTIVE, OR OTHER FORMS OF MARIJUANA DISPENSARIES DURING A SPECIAL STUDY PERIOD FOR AN ADDITIONAL YEAR."

MOTION BY KING, SECOND BY MCCOY, TO DISPENSE THE FIRST READING AND ADOPT, WITH A FOUR-FIFTHS VOTE, ORDINANCE NO. 2010-1107 BY TITLE ONLY, AND DIRECTING THE CITY ATTORNEY TO MOVE FORWARD WITH AN ORDINANCE ON THE MORE RESTRICTIVE SIDE. MOTION CARRIED UNANIMOUSLY.

Consensus of Council to take agenda items in numerical order.

ORDINANCES – SECOND READING & ADOPTION (4)

None.

PUBLIC HEARINGS (5.1)

5.1 PLANNING COMMISSION INTERPRETATION (PCI 100040) TO DETERMINE APPROPRIATE CLASSIFICATION AND/OR CRITERIA FOR ALLOWING OUTDOOR USES. MF 1048. (0620-95)

MAYOR JANNEY declared the public hearing open.

CITY MANAGER BROWN introduced the item.

CITY PLANNER NAKAGAWA gave a PowerPoint presentation on the item.

COMMUNITY DEVELOPMENT DIRECTOR WADE explained the difference between a café and a restaurant, he clarified the ordinance restricts outdoor restaurants; he added that hotdog carts are a separate issue but they are intrinsically related; he expressed the need to have clarification of kiosks and whether they are permanent, semi-permanent, or temporary; he referenced the following items submitted as Last Minute Agenda Information:

- a. Email correspondence between Kim Guster and Imperial Beach Planning Department.
- b. E-mail correspondence with attachment submitted by Allen Jones.

He also mentioned handouts submitted by Cow-a-Bunga and the Farmers Market; he responded to the comments made by the public speaker who requested outdoor manicure services and stated that use would not be allowed per the current requirements.

JOHN HAUPT, new owner of the Beach Club Grille, supported existing restaurants who pay property taxes and adhere to Health Department standards; he expressed concern about food not prepared in certified catering kitchens and locations without restrooms; he also expressed concern about mobile businesses (i.e., ice cream trucks, taco trucks) forcing businesses, especially along Seacoast Drive, to close.

GENE GOYCOCHEA, on behalf of The Bridge; voiced his support of charities and stated The Bridge has been in business for the last 10 years and has a legal kitchen; he commented the definition of restaurant was outdated; he explained during fundraisers they have a fire retardant tent enclosed with screening and which has the ability to maintain food temperatures.

JILL LINDER, of IB Beautiful, organizers of the Farmers Market, expressed concern about new temporary outdoor businesses that would hinder farmers market vendors.

KIM DROLET stated she is a pushcart vendor and County standards are extremely high; she commented that vending on public versus private property should be considered as separate issues; she suggested a broader definition of walkup restaurant; and she opposed coffee kiosks being allowed on Seacoast Drive; she urged the to City temporarily allow pushcart businesses during the summer.

SCOTT SIMMONS voiced his opposition to pushcart vendors and his support of promoting local businesses.

FABRICE GAUNIN, owner of Cow-a-Bunga, spoke about his handout; expressed concern about the already limited number of parking spaces at Pier Plaza, which affects the number of customers to his business; he voiced his support of the Farmers Market.

ROBERT SONSINI, owner of an Italian ice company, stated he runs his business out of an eco-friendly electric vehicle he designed; he has been told by many cities he could not vend there due to a California code that prohibits vending unless the vehicle is stopped, however, his electric vehicle would die unless it is constantly running; he added he would like to make a presentation to Council regarding his eco-friendly vehicle at a later date.

STEVE BERRY, of IB Printing, stated there is a lot of walk by business at his new location and it would benefit his business if he were able to show his product (which includes souvenirs) outside of doors.

MAYOR JANNEY closed the public hearing.

Council discussion ensued regarding the type of signage and banners and the concern regarding aesthetics when Pier Plaza was constructed, the definition of kiosks and what language the commercial zoning consultant offers in their update; they voiced their support in maintaining the Farmers Market's uniform appearance; they voiced the need to have the definition of café clarified; Council requested staff look at how the City of Coronado has outdoor sales which encourages spending; they expressed concern about struggling businesses and how retail sales vary between seasons.

At this point, COMMUNITY DEVELOPMENT DIRECTOR WADE clarified that "pushcart" is an outdated term; he stated more often requests come from vendors of outdoor carts that are non-movable on private property; he spoke about obtaining RFPs for specific vendors in specific locations and he expressed concern about creating a market disadvantage.

Consensus of Council to have staff return with better definitions of café and kiosk, to not proceed with outdoor cart vending at this point, and to look at allowing of displaying wares outside businesses.

REPORTS (6.1 - 6.7)

6.1 RESOLUTION NO. R-10-224 – AWARDING A CONTRACT FOR CERTAIN PUBLIC WORKS CONTRACT – SKATE PARK ELEMENT CIP (P07-101). (0920-40)

CITY MANAGER BROWN introduced the item; he answered questions of Council regarding the bid being re-advertised per Council's direction and questions regarding the winning contractor.

BRIAN FORDYCE, of Fordyce Construction, responded his company has built 200 parks.

MICHAEL CAREY asked about the contractor's qualifications and Grindline's involvement.

CITY MANAGER BROWN responded that Grindline had assisting in drawing up the specs for the project.

Discussion ensued regarding securing low bids from qualified contractors; Council voiced their support of the winning contractor.

MOTION BY KING, SECOND BY MCCOY, TO ADOPT RESOLUTION NO. R-10-224 – AWARDING A CONTRACT FOR CERTAIN PUBLIC WORKS CONTRACT – SKATE PARK ELEMENT CIP (P07-101).

Council asked questions of the contractor regarding the timeframe to finish the project, and whether water and drainage issues were considered.

MR. FORDYCE responded the contract contains a timeframe of 45 or 60 days, and he feels comfortable the project can be done within that timeframe; water and drainage issues are addressed in the plans.

CITY MANAGER BROWN requested Public Works Superintendent Lau to confirm the timeframe, as he believes it is 120 days.

VOTES NOW CAST ON ORIGINAL MOTION BY KING, SECOND BY MCCOY, TO ADOPT RESOLUTION NO. R-10-224 – AWARDING A CONTRACT FOR CERTAIN PUBLIC WORKS CONTRACT – SKATE PARK ELEMENT CIP (P07-101). MOTION CARRIED UNANIMOUSLY.

Discussion ensued regarding future groundbreaking and ribbon cutting ceremonies.

6.2 LETTER OF INTENT AND PROPOSED PORT FUNDING FOR THE ARMY CORPS OF ENGINEERS' SAN DIEGO HARBOR MAINTENANCE DREDGE AND FOR THE SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG) REGIONAL BEACH SAND PROJECT II. (0140-40 & 0220-70)

CITY MANAGER BROWN introduced the item.

MAYOR PRO TEM KING reported on the item, noting this item was discussed in subcommittee; he commented the City will not receive any additional sand until 2012.

COMMUNITY DEVELOPMENT DIRECTOR WADE gave a report on the item; he clarified the authorization would be to request the Department of Boating & Waterways the reallocation of funds and requesting the Port contribute matching funds for the project.

Council discussion ensued regarding its desire to bring forward a positive effect on our beaches, and how there is money already in federal budget to do this project; there was discussion that these projects are temporary and there was desire expressed to pursue longer-term solutions.

COMMUNITY DEVELOPMENT DIRECTOR WADE read the recommendations presented in the staff report and gave a PowerPoint presentation on the item; he responded to questions of Council regarding the type of dredge, monitoring, grain size, studies conducted on the benthic zone, impact to fisheries, turbidity issues, and other environmental concerns; he commented that many of these issues will be addressed in the Memorandum of Agreement; he added that staff will seek recommendations from the Tidelands Advisory Committee at their meeting on

Monday, and that the Army Corps of Engineers met with Wildcoast for the first time to interact with the local community.

No speaker slips were submitted.

MOTION BY JANNEY, SECOND BY ROSE, TO AUTHORIZE THE ISSUANCE OF A LETTER OF INTENT TO ENTER INTO A MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF IMPERIAL BEACH AND THE DEPARTMENT OF THE ARMY FOR PARTICIPATION IN THE SAN DIEGO HARBOR MAINTENANCE DREDGING PROJECT. MOTION CARRIED UNANIMOUSLY.

COUNCILMEMBER MCCOY discussed forthcoming climatological maps

MOTION BY JANNEY, SECOND BY ROSE, TO SUPPORT THE USE OF PORT DISTRICT FUNDS FOR THE SAN DIEGO HARBOR MAINTENANCE DREDGING PROJECT; TO SUPPORT THE IDEA OF APPROACHING THE STATE DEPARTMENT OF BOATING AND WATERWAYS ABOUT THE POSSIBILITY OF RE-SCOPING THE \$4.2 MILLION OF PUBLIC BEACH RESTORATION FUNDS TO THE SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG) REGIONAL BEACH SAND PROJECT II; AND TO SUPPORT THE USE OF APPROXIMATELY \$700,000 OF PORT DISTRICT FUNDS TOWARDS THE LOCAL SHARE OF THE STATE DEPARTMENT OF BOATING AND WATERWAYS FUNDS. MOTION CARRIED UNANIMOUSLY.

6.3 CODE ENFORCEMENT – WEED & RUBBISH ABATEMENT. (0250-70 & 0470-20)
CITY MANAGER BROWN introduced the item.

Deputy City Clerk Wolfson announced no speaker slips were submitted.

CITY MANAGER BROWN and COMMUNITY DEVELOPMENT DIRECTOR WADE answered questions of Council regarding the history of the properties and fines; COMMUNITY DEVELOPMENT DIRECTOR WADE clarified that tonight's authorization to abate the violations, place liens on the property owners, and recover costs.

CODE COMPLIANCE OFFICER GARCIAS gave a report on the item regarding the following addresses: 1174 Florida St., 1019 Iris Ave., and 336-338 Daisy Ave.; he responding to Council, he stated that the Government Code does allow the use of weed killers for long-term use; he noted these properties are vacant and have gone into foreclosure; he has been unable to communicate with property owners; these costs are included in the property tax assessment rolls.

MOTION BY MCCOY, SECOND BY BRAGG, TO ADOPT RESOLUTION NO. 2010-6912 – FINDING AND DECLARING THAT WEEDS, BRUSH, RUBBISH AND REFUSE UPON OR IN FRONT OF SPECIFIED PROPERTIES IN THE CITY ARE A SEASONAL AND RECURRENT PUBLIC NUISANCE, AND DECLARING ITS INTENTION TO PROVIDE FOR THE ABATEMENT THEREOF AND SCHEDULE A WEED AND RUBBISH ABATEMENT PUBLIC HEARING TO HEAR OBJECTIONS ON JULY 21, 2010. MOTION CARRIED UNANIMOUSLY.

6.4 RESOLUTION NO. 2010-6911 – AUTHORIZING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF IMPERIAL BEACH AND SWEETWATER UNION HIGH SCHOOL DISTRICT FOR SERVICES OF A SPECIAL PURPOSE SCHOOL RESOURCE OFFICER. (1010-20)

CITY MANAGER BROWN introduced the item.

No speaker slips were submitted.

MOTION BY MCCOY, SECOND BY KING, TO ADOPT RESOLUTION NO. 2010-6911 – AUTHORIZING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF IMPERIAL BEACH AND SWEETWATER UNION HIGH SCHOOL DISTRICT FOR SERVICES OF A SPECIAL PURPOSE SCHOOL RESOURCE OFFICER. MOTION CARRIED UNANIMOUSLY.

6.5 RESOLUTION NO. 2010-6914 – RESPONSE TO JUNE 7, 2010 GRAND JURY REPORT ENTITLED “MEDICAL MARIJUANA IN SAN DIEGO”. (0440-25)

CITY MANAGER BROWN introduced the item.

MARCUS BOYD, representing the San Diego chapter for Americans for Safe Access, voiced his desire for the ordinance pertaining to medical marijuana dispensaries to be adopted sooner; he voiced his opposition to the letter. (Additional speaking time donated by Glenn Tapia.)

MAYOR JANNEY clarified this item was a separate issue from the moratorium discussed in Item No. 3.1.

LANCE ROGERS was not available to speak.

EUGENE DAVIDOVICH, representing the San Diego chapter for Americans for Safe Access, thanked the Council for moving forward on this item; he voiced his opposition to the item; he suggested a committee that includes medical marijuana patients be organized.

Council discussion ensued regarding the ordinance and moratorium, the City's duty to protect citizens from increased crime or an increased burden to law enforcement; they discussed that the letter to the Grand Jury is being presented on the basis that IB is moving ahead.

MOTION BY ROSE, SECOND BY MCCOY, TO ADOPT RESOLUTION NO. 2010-6914 – ADOPTING A RESPONSE TO A REPORT BY THE SAN DIEGO COUNTY GRAND JURY FILED JUNE 7, 2010 ENTITLED “MEDICAL MARIJUANA IN SAN DIEGO”. MOTION CARRIED UNANIMOUSLY.

6.6 DESIGNATION OF VOTING DELEGATE AND ALTERNATE FOR LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE – SEPTEMBER 15-17, 2010. (0140-10)

CITY MANAGER BROWN gave a report on the item.

No speaker slips were submitted.

MOTION BY ROSE, SECOND BY KING, TO DESIGNATE COUNCILMEMBER BRAGG AS A VOTING DELEGATE AND MAYOR JANNEY AS VOTING ALTERNATES FOR THE 2010 LEAGUE ANNUAL CONFERENCE; AND TO DIRECT STAFF TO COMPLETE AND SUBMIT A VOTING DELEGATE FORM TO THE LEAGUE OFFICE BY FRIDAY, AUGUST 20, 2010. MOTION CARRIED UNANIMOUSLY.

MAYOR JANNEY postponed this item, stating the item would be presented at the City Council workshop of July 13; he also announced a Special Meeting will be held December 8 to certify the results of the November 2 election and swear in newly elected officers.

6.7 COMMERCIAL ZONING REVIEW – CONTINUED FOCUS DISCUSSION ON COMMERCIAL ZONING DESIGN GUIDELINES. (0610-95)

CITY MANAGER BROWN introduced the item.

COMMUNITY DEVELOPMENT DIRECTOR WADE gave a report on the item.

No speaker slips were submitted.

ADJOURNMENT

MAYOR JANNEY adjourned the meeting at 9:22 p.m.

James C. Janney, Mayor

Lisa Wolfson, CMC
Deputy City Clerk



**STAFF REPORT
CITY OF IMPERIAL BEACH**

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: GARY R. BROWN, CITY MANAGER

MEETING DATE: September 1, 2010

ORIGINATING DEPT.: Michael McGrane *mmg*
Finance Director

SUBJECT: RATIFICATION OF WARRANT REGISTER

BACKGROUND:

None

DISCUSSION:

As of April 7, 2004, all large warrants above \$100,000 will be separately highlighted and explained on the staff report.

Vendor	Check	Amount	
SD County Sheriff	71512	\$880,696.76	Law Enforcement Services –May & June 2010

ENVIRONMENTAL IMPACT

Not a project as defined by CEQA.

The following registers are submitted for Council ratification.

WARRANT # DATE AMOUNT

Accounts Payable

71470	08/10/10	\$	1,828.18
71471-71523	08/12/10		1,026,954.72
71524	08/16/10		425.00
71525-71582	08/19/10		246,362.60
			<hr/>
Sub-Total		\$	<u>1,275,570.50</u>

Payroll Checks:

43014-43037	P.P.E. 08/12/10	181,992.94
		\$ <u>181,992.94</u>
	TOTAL	\$ <u>1,457,563.44</u>

FISCAL IMPACT:

Warrants are issued from budgeted funds.

DEPARTMENT RECOMMENDATION:

It is respectfully requested that the City Council ratify the warrant register.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation



Gary Brown, City Manager

Attachments:

1. Warrant Registers

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #		BANK CODE	CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
08/10/2010	71470	GREENWALD'S AUTOBODY & FRAMEWO	1			1,828.18
502-1922-419.28-17	08/09/2010	REPAIRS 2009 TOYOTA CAMRY	63268		02/2011	1,828.18
08/12/2010	71471	AGRICULTURAL PEST CONTROL	123			190.00
101-1910-419.21-04	06/22/2010	JUNE 2010	220677	010126	12/2010	95.00
101-6020-452.21-04	07/27/2010	JULY 2010 SPORTS PARK	223079	110058	01/2011	95.00
08/12/2010	71472	SOUTHCOAST HEATING & A/C	1554			470.00
101-1910-419.21-04	07/30/2010	PREVENTATIVE MAINTENANCE	C43943	110062	01/2011	470.00
08/12/2010	71473	ARROWHEAD MOUNTAIN SPRING WATE	1340			74.20
101-5020-432.30-02	07/22/2010	JULY 2010	00G0026726646	110219	01/2011	74.20
08/12/2010	71474	ASBURY ENVIRONMENTAL SERVICES	277			685.21
101-5040-434.21-04	07/09/2010	WASTE PICK-UP	130341716	110022	01/2011	685.21
08/12/2010	71475	AT&T	291			73.89
101-1110-412.27-04	07/01/2010	030 480 7968 001	07-27-2010		12/2010	6.05
101-5020-432.27-04	07/01/2010	030 480 7925 001	07-27-2010		12/2010	10.89
101-3020-422.27-04	07/01/2010	030 480 7925 001	07-27-2010		12/2010	15.26
101-6030-453.27-04	07/01/2010	030 480 7925 001	07-27-2010		12/2010	15.00
101-1110-412.27-04	08/01/2010	030 480 7968 001	08-27-2010		01/2011	6.01
101-5020-432.27-04	08/01/2010	030 480 7925 001 PW FAX	08-27-2010		01/2011	9.63
101-3020-422.27-04	08/01/2010	030 480 7925 001 FIRE	08-27-2010		01/2011	8.03
101-1920-419.27-04	08/01/2010	030 480 7925 001 COPY RM	08-27-2010		01/2011	3.02
08/12/2010	71476	AT&T MOBILITY	1866			947.24
503-1923-419.27-05	07/23/2010	287015635717 JUN/JUL 10	X07232010		01/2011	270.30
101-1230-413.27-05	07/23/2010	287016633295 JUN /JUL10	X07232010		01/2011	126.12
101-3050-425.27-05	07/23/2010	287019473995 JUN/JUL 10	X07232010		01/2011	136.04
101-3020-422.27-05	07/23/2010	287015635717 JUN/JUL 10	X07232010		01/2011	76.98
101-5020-432.27-05	07/23/2010	287015635717 JUN/JUL 10	X07232010		01/2011	86.39
503-1923-419.30-02	07/23/2010	287015635717 JUN/JUL 10	X07232010		01/2011	251.41
08/12/2010	71477	BOYCE INDUSTRIES INC	486			163.07
405-5030-433.28-01	06/22/2010	GRAY SPRING UNLOADER	52861	010060	12/2010	163.07
08/12/2010	71478	CALIF ELECTRIC SUPPLY	609			356.33
101-6040-454.30-02	07/12/2010	WIRE-COLORED	1069-609114	110044	01/2011	356.33
08/12/2010	71479	CALIFORNIA MARINE SERVICES	2220			2,210.00
101-6040-454.21-04	06/17/2010	TOPSIDE SERVICES/LG TOWER	06-17-2010	010986	12/2010	2,210.00
08/12/2010	71480	CITY OF CHULA VISTA	823			16,610.00
101-3050-425.21-04	06/23/2010	MAY 2010	AR128947		12/2010	16,610.00
08/12/2010	71481	COUNTY OF SAN DIEGO RCS	1065			10,572.56
101-3010-421.21-25	05/01/2010	APRIL 2010	10CTOFIBN10	010551	12/2010	2,325.50
101-3020-422.21-25	05/01/2010	APRIL 2010	10CTOFIBN10	010551	12/2010	344.50

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT			
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
101-3030-423.20-06	05/01/2010	APRIL 2010	10CTOFIBN10	010551	12/2010	821.50	
101-3010-421.21-25	06/01/2010	MAY 2010	10CTOFIBN11	010551	12/2010	2,325.50	
101-3020-422.21-25	06/01/2010	MAY 2010	10CTOFIBN11	010551	12/2010	344.50	
101-3030-423.20-06	06/01/2010	MAY 2010	10CTOFIBN11	010551	12/2010	848.00	
101-3010-421.21-25	07/01/2010	JULY 2010	10CTOFIBN12	010551	12/2010	2,325.50	
101-3020-422.21-25	07/01/2010	JULY 2010	10CTOFIBN12	010551	12/2010	344.50	
101-3030-423.20-06	07/01/2010	JULY 2010	10CTOFIBN12	010551	12/2010	893.06	
08/12/2010	71482	COX COMMUNICATIONS	1073			179.00	
601-5050-436.21-04	06/30/2010	3110091187001	07/04-08/03	07-24-2010	110130	01/2011	179.00
08/12/2010	71483	CUDDEBACK TRAILER AND EQUIPMEN	2214			11,200.00	
101-3060-426.50-04	06/09/2010	LG TRAILER	BT84271	010913	12/2010	11,200.00	
08/12/2010	71484	D.A.R. CONTRACTORS	1122			694.00	
101-3050-425.20-06	08/03/2010	JULY 2010	000069	110205	02/2011	347.00	
101-3050-425.20-06	07/03/2010	JUNE 2010	000059	010532	12/2010	347.00	
08/12/2010	71485	DOROTHY YORK DVM	2259			260.00	
101-3050-425.21-04	06/10/2010	RABIES CLINIC-VET SVC	001		12/2010	260.00	
08/12/2010	71486	EDCO DISPOSAL CORPORATION	1205			141.05	
408-1920-519.20-06	07/31/2010	JULY 2010	07-31-2010	110215	01/2011	141.05	
08/12/2010	71487	EL TAPATIO INC	1407			740.59	
101-1010-411.28-08	08/03/2010	MAYOR'S BKFST FOOD/SUPPLI	5869	110220	02/2011	592.74	
101-1010-411.28-04	08/02/2010	08/04/10 COUNCIL DINNER	5868	110221	02/2011	147.85	
08/12/2010	71488	FASTENAL	909			89.15	
601-5060-436.30-02	06/30/2010	MARK OUT PAINT	CACHU22112	010062	12/2010	89.15	
08/12/2010	71489	GCR TIRE CENTERS	1702			681.15	
501-1921-419.28-16	07/23/2010	#108 TIRES	11682	110105	01/2011	681.15	
08/12/2010	71490	GO-STAFF, INC.	2031			1,560.00	
101-1210-413.21-01	08/03/2010	DURAN, A W/E 08/01/10	74148	110078	02/2011	360.00	
101-3020-422.21-01	08/03/2010	ROCHER, J W/E 08/01/10	74147	110149	02/2011	307.50	
101-3020-422.21-01	07/06/2010	ROCHER, J W/E 07/04/10	73304	110149	01/2011	90.00	
101-3020-422.21-01	07/13/2010	ROCHER, J W/E 07/11/10	73506	110149	01/2011	285.00	
101-3020-422.21-01	07/27/2010	ROCHER, J W/E 07/07/25/10	73925	110149	01/2011	337.50	
101-3020-422.21-01	07/06/2010	ROCHER, J W/E 06/30/10	73304	010419	12/2010	180.00	
08/12/2010	71491	GRAY & SONS FLEET INSPECTIONS	1054			240.00	
501-1921-419.28-01	07/15/2010	DIESEL SMOKE INSPECTION	003603		01/2011	240.00	
08/12/2010	71492	HARLAN CONSTRUCTION	2074			9,702.00	
248-1920-519.20-06	07/26/2010	CLEAN&GREEN-1311 5TH ST	07-26-2010	110207	01/2011	2,552.00	
408-1920-519.20-06	07/26/2010	FACADE IMPRVMT-629 9TH S	07-26-2010	110210	01/2011	7,150.00	
08/12/2010	71493	HCFA	2147			32,583.06	
101-3020-422.21-04	07/08/2010	FY 10/11 AGENCY ASSMNT	6495		01/2011	32,184.00	

PROGRAM: GM350L
CITY OF IMPERIAL BEACH

FROM 08/10/2010 TO 08/20/2010

BANK CODE 00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
101-3020-422.21-04	06/30/2010	FY 09/10 4TH QTR	6460		12/2010	399.06	
08/12/2010	71494	INTERSTATE BATTERY OF SAN DIEG	388			939.41	
101-6040-454.30-02	07/22/2010	TIDELANDS WHEELCHAIRS	680028608	110026	01/2011	291.93	
501-1921-419.28-16	07/22/2010	#S-7	680028609	110026	01/2011	647.48	
08/12/2010	71495	J. SIMMS AGENCY	1883			2,500.00	
101-1920-419.20-06	07/30/2010	AUGUST 2010	2670	110069	01/2011	1,250.00	
101-1920-419.20-06	06/24/2010	JULY 2010	2637	110069	01/2011	1,250.00	
08/12/2010	71496	JAMES C COOPER	1896			182.00	
101-3020-422.29-01	08/02/2010	REIMBURSE EMT FEE	000172		02/2011	17.00	
101-3020-422.29-01	07/01/2010	REIMBURSE PARAMEDIC LICEN	350		02/2011	165.00	
08/12/2010	71497	JOHN DEERE LANDSCAPES	1986			324.60	
101-6020-452.30-02	06/29/2010	IRRIGATION SUPPLIES	55030377	010128	12/2010	324.60	
08/12/2010	71498	JUNE ENGEL	2213			80.20	
405-1260-413.28-11	07/28/2010	REIMBURSE COLOR PRINTING	6734		01/2011	48.12	
405-1260-413.20-06	08/05/2010	REIMBURSE COLOR COPY	3904		02/2011	32.08	
08/12/2010	71499	KEYSER MARSTON ASSOC INC	620			175.00	
405-1260-413.20-06	07/12/2010	JUNE 2010 9TH/PALM	0022566	080320	12/2010	175.00	
08/12/2010	71500	LLOYD PEST CONTROL	814			572.00	
101-1910-419.20-22	06/10/2010	JUNE 2010 CITY HALL	2671786	010013	12/2010	31.00	
101-1910-419.20-22	06/10/2010	JUNE 2010 FIRE DEPT	2671787	010013	12/2010	31.00	
101-1910-419.20-22	06/10/2010	JUNE 2010 SHERIFF DEPT	2672009	010013	12/2010	31.00	
101-1910-419.20-22	06/11/2010	JUNE 2010 PUBLIC WORKS	2658759	010013	12/2010	47.00	
101-1910-419.20-22	06/11/2010	JUNE 2010 SENIOR CENTER	2672091	010013	12/2010	47.00	
101-1910-419.20-22	06/15/2010	JUNE 2010 DEMPSEY CENTER	2659140	010013	12/2010	54.00	
101-1910-419.20-22	06/17/2010	JUNE 2010 SPORTS PARK	2656564	010013	12/2010	45.00	
101-1910-419.20-22	07/08/2010	JULY 2010 CITY HALL	2699126	110049	01/2011	31.00	
101-1910-419.20-22	07/08/2010	JULY 2010 FIRE DEPT	2699127	110049	01/2011	31.00	
101-1910-419.20-22	07/08/2010	JULY 2010 SHERIFF DEPT	2699350	110049	01/2011	31.00	
101-1910-419.20-22	07/09/2010	JULY 2010 PW DEPT	2685690	110049	01/2011	47.00	
101-1910-419.20-22	07/09/2010	JULY 2010 SENIOR CENTER	2699439	110049	01/2011	47.00	
101-1910-419.20-22	07/12/2010	JULY 2010 DEMPSEY CTR	2686043	110049	01/2011	54.00	
101-1910-419.20-22	07/20/2010	JULY 2010 SPORTS PARK	2683458	110049	01/2011	45.00	
08/12/2010	71501	MICHAL PIASECKI CONSULTING	1795			2,205.00	
101-1230-413.20-06	07/01/2010	JUNE 2010 PW	139	010074	12/2010	90.00	
101-5020-432.20-06	07/01/2010	JUNE 2010 PW	139	010074	12/2010	675.00	
405-1260-513.20-06	07/01/2010	JUNE 2010 PW	139	010074	12/2010	1,395.00	
601-5060-436.20-06	07/01/2010	JUNE 2010 PW	139	010074	12/2010	45.00	
08/12/2010	71502	NEXTEL OF CALIFORNIA	1465			1,105.64	
101-3070-427.27-05	07/29/2010	06/26/2010-07/25/2010	896132755-036		01/2011	36.66	
101-1010-411.27-05	07/29/2010	06/26/2010-07/25/2010	896132755-036		01/2011	32.76	
101-5020-432.27-05	07/29/2010	06/26/2010-07/25/2010	896132755-036		01/2011	263.96	

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT		
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
101-5020-432.21-25	07/29/2010	06/26/2010-07/25/2010	896132755-036		01/2011	673.98
101-3020-422.27-05	07/29/2010	06/26/2010-07/25/2010	896132755-036		01/2011	98.28
08/12/2010	71503	OFFICE DEPOT, INC	1262			186.44
101-5020-432.30-01	07/20/2010	BINDER/INDEX	526711157001	110047	01/2011	33.79
101-1210-413.30-01	07/23/2010	MISC OFFICE SUPPLIES	527225688001	110047	01/2011	151.61
101-1210-413.30-01	07/23/2010	STAPLES	527226451001	110047	01/2011	1.04
08/12/2010	71504	ONE SOURCE DISTRIBUTORS	1071			501.33
101-6040-454.30-02	07/15/2010	ROPE THHN STRND COLORED	S3339293.001	110029	01/2011	454.40
101-6040-454.30-02	08/03/2010	LAMPS	S3350896.002	110029	02/2011	46.93
08/12/2010	71505	PARTNERSHIP WITH INDUSTRY	1302			2,371.93
101-6040-454.21-04	07/16/2010	P/E 07/15/2010	GS02991	110020	01/2011	1,127.65
101-6040-454.21-04	08/02/2010	P/E 07/31/2010	GS03011	110020	02/2011	1,244.28
08/12/2010	71506	PLAYPOWER LT FARMINGTON INC	1468			5,999.84
101-6020-452.50-04	07/19/2010	PLAYGROUND DECKS/BRIDGE	1400146624	011169	12/2010	5,999.84
08/12/2010	71507	PMI	23			655.19
101-6040-454.30-02	07/14/2010	PROTECTIVE GLOVES	0239494	110030	01/2011	229.81
101-6040-454.30-02	08/02/2010	PROTECTIVE GLOVES	0242636	110030	02/2011	425.38
08/12/2010	71508	PROTECTION ONE	69			264.18
601-5060-436.20-23	06/21/2010	JULY 2010	78278990	110003	01/2011	264.18
08/12/2010	71509	PRUDENTIAL OVERALL SUPPLY	72			774.56
101-5020-432.25-03	07/14/2010	07/14/2010 PW UNIFORMS	30112788	110048	01/2011	201.58
101-5020-432.25-03	07/21/2010	07/21/10 PW UNIFORMS	30114389	110048	01/2011	175.11
101-5020-432.25-03	07/28/2010	07/28/10 PW UNIFORMS	30115969	110048	01/2011	201.58
101-5020-432.25-03	08/04/2010	08/04/2010 PW UNIFORMS	30117557	110048	02/2011	196.29
08/12/2010	71510	QWIK PRINTS	1622			60.00
101-1130-412.21-04	08/02/2010	JULY 2010	102141159	110211	02/2011	60.00
08/12/2010	71511	SAN DIEGO GAS & ELECTRIC	1399			17,658.52
101-3020-422.27-01	08/09/2010	10087869371 06/30-07/30	08-25-2010		01/2011	38.16
101-1910-419.27-01	08/09/2010	10087869371 06/30-07/30	08-25-2010		01/2011	142.31
101-5010-431.27-01	08/09/2010	10088604389 06/28-07/28	08-25-2010		01/2011	58.66
101-3020-422.27-01	08/09/2010	19807697764 06/30-07/30	08-25-2010		01/2011	3,064.12
601-5060-436.27-01	08/09/2010	52635219238 06/28-07/28	08-25-2010		01/2011	10.00
101-6020-452.27-01	08/09/2010	56497714749 07/01-08/02	08-25-2010		01/2011	10.14
101-5010-431.27-01	08/09/2010	56497714749 07/01-08/02	08-25-2010		01/2011	7,555.57
101-5010-431.27-01	08/09/2010	85075178464 06/25-08/02	08-25-2010		01/2011	123.68
601-5060-436.27-01	08/09/2010	85075178464 07/01-08/02	08-25-2010		01/2011	106.92
101-6020-452.27-01	08/09/2010	85075178464 07/01-08/02	08-25-2010		01/2011	969.17
601-5060-436.27-01	08/09/2010	85417701270 07/01-08/02	08-25-2010		01/2011	4,542.73
101-5020-432.27-01	08/09/2010	91692992261 06/28-07/28	08-25-2010		01/2011	1,037.06
08/12/2010	71512	SAN DIEGO COUNTY SHERIFF	882			880,696.76
101-3010-421.20-06	06/21/2010	MAY 2010	06-21-2010		12/2010	426,325.04

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
212-3036-421.20-06	06/21/2010	MAY 2010 SPO W/B&W	06-21-2010		12/2010	15,549.00
101-0000-338.60-03	06/21/2010	MAY 2010 TOW FEE CREDIT	06-21-2010		12/2010	1,059.49-
101-3010-421.20-06	07/22/2010	JUNE 2010	07-22-2010		12/2010	425,756.38
212-3036-421.20-06	07/22/2010	JUNE 2010 SPO W/ B&W	07-22-2010		12/2010	15,549.00
101-0000-338.60-03	07/22/2010	JUNE 2010 TOW FEE CREDIT	07-22-2010		12/2010	1,423.17-
08/12/2010	71513	SCRIPPS MERCY HOSPITAL	1991			2,080.00
101-3020-422.21-04	08/10/2010	JAN-JUN 2010 EMT FIELD	07-08-2010		12/2010	2,080.00
08/12/2010	71514	SDGE	289			2,598.56
101-6020-452.27-01	08/04/2010	0175 275 3776 07/01-08/02	08-19-2010		02/2011	199.76
101-5010-431.27-01	08/04/2010	0824 329 2041 07/01-08/02	08-19-2010		02/2011	332.96
101-6020-452.27-01	08/04/2010	2081 689 1273 07/01-08/02	08-19-2010		02/2011	232.69
101-6010-451.27-01	08/04/2010	2081 692 3399 07/01-08/02	08-19-2010		02/2011	13.64
101-6020-452.27-01	08/04/2010	2083 847 9032 07/01-08/02	08-19-2010		02/2011	60.57
101-6010-451.27-01	08/04/2010	3206 700 9265 07/01-08/02	08-19-2010		02/2011	62.34
101-5010-431.27-01	08/03/2010	3448 930 9646 06/30-07/30	08-18-2010		02/2011	9.95
101-6020-452.27-01	08/04/2010	5456 692 8951 07/01-08/02	08-19-2010		02/2011	115.48
101-6020-452.27-01	08/04/2010	6921 003 2109 07/01-08/02	08-19-2010		02/2011	443.53
101-5010-431.27-01	08/04/2010	7706 795 7872 07/01-08/02	08-19-2010		02/2011	12.09
101-6020-452.27-01	08/04/2010	9327 898 1346 07/01-08/02	08-19-2010		02/2011	224.50
101-5010-431.27-01	08/04/2010	9476 001 6989 07/01-08/02	08-19-2010		02/2011	574.64
101-6010-451.27-01	08/04/2010	9956 693 6272 07/01-08/02	08-19-2010		02/2011	316.41
08/12/2010	71515	SOUTH COUNTY ECONOMIC	484			2,500.00
101-1110-412.28-04	07/20/2010	FY 10/11 MEMBERSHIP DUES	10085-10	110137	01/2011	2,500.00
08/12/2010	71516	SOUTH WEST SIGNAL	488			160.00
101-5010-431.21-04	07/31/2010	JULY 2010	49989	110083	01/2011	160.00
08/12/2010	71517	SPRINT	2040			39.66
101-3020-422.27-05	07/29/2010	06/26/2010-07/25/2010	527638813-032		01/2011	.33-
503-1923-419.30-02	07/29/2010	06/26/2010-07/25/2010	527638813-032		01/2011	39.99
08/12/2010	71518	SPRINT	2040			150.11
101-3020-422.27-05	07/29/2010	06/26/2010-07/25/2010	594768811-032		01/2011	150.11
08/12/2010	71519	UNDERGROUND SERVICE ALERT	731			66.00
601-5060-436.21-04	08/01/2010	JULY 2010	720100309	110002	02/2011	66.00
08/12/2010	71520	VORTEX INDUSTRIES, INC.	786			972.00
101-1910-419.21-04	07/21/2010	ROLLING DOOR REPAIR	11-545919-1	110063	01/2011	972.00
08/12/2010	71521	WHITE CAP CONSTRUCTION SUPPLY	1434			93.18
101-6020-452.30-02	07/22/2010	SAFETY VEST/GLOVES/RESPIR	15043201	110033	01/2011	93.18
08/12/2010	71522	XEROX CORPORATION	861			2,322.09
101-1920-419.20-17	08/01/2010	JULY 2010	049506471	110203	02/2011	903.28
101-3030-423.20-06	08/01/2010	JULY 2010	049506473	110203	02/2011	302.27
101-1920-419.20-17	07/01/2010	JUNE 2010	048873443	010229	12/2010	853.89

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101-3030-423.20-06	07/01/2010	JUNE 2010	048873492	010229 12/2010 262.65
08/12/2010	71523	ZUMAR INDUSTRIED INC.	875	8,298.02
101-3030-423.30-02	04/07/2010	LG DIRECTIONAL SIGNS	0121311	010070 12/2010 620.31
101-5010-431.21-23	07/30/2010	"SCHOOL CROSSING" SIGN	0123870	110032 01/2011 82.52
101-5010-431.21-23	07/30/2010	STREET SIGNS	0123916	110032 01/2011 7,595.19
08/16/2010	71524	COUNTY RECORDER	1818	425.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2009-033	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-001	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-002A	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-017	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-026	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-008	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-019	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2009-032	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2009-029	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2009-031	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-003	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2009-034	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2009-030	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-006	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-022	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-013	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2009-011	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-014	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-021	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-004	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2009-028	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-015	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-012	02/2011 17.00
248-1920-519.20-06	08/10/2010	FULL RECONVEYANCE	2008-009	02/2011 17.00
248-1920-519.20-06	08/12/2010	FULL RECONVEYANCE	2009-036	02/2011 17.00
08/20/2010	71525	ADVANCED PROCESSING & IMAGING	2139	6,000.00
503-1923-419.20-26	07/16/2010	SEP 10- AUG 11 OPTIVIEW	32811	110127 01/2011 6,000.00
08/20/2010	71526	ALTERNATIVE ENERGY TECHNOLOGIE	1971	12,359.32
248-1920-519.20-06	07/28/2010	CLEAN&GREEN-541 THORN ST	7023300CI	110238 01/2011 12,359.32
08/20/2010	71527	AT&T	291	69.90
101-1110-412.27-04	06/01/2010	030 480 7968 001	06-26-2010	12/2010 48.93
101-5020-432.27-04	06/01/2010	030 480 7925 001	06-26-2010	12/2010 6.12
101-3020-422.27-04	06/01/2010	030 480 7925 001	06-26-2010	12/2010 14.85
08/20/2010	71528	AZTEC LANDSCAPING INC	310	1,713.70
101-5010-431.21-04	07/30/2010	JULY 2010	0020828-IN	110086 01/2011 1,540.00
101-5010-431.21-04	08/12/2010	INSTALL 2 PLANTS	11223L-IN	110087 02/2011 173.70
08/20/2010	71529	CALIFORNIA COMMERCIAL ASPHALT	590	302.98
101-5010-431.30-02	07/26/2010	ASPHALT	95109	110082 01/2011 302.98

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ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
08/20/2010	71530	CDW GOVERNMENT INC	725			505.90	
503-1923-419.30-22	07/29/2010	HP LJ	TKW2763	110128	01/2011	374.97	
503-1923-419.30-22	06/23/2010	KINGSTON 2GB KIT	TBR4953	011180	12/2010	130.93	
08/20/2010	71531	CECILIA CABEZUELA	2			25.00	
101-0000-221.01-03	08/17/2010	REFUND AIR JUMP DEPOSIT	602		02/2011	25.00	
08/20/2010	71532	CHICAGO TITLE INSUR CO	779			3,500.00	
248-1920-519.20-06	07/23/2010	1213 13TH /PRE TITLE RPT	371007482 P14	110201	01/2011	500.00	
248-1920-519.20-06	07/25/2010	1368-1370 GROVE/PRE TITLE	371007487 P14	110201	01/2011	500.00	
248-1920-519.20-06	07/25/2010	1035 HOLLY/PRELIM TITLE	371007489	110201	01/2011	500.00	
248-1920-519.20-06	08/01/2010	739 IRIS AVE-PRELIM TITLE	371008106 P14	110217	02/2011	500.00	
405-1260-413.20-06	08/01/2010	236 PALM AVE-PRELIM TITLE	371007373 P14	110218	02/2011	500.00	
405-1260-413.20-06	08/03/2010	226 PALM AVE-PRELIM TITLE	371007375 P14	110227	02/2011	500.00	
248-1920-519.20-06	08/07/2010	386 DAISY AVE-PRELM TITLE	371007869 P14	110229	02/2011	500.00	
08/20/2010	71533	CVA SECURITY	797			90.00	
101-1910-419.20-23	06/01/2010	JUNE 2010 EOC	15352	110060	01/2011	30.00	
101-1910-419.20-23	06/01/2010	JUNE 2010 PW	15422	110060	01/2011	30.00	
101-1910-419.20-23	07/01/2010	JULY 2010 EOC	15628	110060	01/2011	30.00	
08/20/2010	71534	CITY OF CORONADO	2254			1,050.00	
101-1130-412.29-02	12/08/2009	EMP PARTY ROOM RENTAL	3556	110212	01/2011	1,050.00	
08/20/2010	71535	COUNTY OF SAN DIEGO	1055			3,711.30	
101-3010-421.21-04	08/18/2010	JULY 2010 PARKING PENALTY	07/10		02/2011	3,711.30	
08/20/2010	71536	COX COMMUNICATIONS	1073			125.12	
101-6010-451.29-04	08/09/2010	3110015531401 08/13-09/12	09-03-2010	110130	02/2011	125.12	
08/20/2010	71537	CPACINC.COM	2148			1,465.20	
503-1923-419.21-04	07/28/2010	ANTIVIRUS RENEWAL?	SI-1253145	110129	01/2011	1,465.20	
08/20/2010	71538	DATAQUICK	1134			122.50	
101-1210-413.21-04	08/02/2010	JULY 2010	B1-1841257	110072	02/2011	20.50	
101-3020-422.21-04	08/02/2010	JULY 2010	B1-1841257	110072	02/2011	23.00	
101-3070-427.21-04	08/02/2010	JULY 2010	B1-1841257	110072	02/2011	79.00	
08/20/2010	71539	DKC ASSOCIATES, INC.	2187			3,200.00	
101-1110-412.20-06	08/11/2010	08/03/2010-08/11/2010	200	110088	02/2011	1,066.88	
405-1260-413.20-06	08/11/2010	08/03/2010-08/11/2010	200	110088	02/2011	1,066.56	
502-1922-419.20-06	08/11/2010	08/03/2010-08/11/2010	200	110088	02/2011	1,066.56	
08/20/2010	71540	DUNN EDWARDS CORPORATION	1197			77.38	
101-1910-419.28-01	06/16/2010	5GL CABLE BOX GREEN	2068050250	010129	12/2010	77.38	
08/20/2010	71541	EDAW, INC	1804			11,205.56	
405-1260-513.20-06	07/22/2010	JUNE 2010 IB MIXED USE	1457039	080317	12/2010	11,205.56	
08/20/2010	71542	EL TAPATIO INC	1407			103.31	
101-1010-411.28-08	08/05/2010	MAYORS BREAKFAST FOOD	5877	110224	02/2011	103.31	

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08/20/2010	71543	FASTENAL	909			58.58	
101-6040-454.30-02	04/28/2010	RECOIL INSERTS	CACHU21925	010062	12/2010	14.18	
601-5060-436.30-02	05/10/2010	S/S HARDWARE	CACHU22010	010062	12/2010	44.40	
08/20/2010	71544	FERGUSON ENTERPRISES INC.	915			121.17	
601-5060-436.30-02	08/05/2010	RUBBER SADDLE TEES	0355502	110109	02/2011	121.17	
08/20/2010	71545	GENE'S AUTOMOTIVE	1014			120.00	
501-1921-419.28-01	08/04/2010	#107 SMOG	68459	110097	02/2011	40.00	
501-1921-419.28-01	08/04/2010	#5401 SMOG	68464	110097	02/2011	40.00	
501-1921-419.28-01	08/12/2010	SMOG A3	68496	110097	02/2011	40.00	
08/20/2010	71546	GO-STAFF, INC.	2031			600.00	
101-1210-413.21-01	08/10/2010	DURAN, A W/E 08/08/10	74359	110078	02/2011	600.00	
08/20/2010	71547	GRAINGER	1051			411.64	
601-5060-436.28-01	07/27/2010	3 MIDGET FUSES	9308287243	110038	01/2011	28.74	
601-5060-436.30-02	07/26/2010	BATTERIES/ACETAMINOPHEN	9306765760	110038	01/2011	85.58	
101-6040-454.30-02	08/05/2010	SAFETY VESTS	9316710913	110038	02/2011	102.27	
101-5010-431.30-02	08/10/2010	SPLIT JAW AMMETER/CASE	9319520756	110038	02/2011	195.05	
08/20/2010	71548	GROUND SERVICE TECHNOLOGY, INC	2255			60.03	
503-1923-419.30-22	07/16/2010	CAT5 PATCH CORDS	20309	110202	01/2011	60.03	
08/20/2010	71549	LEHIGH HANSON	48			2,228.15	
101-5010-431.30-02	07/21/2010	7.5 YRDS CONCRETE	494302	110085	01/2011	851.89	
101-5010-431.30-02	07/22/2010	2 RK DUST	622780	110085	01/2011	439.06	
101-5010-431.30-02	07/23/2010	7.5 YRDS CONCRETE	494406	110085	01/2011	937.20	
08/20/2010	71550	HELIOPOWER INC.	2056			10,979.25	
248-1920-519.20-06	08/10/2010	CLEAN&GREEN-970 ARRIBA AV	83248	110230	02/2011	10,979.25	
08/20/2010	71551	I B FIREFIGHTERS ASSOCIATION	214			216.50	
101-0000-209.01-08	08/19/2010	PR AP PPE 8/12/2010	20100819		02/2011	216.50	
08/20/2010	71552	IAAP SAN DIEGO CHAPTER	2208			35.00	
101-1110-412.28-04	08/11/2010	POSADA, M-DINNER MTG	09-01-2010	110225	02/2011	35.00	
08/20/2010	71553	ICMA RETIREMENT TRUST 457	242			5,305.31	
101-0000-209.01-10	08/19/2010	PR AP PPE 8/12/2010	20100819		02/2011	5,305.31	
08/20/2010	71554	JETER SYSTEMS	483			257.78	
101-1210-413.30-01	07/23/2010	A/P FILING FOLDERS	1930076	F11009	01/2011	39.19	
101-1210-413.30-01	07/09/2010	FILING LABELS AND FOLDERS	1925562	F11014	01/2011	218.59	
08/20/2010	71555	LANCE, SOLL & LUNGHARD LLP	716			10,000.00	
101-1210-413.20-06	07/20/2010	2010 INTERIM PROCEDURES	11980	110214	01/2011	10,000.00	
08/20/2010	71556	LINDA LEICHTLE	2263			120.04	
502-1922-419.28-17	08/13/2010	REIMBURSE CAR RENTAL EXP	7ZT226		02/2011	120.04	

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08/20/2010	71557	MANNY URIBE WEB AND GRAPHIC DE	2256				1,250.00
503-1923-419.50-04	08/04/2010	WEBSITE DSGN/DVLPMT/TEST	MU100003	110222	02/2011		1,250.00
08/20/2010	71558	MCDUGAL LOVE ECKIS &	962				29,697.67
101-1220-413.20-01	07/31/2010	JULY 2010 MONTHLY RETAINER	07-31-2010	110079	01/2011		8,227.00
405-1260-413.20-01	07/31/2010	JULY 2010 GENERAL MISC	07-31-2010		01/2011		2,216.02
405-1260-413.20-01	07/31/2010	JULY 2010 SEACOAST INN	07-31-2010		01/2011		578.01
408-1920-519.20-06	07/31/2010	JULY 2010 SOUTHBAY DRUGS	07-31-2010		01/2011		1,819.82
101-0000-221.01-02	07/31/2010	JULY 2010 SEACOAST OPA	07-31-2010		01/2011		93.93
101-1220-413.20-01	07/31/2010	JULY 2010 CODE ENFORCEMNT	07-31-2010		01/2011		1,541.43
101-1220-413.21-04	07/31/2010	JULY 2010 PITCHESS MOTION	07-31-2010		01/2011		3,973.77
101-1220-413.21-04	07/31/2010	JULY 2010 PERSONNEL	07-31-2010		01/2011		895.92
405-1260-413.20-01	07/31/2010	JULY 2010 IB RDA V WYLDE	07-31-2010		01/2011		3,834.56
405-1260-413.20-01	07/31/2010	JULY 2010 IB RDA V INNER	07-31-2010		01/2011		3,482.65
101-1220-413.20-01	07/31/2010	JULY 2010 AARON QUINTANAR	07-31-2010		01/2011		151.73
101-1220-413.20-01	07/31/2010	JULY 2010 VICTOR TAPIA	07-31-2010		01/2011		28.90
101-1220-413.20-01	07/31/2010	JULY 2010 MEDICAL	07-31-2010		01/2011		2,788.90
101-1220-413.20-01	07/31/2010	JULY 2010 STORMWATER	07-31-2010		01/2011		65.03
08/20/2010	71559	MICHAEL THOMPSON	2				160.00
101-0000-321.72-10	08/11/2010	OL REFUNDS	0008623		02/2011		160.00
08/20/2010	71560	MICHAL PIASECKI CONSULTING	1795				135.00
101-1020-411.20-06	08/11/2010	CONFLICT MAPS FOR COUNCIL	141	F11016	02/2011		135.00
08/20/2010	71561	MIRELES LANDSCAPING	2107				1,775.00
408-1920-519.20-06	07/31/2010	JULY 2010	0497	110226	01/2011		900.00
245-1240-513.20-06	07/30/2010	336/338 DAISY-WEED ABAMNT	0490	110228	01/2011		250.00
245-1240-513.20-06	07/30/2010	10TH ST-WEED ABAMNT	0491	110228	01/2011		375.00
245-1240-513.20-06	07/30/2010	1174 FLORIDA-WEED ABATMNT	0492	110228	01/2011		250.00
08/20/2010	71562	National Construction Rentals	1				434.16
101-6010-551.20-06	07/15/2010	07/17-08/13 TEMPORARY CON	2988879	F11020	01/2011		217.08
101-6010-551.20-06	06/17/2010	6/19/10 - 7/16/10 SOCCER	2969180		01/2011		217.08
08/20/2010	71563	NASLAND ENGINEERING	1656				931.99
407-1262-413.20-06	05/31/2010	MAY 2010 ST IMPRVMNTS P3	89354	071139	12/2010		4,507.50
408-5010-531.20-06	05/31/2010	MAY 2010 ST IMPRVMNTS P3	89354	071139	12/2010		5,439.49
08/20/2010	71564	OFFICE DEPOT, INC	1262				862.11
101-5020-432.30-01	07/16/2010	LABELS	526297507001	110047	01/2011		14.96
101-1210-413.30-01	07/09/2010	BATTERIES/LABELS	525434822001	110047	01/2011		47.47
101-5020-432.30-01	07/13/2010	MISC SUPPLIES	525846457001	110047	01/2011		24.49
101-1110-412.30-01	02/10/2010	MISC SUPPLIES	508743370001	010413	12/2010		38.78
101-1130-412.30-01	02/10/2010	MISC SUPPLIES	508743370001	010413	12/2010		36.81
503-1923-419.30-01	02/16/2010	AGUILAR, O-BUSINESS CARDS	508986161001	010413	12/2010		37.16
101-3040-424.28-11	03/23/2010	LANE, J-BUSINESS CARDS	513038988001	010413	12/2010		74.32
101-1920-419.30-02	03/25/2010	CHAIRS	513858822001	010413	12/2010		2,045.47
101-5020-432.30-01	06/23/2010	MARKERS	523675497001	010413	12/2010		10.58

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #			CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT
101-1130-412.28-11	07/06/2010	BUSINESS ENVELOPES	524676675001	010413	12/2010	95.27
101-1130-412.28-11	07/06/2010	LETTERHEAD	524677088001	010413	12/2010	117.17
101-3070-427.28-11	07/08/2010	GARCIAS, D-BUSINESS CARDS	524595518001	010413	12/2010	148.64
101-1210-413.30-01	07/08/2010	WEISMANN, K-BUSINESS CARD	524596219001	010413	12/2010	37.16
101-1920-419.30-02	04/01/2010	CREDIT FOR RETURNED CHAIR	514412577001		12/2010	185.95-
101-1920-419.30-02	04/29/2010	CR FOR RETURNED CHAIRS	516977709001		12/2010	1,859.52-
101-3040-424.28-11	08/04/2010	ADAME, R BUSINESS CARDS	527700890001	110047	02/2011	74.32
101-5020-432.30-01	07/30/2010	CORK BOARD	527959895001	110047	01/2011	104.98
08/20/2010	71565	ONE SOURCE DISTRIBUTORS	1071			586.23
601-5060-436.28-01	08/02/2010	PS 1B FUSE BLOCK	S3346110.001	110029	02/2011	258.55
101-6040-454.30-02	07/09/2010	100W MED HPS LAMP	S3337572.002	110029	01/2011	23.56
101-1910-419.30-02	08/10/2010	FLUOR LAMP	S3354406.001	110029	02/2011	41.97
101-6040-454.30-02	06/03/2010	LAMPS	S3319070.001	010066	12/2010	191.12
101-1910-419.30-02	08/12/2010	FLUOR LAMP	S3354406.002	110029	02/2011	19.37
601-5060-436.28-01	07/19/2010	REPLACEMENT LENS	S3342051.001	110029	01/2011	51.66
08/20/2010	71566	OPPER & VARCO LLP	1626			215.00
408-1920-519.20-06	08/05/2010	9TH&PALM-PHASE 1&2-ENVIRO	15534	F11013	02/2011	215.00
08/20/2010	71567	OSCAR PADRON	1			80,544.90
408-1920-519.20-06	08/18/2010	TERMINATION OF LEASE	08-18-2010		02/2011	80,544.90
08/20/2010	71568	PRAXAIR DISTRIBUTION INC	1652			83.15
501-1921-419.30-02	08/03/2010	PROPANE WELDING SUPPLIES	37241937	110209	02/2011	83.15
08/20/2010	71569	PROTECTION ONE	69			264.18
601-5060-436.20-23	07/21/2010	AUGUST 2010	78697825	110003	01/2011	264.18
08/20/2010	71570	PRUDENTIAL OVERALL SUPPLY	72			202.64
101-5020-432.25-03	08/11/2010	08/11/10 PW UNIFORMS	30119136	110048	02/2011	202.64
08/20/2010	71571	ROBERT BACKER & ASSOCIATES	1620			10,700.00
405-1260-413.20-06	07/26/2010	APPRAISAL SVCS	07-26-2010	110204	01/2011	7,500.00
405-1260-413.20-06	08/06/2010	APPRSR-PROP APN616-021-10	08-06-2010	110239	02/2011	3,200.00
08/20/2010	71572	SDGE	289			4,073.45
405-1260-413.27-01	08/06/2010	0440 533 7641 06/30-07/30	08-21-2010		01/2011	244.18
101-5010-431.27-01	07/30/2010	0646 753 1938 06/30-07/30	08-18-2010		01/2011	10.33
101-5010-431.27-01	08/06/2010	1694 231 2432 06/30-07/30	08-11-2010		01/2011	29.60
101-5010-431.27-01	07/30/2010	1912 409 2723 06/28-07/28	08-18-2010		01/2011	9.76
101-6010-451.27-01	08/04/2010	2081 689 7619 07/01-08/02	08-19-2010		01/2011	488.52
101-5010-431.27-01	07/30/2010	2741 969 9359 06/30-07/31	08-18-2010		01/2011	145.81
215-6026-452.27-01	07/30/2010	2819 871 6315 06/30-07/31	08-18-2010		01/2011	1,897.69
101-5010-431.27-01	07/30/2010	3062 843 3719 06/30-07/30	08-18-2010		01/2011	12.66
101-5010-431.27-01	07/30/2010	5280 340 6641 06/28-07/28	08-14-2010		01/2011	111.50
101-5010-431.27-01	07/30/2010	5576 188 0541 06/28-07/28	08-14-2010		01/2011	10.21
601-5060-436.27-01	08/05/2010	8773 823 6424 06/30-07/30	08-20-2010		01/2011	1,020.94
405-1260-413.27-01	08/05/2010	8774 937 7894 06/30-07/30	08-20-2010		01/2011	67.98
405-1260-413.27-01	07/30/2010	9424 632 2704 06/01-06/30	08-11-2010		01/2011	24.27

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #				CHECK AMOUNT
ACCOUNT #	TRN DATE	DESCRIPTION	INVOICE	PO #	PER/YEAR	TRN AMOUNT	
08/20/2010	71573	SEAN FOREHAND PHOTOGRAPHY	1863			100.00	
405-1260-413.20-06	08/17/2010	BIBBEY'S BEFORE & AFTER P	23	F11017	02/2011	100.00	
08/20/2010	71574	SEIU LOCAL 221	1821			1,581.52	
101-0000-209.01-08	08/19/2010	PR AP PPE 8/12/2010	20100819		02/2011	1,575.15	
101-0000-209.01-08	08/19/2010	PR AP MANUAL CK43074NORTH	20100819		02/2011	6.37	
08/20/2010	71575	SET FREE BAPTIST FELLOWSHIP	1860			3,000.00	
101-5040-434.29-04	06/28/2010	2010 SANDCASTLE CLEANUP	51039	110234	01/2011	3,000.00	
08/20/2010	71576	SKS INC.	412			27,554.04	
501-1921-419.28-15	08/03/2010	1300 G REG/125 G DIESEL	1234709-IN	110104	02/2011	4,182.80	
501-1921-419.28-15	08/07/2010	1072 G REG/100 G DIESEL	1234170-IN	110104	02/2011	3,385.64	
501-1921-419.28-15	07/01/2010	1086.2 G REG/261 G DIESEL	1234037-IN	110104	01/2011	3,837.75	
501-1921-419.28-15	07/15/2010	1091.1 GAL REG FUEL	1234306-IN	110104	01/2011	3,181.97	
501-1921-419.28-15	07/22/2010	1016.6 GAL REG FUEL	1234491-IN	110104	01/2011	2,974.06	
501-1921-419.28-15	07/28/2010	1120 G REG/329.1 G DIESEL	1234603-IN	110104	01/2011	4,177.54	
501-1921-419.28-15	08/06/2010	592 G REG FUEL	1234782-IN	110104	02/2011	1,759.11	
501-1921-419.28-15	08/11/2010	1088 G REG/301 G DEISEL	1234871-IN	110104	02/2011	4,055.17	
08/20/2010	71577	SOUTH WEST SIGNAL	488			432.50	
101-5010-431.21-04	06/30/2010	JUNE 2010 MAINTENANCE	49931	110083	01/2011	160.00	
101-5010-431.21-23	06/30/2010	SVC TECH-9TH/IB BLVD	49966	110083	01/2011	37.50	
101-5010-431.21-23	06/30/2010	SVC TECH-SEACOAST/DATE	49967	110083	01/2011	75.00	
101-5010-431.21-04	07/30/2010	APRIL 2010	49855	110083	01/2011	160.00	
08/20/2010	71578	THOMAS SANTOS	2209			61.99	
101-3020-422.28-04	04/01/2010	REIMBURSE-FIRE PROT EXAM	04-01-2010		12/2010	15.00	
101-3020-422.30-02	06/03/2010	REIMBURSE-INSPECTOR	E717497		12/2010	46.99	
08/20/2010	71579	WAXIE SANITARY SUPPLY	802			4,093.10	
101-6040-454.30-02	08/03/2010	TRASH LINERS/TP/SHEEN	72101344	110031	02/2011	1,450.36	
101-6040-454.30-02	08/03/2010	TRASH LINERS/TP/SHEEN	72101344	110031	02/2011	100.76	
101-6040-454.30-02	08/03/2010	TRASH LINERS/TP/SHEEN	72101344	110031	02/2011	897.81	
101-6040-454.30-02	07/13/2010	ROLLMASTR/LINERS/	72061301	110031	01/2011	726.16	
101-6040-454.30-02	07/13/2010	ROLLMASTR/LINERS/	72061301	110031	01/2011	198.92	
101-6040-454.30-02	07/13/2010	ROLLMASTR/LINERS/	72061301	110031	01/2011	719.09	
08/20/2010	71580	WEST COAST ARBORISTS	820			1,190.00	
101-6040-454.28-01	07/27/2010	TREE & STUMP REMOVAL	66852	110056	01/2011	190.00	
101-6040-454.28-01	07/27/2010	PLANT 8' BTH PALM TREE	66853	110056	01/2011	1,000.00	
08/20/2010	71581	WHITE CAP CONSTRUCTION SUPPLY	1434			182.42	
101-5010-431.30-02	05/06/2010	HAMMER DRILL BITS	15040274-00	110033	01/2011	182.42	
08/20/2010	71582	ZUMAR INDUSTRIED INC.	875			110.93	
101-5010-431.21-23	07/28/2010	DRIVE RIVET STEEL/WASHERS	0123740	110032	01/2011	110.93	

DATE RANGE TOTAL * 1,275,570.50 *



**STAFF REPORT
IMPERIAL BEACH PUBLIC FINANCING AUTHORITY**

TO: BOARD OF DIRECTORS, IMPERIAL BEACH FINANCING PUBLIC AUTHORITY

FROM: GARY R. BROWN, CITY MANAGER

MEETING DATE: SEPTEMBER 1, 2010

ORIGINATING DEPT.: FINANCE DEPARTMENT

SUBJECT: SETTING REGULAR MEETING SCHEDULE FOR IMPERIAL BEACH PUBLIC FINANCE AUTHORITY

BACKGROUND:

This report recommends that the Imperial Beach Public Finance Authority set its regular meeting schedule.

DISCUSSION:

The Imperial Beach Public Finance Authority is the joint powers agency providing for the financing of capital improvements. The 2003 redevelopment bonds were issued through this joint powers agreement. A new law states that new bond issues must be approved at regularly scheduled meeting. The attached resolution will establish a regular meeting schedule in the event that the Authority may issue its second tax increment bond. The schedule is set up on the same days as our City Council meeting.

FISCAL IMPACT:

There are no financial impacts to this report.

DEPARTMENT RECOMMENDATION:

Staff recommends that Board approve the attached resolution that establishes the regular meeting schedule for the Imperial Beach Public Finance Authority.

CITY MANAGER'S RECOMMENDATION: Approve Department recommendation.

A handwritten signature in black ink, appearing to be 'G. R. Brown', is written over a horizontal line.

Gary R. Brown, City Manager

Attachments: Resolution FA-10-02

IMPERIAL BEACH PUBLIC FINANCING AUTHORITY**RESOLUTION NO. FA-10-02****RESOLUTION OF THE BOARD OF DIRECTORS OF THE
IMPERIAL BEACH PUBLIC FINANCING AUTHORITY SETTING
TIME AND PLACE OF REGULAR MEETINGS**

WHEREAS, the Imperial Beach Public Financing Authority (the "Authority") is a joint exercise of powers authority created pursuant to a Joint Exercise of Powers Agreement, dated November 1, 2003, by and between the City of Imperial Beach (the "City") and the Imperial Beach Redevelopment Agency, for the purpose of assisting the City or the Agency in the financing and refinancing of public capital improvements, and in order to provide such assistance the Authority issues its bonds and other obligations from time to time or assists the City or the Agency in issuing bonds of the City or the Agency; and

WHEREAS, recently enacted 6592.1 of the Government Code provides that a resolution authorizing bonds or any issuance of bonds or other obligations shall be adopted by a joint exercise of powers authority only during a regular meeting held pursuant to the Ralph M. Brown Act; and

WHEREAS, in order to comply with Section 6592.1 of the Government Code, the Board wishes to establish periodic regular meetings which coincide with regular meetings of the City Council of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE IMPERIAL BEACH PUBLIC FINANCING AUTHORITY AS FOLLOWS:

Section 1. Time and Place of Regular Meetings. A regular meeting of the Board shall be held at the time and place of each regular meeting of the City Council of the City, the first such regular meeting of the Board to occur at the next regular meeting of the City Council following adoption of this Resolution.

Section 2. Circumstances Under Which A Regular Meeting Is Cancelled. In the event an agenda for a regular meeting of the Authority is not posted timely in accordance with the provisions of Section 54954.2 of the Government Code, such regular meeting is cancelled without any further action of the Board or any officer of the Authority.

Section 3. Rescission Of All Prior Actions. All prior actions by the Board with respect to the establishment of regulars meetings of the Board, whether by resolution or by-law, are hereby rescinded.

Section 4. Effective Date. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED at a special meeting of the Board of Directors of the Imperial Beach Public Financing Authority on the 1st day of September, 2010, by the following called vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson
Imperial Beach Public Financing Authority

ATTEST:

Secretary
Imperial Beach Public Financing
Authority



**STAFF REPORT
CITY OF IMPERIAL BEACH**

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: GARY BROWN, CITY MANAGER

MEETING DATE: SEPTEMBER 1, 2010

ORIGINATING DEPT.: COMMUNITY DEVELOPMENT DEPARTMENT
GREG WADE, DIRECTOR *GW*

SUBJECT: ADOPTION OF RESOLUTION NO. 2010-6934 AUTHORIZING THE ACCEPTANCE OF CALTRANS RELINQUISHMENT OF PROPERTY TO FACILITATE THE REALIGNMENT OF THE PALM AVENUE/STATE ROUTE (SR) 75 INTERSECTION ADJACENT TO THE PROPOSED 9TH AND PALM REDEVELOPMENT PROJECT

BACKGROUND:

City and Redevelopment Agency staff have, through an exclusive negotiation agreement (ENA), been negotiating with Sudberry, Inc. ("Sudberry") for the future development of the Agency-owned property located on the south side of Palm Avenue/SR 75 west of 9th Street. During the negotiation process, Sudberry advised staff that many prospective tenants have indicated a strong preference, and some an absolute need, for direct vehicular access to the site from Palm Avenue/SR 75. To address this request, Sudberry developed a site plan with a vehicular access point approximately 200 feet west of 9th Street. Staff, Sudberry and their traffic and civil engineer then met twice with the California Department of Transportation ("Caltrans") staff to review the proposed site plan and vehicular access. During these meetings, Caltrans indicated that the closest they could support a vehicular access point on Palm Avenue/SR 75 from the 9th and Palm intersection was between 400 and 500 feet. Such a location, however, would result in a driveway that would be blocked by the existing triangular median in Palm Avenue/SR 75 which would not provide the desired direct access to the site. An alternative proposal, therefore, would have to be developed.

On February 19, 2009, the City Council approved the Palm Avenue Commercial Corridor Master Plan ("Master Plan"). This plan, developed by a consultant team headed by MIG, proposed right-of-way improvements for the Palm Avenue/SR 75 corridor focused on improving pedestrian safety and walkability, enhancing the corridor's overall aesthetics and appearance, and improving functionality of the vehicular corridor while maintaining acceptable traffic levels of service all in an effort to create a "main street" environment. The Master Plan divided the corridor into four sectors, each of which had similar yet unique design proposals and recommendations. In response to input from both the community and City Council, one of the sectors, known as the "Park Sector" recommended the realignment of the Palm Avenue/SR 75 transition/intersection to provide a more easily-traveled and pronounced roadway on which west-bound Palm Avenue/SR 75 traffic could access Imperial Beach. One of the directions given to Sudberry in the ENA and during early negotiations was to develop a site plan that would allow for the future implementation of the Master Plan's Park Sector. Given the above information, it was apparent that such a configuration would address both Caltrans'

requirements as well as the needs of the tenants of the proposed development at 9th and Palm. Staff worked with Sudberry, therefore, to implement the Park Sector, in some form, to address all parties' respective concerns and objectives.

To initiate the relinquishment process, on April 7, 2010, the City Council authorized the City Manager to send a letter to Caltrans officially requesting the proposed relinquishment (see Attachment 1). When the City Council authorized the initiation of the relinquishment process, staff indicated it would return to the City Council seeking adoption of a resolution accepting the relinquishment as shown on Attachment 1.

DISCUSSION:

Since that time, Sudberry has been working to develop a revised site plan that would incorporate the reconfigured right-of-way. In coordination with Caltrans staff, Sudberry's civil engineers are also working to prepare the necessary relinquishment plans and maps. At this time, both Sudberry and Caltrans are requesting that the City of Imperial Beach adopt a resolution of acceptance of the relinquished Palm Avenue/SR 75 right-of-way in order to move the process forward. Even with adoption of this resolution, actual relinquishment of the right-of-way would not officially occur until the California Transportation Commission's adoption and recordation of their resolution to relinquish.

ENVIRONMENTAL REVIEW:

The requested partial relinquishment of Caltrans' right-of-way is not, in itself, subject to CEQA. However, the proposed Palm Avenue/SR 75 realignment as well as the development proposal by Sudberry will be subject to environmental review under CEQA.

FISCAL IMPACT:

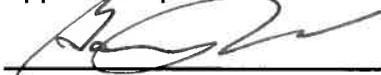
While there is no direct fiscal impact with this item, the Master Plan estimated construction of the Park Sector improvements at \$7.3 million. Construction of only a portion of the proposed improvements on the south side of Palm Avenue/SR 75 has been generally estimated by staff at approximately \$3 million, however, that estimate may be high. Staff has requested that Sudberry's civil engineer prepare a cost estimate for the construction of the proposed reconfigured/realigned right-of-way. On-going maintenance costs of the relinquished and accepted right-of-way would also be incurred by the City but would not be substantial.

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council adopt Resolution No. 2010-6934 authorizing the acceptance of Caltrans relinquishment of property along the south side of Palm Avenue/State Route 75 between 7th Street and 9th Street in the City of Imperial Beach.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation.



Gary Brown, City Manager

- Attachments:
1. Request for Relinquishment Letter
 2. Resolution No. 2010-6934
 3. Letter to Sudberry

Received 4-19-10

ATTACHMENT 1
Christian
SD-75
PM 9.02



City of Imperial Beach, California

OFFICE OF THE CITY MANAGER

April 14, 2010

Bill Figge
Deputy District Director, Planning Division
Caltrans District 11
4050 Taylor Street MS 240
San Diego, CA 92110

SUBJECT: REQUEST FOR RELINQUISHMENT OF A PORTION OF THE PALM AVENUE/STATE ROUTE (SR) 75 RIGHT-OF-WAY

Dear Mr. Figge:

The City of Imperial Beach would like to request the relinquishment of a portion of the Palm Avenue/State Route (SR) 75 right-of-way as shown on the attached exhibit. The purpose of the requested relinquishment is to allow for the reconfiguration of the intersection at SR 75 and Palm Avenue that, if relinquished, will render the area no longer necessary for State Highway purposes. Relinquishment of the right-of-way will also allow for better traffic circulation and will create a development site on the south side of Palm Avenue west of 9th Street that is more functional and compliant with Cal Trans' standards.

We are therefore requesting that this portion of the Palm Avenue/SR 75 right-of-way be relinquished to the City of Imperial Beach. The City would then assume responsibility for the right-of-way at this location as well as operational and maintenance responsibility.

Once again, we respectfully request that you initiate the process for relinquishing this right-of-way to the City of Imperial Beach. If you have any questions or require any additional information, please call Greg Wade at 619-628-1354.

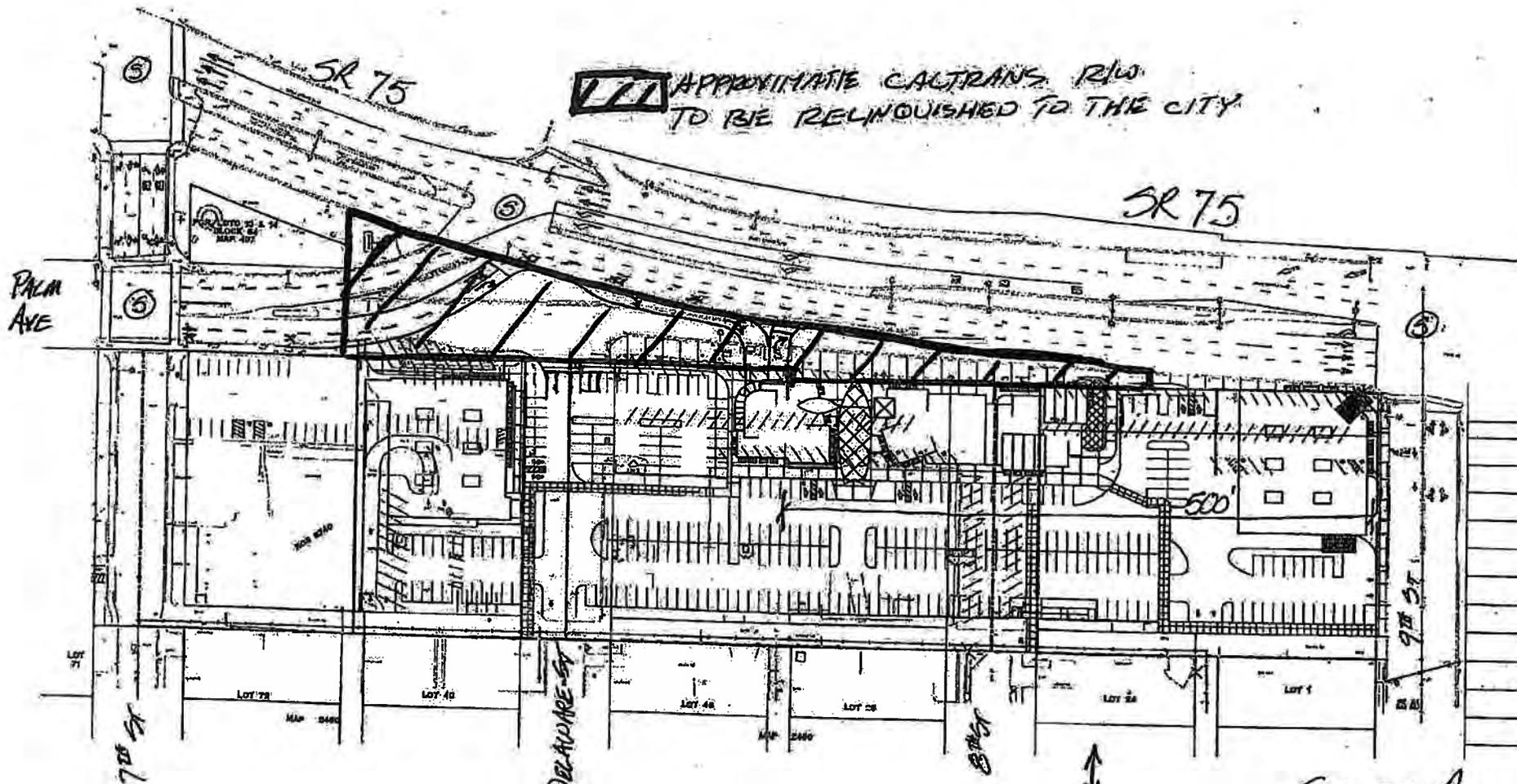
Sincerely,

A handwritten signature in cursive script that reads "Gary Brown".

Gary Brown
City Manager

C: Hank Levien, Public Works Director
Greg Wade, Community Development Director
Jerry Selby, Redevelopment Coordinator
Jennifer Lyon, City Attorney

Attachment




 APPROXIMATE CALTRANS R/W
 TO BE RELINQUISHED TO THE CITY

SR 75

PALM AVE

7th ST

DELAWARE ST

9th ST

9th ST

500'

LOT 72

LOT 40

LOT 48

LOT 28

LOT 24

LOT 1



LLG

$\frac{1"=80'}$
 1 INCH

CONCEPT A
 EB PALM REALIGNMENT
 3/11/10

RESOLUTION NO 2010-6934

**A RESOLUTION OF THE COUNCIL OF THE CITY OF IMPERIAL BEACH
AUTHORIZING THE ACCEPTANCE OF CALTRANS RELINQUISHMENT OF
PROPERTY LOCATED AT THE INTERSECTIONS OF PALM AVENUE AND
9TH STREET AND PALM AVENUE AND DELAWARE STREET IN THE CITY
OF IMPERIAL BEACH**

WHEREAS, the City of Imperial Beach [City] desires to reconfigure and realign the State Route (SR) 75 roadway and Palm Avenue SR 75 intersection between 7th Street and 9th Street for the public benefit and enjoyment; and

WHEREAS, the area of public right of way along said roadway and at said intersection is currently within the State of California Department of Transportation's ("State") right of way; and

WHEREAS, the City has requested that State relinquish a portion of said right of way and intersection in order to enable City to reconfigure, realign and improve traffic circulation and vehicular movement; and

WHEREAS, the City agrees to prohibit the realignment of the roadway within said Intersection except as agreed to by the State in writing; and

WHEREAS; the State has determined that this area is not needed as part of its operating right of way; and

WHEREAS, the State is authorized to relinquish certain areas of right of way under Section 73 of the Streets and Highways Code with the consent of the City and the approval of the California Transportation Commission; and

WHEREAS; the State has offered to relinquish to City, at no charge, the area depicted on "Exhibit A" attached hereto, subject to said California Transportation Commission approval, consisting of portions of existing public right of way and appurtenant roadway facilities; and

WHEREAS; the City agrees that the roadway areas and facilities are currently in good repair for the purposes of compliance with the requirements of Section 73 of the Streets and Highways Code.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Imperial Beach as follows:

1. That the City agrees to accept maintenance, control and ownership, including all of State's current obligations, rights, title and interest in the described segment of roadway area and appurtenant facilities upon recordation of the California Transportation Commission's Resolution of Relinquishment in the County Recorder's Office, and to thereafter operate, maintain, and be liable for roadway areas and facilities at no additional cost to the State.
2. That the City waives the State's obligation to provide ninety (90) days prior notice of the State's "Intention to Relinquish" as set forth in Section 73 of the Streets and Highways Code because this relinquishment is at the request of the City.

3. That the City agrees there shall be no California Transportation Commission allocation of funds for a betterment or improvement of requested relinquishment areas.

4. That the City agrees that the State reserves the right to enter relinquished collateral facilities, including sidewalks and other areas adjacent to the traveled way, to modify or add signage, drainage, and other improvements necessary for State highway operations, at no additional cost to the State for the right to perform said activities and at no additional cost incurred to the City.

5. That should the State enter relinquished collateral facilities, including sidewalks and other areas adjacent to the traveled way, to modify or add signage, drainage, and other improvements necessary for State highway operations, that upon completion of said activities, that the State shall return the affected areas to the same condition when the State began such activities.

6. That the City agrees to allow the State access to operate, maintain, add, remove, or modify the State's facilities, if any, retained in those collateral facilities at the State's sole cost, and that upon completion of said operation, maintenance, addition, removal, or modification of the State's facilities, that the State shall return the affected areas to the same condition as when the State began such activities.

7. That the City reserves the right to retract the acceptance of the relinquishment of the property at any time prior to the State Board's formal action to relinquish the property.

8. That this activity is not a "project" and is therefore exempt from CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

PASSED, APPROVED AND ADOPTED by the City Council of the City of Imperial Beach at its regular meeting held on the 1st day of September 2010, by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

JAMES C. JANNEY, MAYOR

ATTEST:

JACQUELINE M. HALD
CITY CLERK

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and exact copy of Resolution No. 2010-6934 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, AUTHORIZING THE ACCEPTANCE OF CALTRANS

RELINQUISHMENT OF PROPERTY LOCATED AT THE INTERSECTIONS OF PALM AVENUE AND 9TH STREET AND PALM AVENUE AND DELAWARE STREET IN THE CITY OF IMPERIAL BEACH

CITY CLERK

DATE

DRAFT



July 23, 2010

Mr. Estean Lenyoun
Sudberry Properties, Inc.
5465 Morehouse Drive, Suite 260
San Diego, CA 92121-4714

**SUBJECT: 9TH & PALM REDEVELOPMENT PROJECT – SUMMARY OF JULY 21, 2010
TELECONFERENCE**

Dear Estean:

The purpose of this letter is to memorialize the 9th & Palm Redevelopment Project discussion held on July 21, 2010, between Sudberry (Colton Sudberry, Estean Lenyoun) and Imperial Beach Redevelopment Agency (“Agency”) staff (Greg Wade, Jerry Selby) on July 21, 2010. The issues discussed were as follows:

- Schedule and Progress of Relinquishment Documentation; and
- The development and funding of Construction Documents and Plan for the re-alignment of the Palm Avenue/State Route 75 & Delaware Street intersection.

The Agency was informed that Project Design Consultants has been contracted to perform the tasks outlined in the Scope of Work that had been previously distributed to Sudberry and the Agency.

Sudberry and the Agency agreed on the following:

- That the completion of documentation for the relinquishment and the subsequent submittal to Caltrans was a priority;
- That the funding for the development of Construction Documents and Plans for the re-alignment of the State Route 75 & Delaware Street intersection will be the responsibility of the Agency; and
- That the Agency would be reimbursed by Sudberry for the development of Construction Documents and Plans, if and when, Phase II of the proposed redevelopment project is constructed.

The above statements assume the following:

- Sudberry and the Agency agreed to split the cost to develop the Caltrans’ Right-of-Way Relinquishment Documentation with the Agency’s contribution reimbursed by Sudberry

Mr. Estean Lenyoun
July 23, 2010
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upon execution of the Disposition and Development Agreement (DDA) for redevelopment of the 9th and Palm Redevelopment Project;

- Sudberry and the Agency will codify and memorialize the processes, tasks, methods of funding, and responsibilities of Sudberry and the Agency in the DDA ; and
- Sudberry understands and acknowledges that the above is subject to the approval of the Agency Board.

If you have any questions, please contact me by telephone at 619-424-2226 or by email at jsselby@cityofib.org.

Sincerely,



Gerard E. Selby
Redevelopment Coordinator

c: Gary Brown, Executive Director
Greg Wade, Director of Community Development
Mike McGrane, Director of Administration Services
Jennifer Lyon, City Attorney



STAFF REPORT CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: GARY BROWN, CITY MANAGER

MEETING DATE: SEPTEMBER 1, 2010
ORIGINATING DEPT.: COMMUNITY DEVELOPMENT DEPARTMENT
GREG WADE, DIRECTOR *GW*
DAVID GARCIAS, CODE COMPLIANCE OFFICER *DG*

SUBJECT: INTRODUCTION AND FIRST READING: PROPOSED ORDINANCE 2010-1110 TO ADD PROVISIONS TO THE CITY OF IMPERIAL BEACH MUNICIPAL CODE, ADDING CHAPTER 9.80 OF THE IMPERIAL BEACH MUNICIPAL CODE, PERTAINING TO ADULT ENTERTAINMENT ESTABLISHMENTS.

BACKGROUND / DISCUSSION:

Last year, the Sheriff's Department received a single citizen complaint regarding prostitution and sexual activities occurring at the Romantix Book Store located at 1177 Palm Avenue. Staff conducted an inspection of the business, and observed a number of factors in how the business was running, many of which were not covered by the Imperial Beach Municipal Code:

- The business was operating 24-hours a day, 7-days a week.
- The business had constructed 14 adult arcade viewing booths of various sizes and dimensions, and each booth had seating for more than one person.
- The viewing booths were secured with latches from the inside preventing inspection by law enforcement.
- One viewing booth designated for disabled access did not meet disabled access standards.
- The manager's station did not have full view of all viewing booth areas as required by other jurisdictions.
- The business did not have signage required by other jurisdictions notifying customers of regulations such as:
 - No loitering in and around viewing rooms
 - Limit of one person in viewing rooms at a time
 - No sexual activity on the premises
 - Making openings between viewing rooms is prohibited
 - Notifying violators they would be required to leave the premises and subject to prosecution

Staff reviewed the municipal code and the municipal codes of other jurisdictions and it was determined that an ordinance was needed to regulate the adult arcades within the City. Staff has met with the owner's representatives and the business owner has been very cooperative, and has worked with staff. The proposed ordinance is similar to the City of San Diego's Adult Entertainment ordinance.

PROCEDURE:

The proposed new ordinance would add Chapter 9.80 to the Imperial Beach Municipal Code. This new chapter would support City Inspections and Law Enforcements current inspection efforts to prevent, deter, and investigate criminal activities within a public business. The proposed new ordinance would include changes such as:

- Prohibit the business from operating between the hours of 2:00 am and 6:00 am.
- Limit the size of the viewing booths to a maximum size of 15 sq. feet.
- Limit the viewing booth occupancy to no more then one person per room.
- Limit the seating in each viewing booth to one seat per room.
- Each employee must ensure that there is a clear, unobstructed view, either by direct view from the manager's station or by fully functional and operational video monitoring equipment at the manager's station, of all methods of ingress and egress to or from any booth.
- Walls and doors of the viewing booths would be constructed to be elevated 18 inches above the floor to allow for inspection by law enforcement personnel (see Diagram A).

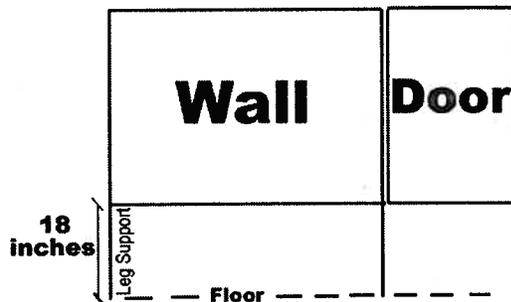


Diagram A

The proposed new ordinance would also require that an owner, operator, manager, or employee be present while the establishment is open for business and that all owners, operators, managers, and employees perform the following duties:

1. Ensure that no "specified sexual activity" occurs in the establishment.
2. Require any patron to immediately leave the establishment upon discovering any person, including another owner, operator, manager, or employee, violating the provisions of this code or any other law.

3. Immediately secure and prevent any patron from entering any viewing rooms upon discovering an opening between viewing rooms.
4. Inspect or to ensure the inspection of the walls between viewing rooms for openings of any kind at least once each business day.
5. Conspicuously post or ensure the continuous, conspicuous posting of all the following signs designed to ensure that it is easily readable by any reasonable consumer in all entry areas of the establishment:
 - a. No loitering is allowed in viewing rooms;
 - b. Only one person is allowed in viewing rooms at a time;
 - c. Sexual activity on the premises is prohibited;
 - d. Making openings between viewing rooms is prohibited;
 - e. Violators will be required to leave the premises and may be subject to prosecution.
6. Ensure that all surface areas in viewing rooms and all flooring in viewing areas and adjacent hallways are waterproof, non-porous, easily cleanable surfaces, with no rugs or carpeting.
7. Ensure that all wall surfaces and seating surfaces in viewing rooms are constructed of or permanently covered by waterproof, non-porous, easily cleanable material.
8. Ensure that the establishment is clean and sanitary.

If the proposed ordinance is adopted, all adult arcade viewing booths that are not in conformity with an approved design or modeling plan on file with the City shall be remodeled or rebuilt or new viewing booths constructed to comply with the California Building Code within 180 days from the adoption of this ordinance. At present there is only one such establishment to which this ordinance will apply.

CONCLUSION:

It is the purpose of this chapter to regulate adult entertainment establishments to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult entertainment establishments within the City. City staff worked in concert with the currently-active business in the City in order to ensure that these regulations address these secondary effects while allowing the business and its clientele the opportunity to exercise its First Amendment rights.

ENVIRONMENTAL DETERMINATION:

The new ordinance would be exempt pursuant to CEQA Guidelines Section 15301(a), existing facilities, because the ordinance requires minor alterations to the interior partitions of the subject businesses/buildings.

FISCAL ANALYSIS:

The regulation is not expected to increase current costs.

DEPARTMENT RECOMMENDATION:

Staff Recommends that the Mayor and City Council:

1. Receive the report;

2. Mayor calls for introduction of Ordinance No. 2010-1110, adding Chapter 9.80 to the Imperial Beach Municipal Code pertaining to Adult Entertainment Establishments;
3. City Clerk reads title of Ordinance No. 2010-1110; and
4. Motion to dispense first reading of Ordinance No. 2010-1110 and set the matter for adoption at the next regularly scheduled City Council meeting, and authorize the publication in a newspaper of general circulation.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation.


Gary Brown, City Manager

Attachment:

1. Draft Ordinance 2010-1110.

ORDINANCE NO. 2010-1110

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF IMPERIAL BEACH TO ADD CHAPTER 9.80 OF THE IMPERIAL BEACH MUNICIPAL CODE, PERTAINING TO ADULT ENTERTAINMENT ESTABLISHMENTS

WHEREAS, the City Council of the City of Imperial Beach has been informed of several problems with the conduct of adult arcade businesses within the City which have caused undesirable secondary effects; and

WHEREAS, these secondary effects have included illegal sexual activity in a public business, the risk of contagion of sexually transmitted diseases, and general urban blight; and

WHEREAS, the City Council for the City of Imperial Beach seeks to avoid the detrimental secondary effects associated with activity of adult arcades while continuing to respect the fundamental right of its citizens to freedom of speech and expression; and

WHEREAS, this Ordinance proposes reasonable restrictions on the activity of adult arcade businesses that are less restrictive than those imposed by the County of San Diego and have withstood challenges in both California state court and the Ninth Circuit Court of Appeals;

NOW, THEREFORE, the City Council of Imperial Beach hereby ordains as follows:

Section 1. The City Council for the City of Imperial Beach makes the following factual findings based on case law and findings contained therein, academic research, and experience of government agencies throughout the County, the State, and the Nation:

A. Based on evidence of the adverse secondary effects of adult uses presented in hearings conducted by local governments throughout the County of San Diego, and on findings incorporated in the cases of *Pap's A.M. v. City of Erie*, (2000) 529 U.S. 277; *City of Renton V. Playtime Theatres, Inc.*, (1986) 475 U.S. 41, *Young v. American Mini Theatres*, (1976) 426 U.S. 50; *FW/PBS, Inc. v. City of Dallas*, (1990) 493 U.S. 215; *Barnes v. Glen Theatre, Inc.*, (1991) 501 U.S. 560; *California v. LaRue*, (1972) 409 U.S. 109; *Tily B., Inc. v. City of Newport Beach*, (1998) 69 Cal. App. 4th 1; *Sundance Saloon, Inc. v. City of San Diego*, (1989) 213 Cal. App. 3d 807, and other cases; and reports of secondary effects occurring in and around adult entertainment establishments, and from summaries of several of the foregoing secondary effects reports; the City Council for the City of Imperial Beach finds:

1. Adult entertainment establishments lend themselves to ancillary unlawful and unhealthy activities that cause deleterious secondary effects in the

establishments and in the areas surrounding them. This ordinance is designed to make the owners and operators of these establishments responsible, within constitutional boundaries, for the activities that occur on their premises.

2. Certain employees of unregulated adult entertainment establishments defined in this ordinance as adult cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

3. Sexual acts, including masturbation and oral and anal sex occur at unregulated adult entertainment establishments, especially those which provide private or semi-private booths or cubicles for viewing films or videos or live striptease and sex shows.

4. Offering and providing such unregulated space encourages unsanitary activities, which creates unhealthy conditions.

5. Persons frequent certain adult cabarets, adult arcades, and other adult entertainment establishments for the purpose of engaging in illicit sexual activities within the premises of such adult entertainment establishments, or for the purpose of purchasing or selling illicit drugs.

6. Numerous communicable diseases may be spread by activities occurring in adult entertainment establishments.

7. According to research from the Kaiser Family Foundation, an estimated 650,000 to 900,000 Americans are infected with HIV. The number of new HIV infections occurring each year is now about 41,000. Men and women of all races are most likely to be infected by sexual contact.

8. Relevant statistics revealed that a total of 117,521 AIDS cases have been reported in California through June of 2000. Of the 50 United States, California has the second highest number of AIDS cases and represents more than 15% of the 753,907 AIDS cases reported.

9. The Centers for Disease Control and Prevention have estimated that as many as 1 in 3 people with HIV do not know they are infected.

10. The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990.

11. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

12. The surgeon general of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be

transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

13. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

14. Sanitary conditions in some adult entertainment establishments are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

15. Numerous studies and reports have determined that semen is found in the areas of adult entertainment establishments where persons view "adult" oriented films and live sexual shows.

16. The findings noted in paragraphs number 1 through 15 raise substantial governmental concerns.

17. Adult entertainment establishments have operational characteristics that should be reasonably regulated in order to protect those substantial governmental concerns.

18. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the adult entertainment establishments. Further, such a licensing procedure will give an incentive on the operators to see that the adult entertainment establishment is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the adult entertainment establishment, in ultimate possession and control of the premises and activities occurring therein.

19. Requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult entertainment establishments.

20. Requiring licensees of adult entertainment establishments to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing criminals and minors from working in such establishments.

21. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the adult entertainment establishment, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and will prevent the further secondary effects of crime, blight, and dissemination of illegal obscenity, child pornography, and to minors, materials harmful to them;

22. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this chapter is designed to prevent or who are likely to be witnesses to such activity.

23. The fact that an applicant for an adult use has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this chapter.

24. The barring of such individuals from employment in adult entertainment establishments for a specified period of years serves to prevent distribution of illegal material, to prevent conduct which leads to the transmission of sexually transmitted diseases, and to preclude the establishment of criminal enterprises within the City.

25. The general welfare, health, and safety of the citizens of the City will be promoted by the enactment of this chapter.

a. The City Council also incorporates by reference all factual relevant factual findings reached by the County of San Diego justifying its adult entertainment laws.

b. The City Council for the City of Imperial Beach also finds that the threats from secondary effects associated with adult entertainment also manifest themselves in the City of Imperial Beach. Specifically, at least one person complains of contracting a sexually transmitted disease from an encounter at an adult entertainment arcade within the City, and there are numerous advertisements on the Internet from people proposing sexual rendezvous at an adult entertainment arcade in the City of Imperial Beach.

Section 2. Article 9, Chapter 80, is hereby added to the Imperial Beach Municipal Code, to read as follows:

“SEC. 9.80.010. PURPOSE AND FINDINGS

A. It is the purpose of this chapter to regulate adult entertainment establishments to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult entertainment establishments within the City. The provisions of this chapter do not have the purpose of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is not the intent of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this chapter to condone or legitimize the distribution of obscene material.

SEC. 9.80.020. DEFINITIONS

For the purpose of this chapter, "adult entertainment establishment" shall mean the activities listed in subdivisions A through E, K, or N of Section 8.92.010 or an "adult arcade" as defined in this Section.

A. "Adult arcade" shall mean a business establishment to which the public is permitted or invited and wherein coin, cash, card or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, videos, holograms, virtual reality devices or other image producing devices are maintained to show images on a regular or substantial basis, where images so displayed are distinguished or characterized by an emphasis on matter depicting or describing specific sexual activities or specific anatomical areas. Such devices shall be referred to as adult arcade devices.

B. "Controlling Interest" means the power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote 20% or more of any class of voting securities of a business. The ownership, control, or power to vote 20% or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

C. "Distinguished or Characterized by an Emphasis Upon" means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or description of Specified Sexual Activities or Specified Anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or description "specified anatomical areas" or "specified sexual activities."

D. "Employ, Employee, and Employment" describe and pertain to any person who performs any service on the premises of an adult entertainment establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises. This definition is provided solely for interpreting this chapter.

E. "Establish or Establishment" means and includes any of the following:

1. The opening or commencement of any adult entertainment establishment as a new business;
2. The conversion of an existing business, whether or not an adult entertainment establishment, to any adult entertainment establishment;
3. The addition of any adult entertainment establishment to any other existing adult entertainment establishment; or
4. The relocation of any adult entertainment establishment.

F. "Hearing Officer" means the person selected by the City Manager to conduct an administrative hearing pursuant to the provisions of this code.

G. "Nudity" or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, penis, anal cleft or cleavage with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any part of the nipple.

H. "Operate" or "Cause to Operate" means to cause to function or to put or keep in a state of doing business. "Operator" means any persons on the premises of an adult entertainment establishment who is authorized to exercise overall operational control of the establishment or who causes to function or who puts or keeps in operation the establishment. A person may be found to be operating or causing to be operated an adult entertainment establishment whether or not that person is an owner, part owner, or licensee of the establishment.

I. "Regularly Features" or "Regularly Shown" means a consistent and substantial course of conduct, such that the sexually explicit films or semi-nude performances exhibited constitute an ongoing and intentional objective of the business and are promoted as such.

J. "Semi-nude" or "semi-nudity" means a state of dress in which opaque clothing covers no more than the genitals, penis, anal cleft, cleavage, pubic area, vulva and nipple of the female breast as well as portions of the body covered by supporting straps or devices.

K. "Specified criminal activity" means any of the following offenses:

1. Any sexual offense punishable as a felony, described in Penal Code sections 261-269; any offense involving obscene material punishable as a felony, described in Penal Code sections 311.1-311.12; any offense for keeping, maintaining or participating in a house of prostitution as described in Penal Code sections 315, 316, 318; any offense for soliciting, agreeing to engage in or engaging in an act of prostitution as described in Penal Code section 647(b); any felony offense requiring registration under Penal Code section 290 except for Penal Code section 314; sale of any controlled substance on Schedules I-V of the Health and Safety Code or any other felony involving moral turpitude; criminal attempt, conspiracy, solicitation to commit any of the foregoing offenses; or offenses committed in another jurisdiction which, had the predicate acts been committed in California, would constitute any of the specified offenses or criminal attempt, conspiracy or solicitation to commit any of the specified offenses; for which:

a. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

b. Less than five years have elapsed since the date of conviction, or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

c. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four month period.

2. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

M. "Transfer of Ownership or Control" of an adult entertainment establishment means any of the following:

1. The sale, lease, or sublease of the establishment;
2. The transfer of securities which constitute a controlling interest in the establishment, whether by sale, exchange, or similar means; or
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the establishment, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

N. "Viewing Room" means the room, booth, area or partitioned or partially enclosed portion of an adult arcade used for any of the following purposes:

1. Where a live or taped performance is presented or viewed, where the performances and/or images displayed or presented are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas;
2. Where adult arcade devices are located.

SEC. 9.80.030. HOURS OF OPERATION

A. It shall be unlawful for any owner, operator, manager or employee of an adult entertainment establishment to allow the establishment to remain open for business between the hours of 2:00 a.m. and 6:00 a.m. of any day.

B. No owner, operator, manager, or employee of any adult entertainment establishment may allow the premises to be used for the purpose of conducting a private club between the hours of 2:00 a.m. and 6:00 a.m.

SEC. 9.80.040. NO MINORS ALLOWED / WINDOWS AND DOORS

A. It shall be unlawful for any person under 18 years of age to enter, be present in or remain in any adult entertainment establishment. It shall also be unlawful for an adult entertainment establishment owner, operator, manager, or employee to allow any person under 18 years of age to enter, be present in or remain in any adult

entertainment establishment if the owner, operator, manager, or employee knows or reasonably should have known that the person was under 18 years old.

B. Every owner, operator, manager, and employee of an adult entertainment establishment shall ensure that all exterior windows and doors of an adult entertainment establishment shall be solid and opaque so as to prevent visibility at all times from outside the structure into the interior of the entertainment establishment.

SEC. 9.80.050. CONFIGURATION OF ADULT ARCADE

A. Each Adult Arcade shall prepare and maintain an accurate diagram of the interior of the adult entertainment establishment in which the adult arcade is located showing the location of all manager's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the establishment in which patrons will not be allowed. Restrooms shall not contain video reproduction equipment. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the establishment to an accuracy of plus or minus six inches. A legible copy of the diagram shall be conspicuously located within ten feet of any entrance to or exit from the establishment to which customers have access.

B. A manager's station shall not exceed 40 square feet of floor area. It is the duty of any owner, operator, manager, and employee to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is inside the establishment. Each employee must ensure that there is a clear, unobstructed view, either by direct view from the manager's station or by fully functional and operational video monitoring equipment at the manager's station, of all methods of ingress and egress to or from any booth.

SEC. 9.80.060. ADULT ARCADE BOOTHS – MINIMUM CORRIDOR WIDTH

No person shall own, operate, manage, or be an employee of an adult entertainment establishment wherein which the width of any adjacent corridor to a viewing room is less than 44 inches. Each viewing room shall be bordered by an adjacent corridor on the side containing the viewing room's entrance. A viewing room in which the width of any adjacent corridor is nonconforming and is not in full compliance with approved plans on file with the City before this ordinance becomes effective shall be remodeled or rebuilt or new booths constructed to comply with the California Building Code within 180 days from the adoption of this ordinance.

SEC. 9.80.070 MINIMUM DOORWAYS

A. It is unlawful for any person to own, operate, manage, or be the employee

of an adult entertainment establishment which is or contains an adult arcade unless there are at least two doorways that are each a minimum of 80 inches tall and 36 inches wide in each room where a viewing room is located. The doorway shall provide ingress or egress from any room unless the Fire Chief determines that one doorway is sufficient. Every owner, operator, manager, and employee shall ensure that doorways are unlocked during business hours.

B. A nonconforming adult arcade booth that is not in conformity with an approved design or modeling plan on file with the City shall be remodeled or rebuilt or new booths constructed to comply with the California Building Code within 180 days from the adoption of this ordinance. No door, curtain, or obstruction of any kind shall exist or be installed within or near the entrance to an adult arcade show booth.

SEC. 9.80.080. VIEWING ROOMS –SIZE, SHAPE, AND REQUIRED SIGNS, DEVICE LOCATION, OCCUPANT LOAD, AND ENFORCEMENT

A. Except for those viewing rooms described in Section 9.80.160, no person shall own, operate, manage, or be the employee of an adult entertainment establishment that is or contains an adult arcade unless the interior of each viewing room is a maximum of 15 square feet in floor area, with a minimum width and a minimum length of three feet.

B. Any owner, operator, manager, or employee shall ensure that a sign designed to ensure that it is easily readable by any reasonable consumer shall be maintained in a conspicuous location in each viewing room which reads as follows: "This booth is subject to inspection at any time. Patrons have no expectation of privacy in this room."

C. A sign designed to ensure that it is easily readable by any reasonable consumer shall be placed above the entrance to each viewing room which reads as follows: "Only one person may be present in an adult arcade booth at any one time."

D. The signs required by this section shall be at least six by eight inches in size and printed with dark ink on a light contrasting background with letters at least one quarter inch in height.

E. No person shall own, operate, manage, or be the employee of an adult entertainment establishment that is or contains an adult arcade unless each viewing room is square or rectangular in shape.

F. Each viewing room shall have an interlock mechanism on its door which prevents activation of the adult arcade device unless the viewing room door is closed and locked.

SEC. 9.80.090. ADULT ARCADE DEVICES AND VIEWING ROOMS – MAXIMUM NUMBER AND OCCUPANCY

A. No person shall operate an adult entertainment establishment in which the number of adult arcade devices exceeds the maximum occupancy load permitted in any room, viewing room, or partitioned portion of a room in which an adult arcade device is located. The maximum number of adult arcade devices permitted in any room, viewing room, or partitioned portion of a room in an adult entertainment establishment shall be conspicuously posted on a sign and shall remain posted at the entrance to the room. The signs shall comply with the requirements of section 9.80.080.

B. No more than one person may be in any viewing room at any time. No owner, operator, manager, or employee shall allow more than one person to be in any viewing room at one time, nor may any owner, operator, manager, or employee allow seating facilities within any viewing room designed to accommodate more than one person.

SEC. 9.80.100. ADULT ENTERTAINMENT ESTABLISHMENT – INTERIOR LIGHTING REQUIREMENTS

Every owner, operator, manager, or employee of an adult entertainment establishment shall ensure that all interior areas of any adult entertainment establishment shall be illuminated at a minimum of 1.00 foot-candle, maintained and evenly distributed at floor level. It shall be the obligation of any owner, operator, manager, or employee to ensure that inoperable and/or broken lights shall be replaced within twenty-four (24) hours.

SEC 9.80.110. VIEWING ROOM ENTRANCES AND WALLS

A. A viewing room entrance door or other covering and a wall on which a viewing room has its entrance shall extend downward no farther than eighteen inches above the floor.

B. Nothing shall obstruct the ability of any person to view the entire interior of a viewing room through the gap between the entrance wall of a viewing room and the floor provided for in Subsection A.

C. Every owner, operator, manager, and employee shall ensure full compliance with this section. A nonconforming adult arcade booth that is not in conformity with an approved design or modeling plan on file with the City shall be remodeled or rebuilt or new booths constructed to comply with the California Building Code within 180 days from the adoption of this ordinance.

SEC. 9.80.120 ADDITIONAL SIGNAGE REQUIRED

A. A sign designed to ensure that it is easily readable by any reasonable consumer setting forth the following information shall be maintained in a conspicuous location in each viewing room:

“NOTICE: It is unlawful for this booth to be occupied by more than one person at any

one time. This booth is subject to inspection at any time by management, peace officers, or other city officials. There is no expectation of privacy for any person entering or remaining inside this booth.”

B. All signs required by this section shall be at least six by eight inches in size and be printed with dark ink upon a light contrasting background with letters at least one-quarter inch in height.

SEC 9.80.130. APERTURES PROHIBITED

No owner, operator, manager, or employee shall create, maintain, or allow any adult arcade booth with an aperture which may permit contact or communication between occupants of any two or more adult arcade booths.

There shall be a light or lighted sign on the exterior of each adult arcade booth which indicates whether the adult arcade *device* is in use and whether the booth is occupied.

SEC 9.80.140. WALKWAYS AND AISLES

All walkways, aisles and hallways of adult entertainment establishments shall be maintained free of any obstruction such as a door, curtain, panel, board, slat, ribbon, cord, rope, chain or other device unless the area is out of service prior to or while being cleaned or repaired, in which case a sign shall indicate it is closed to all customers or persons.

SEC 9.80.150. VIDEO MONITORING

There shall be a system of monitoring all areas of the *adult* open to the public, except restrooms, either by direct viewing or by a system of video monitoring which allows viewing of each monitored area at least every sixty seconds by the owner, operator, manager, or employee on the premises. Any owner, operator, manager, or employee shall ensure that this video monitoring service is being constantly monitored by an owner, operator, manager, or employee.

No person shall own, operate, manage, or be the employee of an adult entertainment establishment unless the complete interior of each viewing room is visible from the entrance to the viewing room while the door to the viewing room is open.

SEC 9.80.160. VIEWING ROOMS FOR THE PHYSICALLY DISABLED

Any viewing room built for use by a physically disabled person shall be clearly marked with a sign stating “Disabled Only.” It is unlawful for any owner, operator, manager, or employee to allow such a viewing room to be used by any person other than a physically disabled person. It shall be unlawful for a person other than a person with a physical disability that requires the use of a larger viewing room to use such a viewing room. Any viewing room built for use by a physically disabled person may exceed the

floor area requirements of this Chapter.

SEC 9.80.170. MANAGEMENT DUTIES

A. Every owner, operator, manager, or employee who is present while the establishment is open for business shall have the following duties:

1. To ensure that no patron is allowed access to any area of the establishment which has been designated as an area in which patrons will not be allowed in the application filed pursuant to this chapter.

2. To ensure that no "specified sexual activity" occurs in the establishment.

3. To require any patron to immediately leave the establishment upon discovering any person, including another owner, operator, manager, or employee, violating the provisions of this code or any other law.

4. To immediately secure and prevent any patron from entering any viewing rooms upon discovering an opening between viewing rooms.

B. Every owner, operator, manager, or employee shall also have the following additional duties:

1. To inspect or to ensure the inspection of the walls between viewing rooms for openings of any kind at least once each business day.

2. To conspicuously post or ensure the continuous, conspicuous posting of all the following signs designed to ensure that it is easily readable by any reasonable consumer in all entry areas of the establishment:

- a. No loitering is allowed in viewing rooms;
- b. Only one person is allowed in viewing rooms at a time;
- c. Sexual activity on the premises is prohibited;
- d. Making openings between viewing rooms is prohibited; and
- e. Violators will be required to leave the premises and may be subject to prosecution.

3. To ensure that all surface areas in viewing rooms and all flooring in viewing areas and adjacent hallways are waterproof, non-porous, easily cleanable surfaces, with no rugs or carpeting.

4. To ensure that all wall surfaces and seating surfaces in viewing rooms are constructed of or permanently covered by waterproof, non-porous, easily cleanable material.

5. To ensure that the establishment is clean and sanitary. These duties shall be deemed fulfilled if an owner, operator, manager, or employee complies with the following cleaning procedures:

a. The owner, operator, manager, or employee maintains a regular cleaning schedule of at least two cleanings per day, separated by at least eight hours, documented by written logs;

b. The owner, operator, manager, or employee checks all areas for garbage, trash, body fluids, and excrement and to remove and clean all areas with a disinfectant. All solid waste generated by the business is collected from the premises for disposal at a lawful solid waste disposal facility at least once each week;

c. Thorough cleaning of the entire interior of any viewing room is done using a disinfectant. Cleaning shall include floors, walls, doors, seats, monitors, video cameras, and windows and other surfaces.

E. It shall be unlawful for any person having a duty under this section to fail to fulfill that duty.

SEC. 9.80.180. INSPECTION

Adult entertainment establishment operators and adult entertainment establishment employees shall allow authorized officers or agents of the County and City to make reasonable inspections of the portions of the adult entertainment establishment premises at any time that any person is on the premises to ensure that the owner, operator, manager, all employees, and all patrons are complying with this chapter.

SEC. 9.80.190. NUDITY, SEMI-NUDITY, AND LIVE ENTERTAINMENT

A. No adult entertainment establishment other than an adult theater shall allow any person to exhibit nudity or to be semi-nude on the premises, and it is the duty of every owner, operator, manager, and employee to ensure compliance with this section.

B. No adult theater may be located at the same premises or in any place connected to any premises of any other adult business.

C. No adult entertainment establishment other than an adult theater may obtain an entertainment permit of any kind under this Code.”

Section 3. The City Clerk is directed to prepare and have published a summary of this ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

Section 4. Should any section, clause, or provision of this Ordinance be

declared by a court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity of any other portion of this Ordinance and, to that end, the provisions of this Ordinance are severable.

EFFECTIVE DATE: This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk of the City of Imperial Beach shall cause this Ordinance to be published pursuant to the provisions of Government Code section 36933.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California, on the 1st day of September, 2010; and

THEREAFTER ADOPTED at a regular meeting of the City Council of the City of Imperial Beach, California, on the 22nd day of September, 2010, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

JAMES C. JANNEY, MAYOR

ATTEST:

JACQUELINE M. HALD, CMC
CITY CLERK

APPROVED AS TO FORM:

JENNIFER M. LYON
CITY ATTORNEY

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be an exact copy of Ordinance No. 2010-1110 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, ADDING CHAPTER 9.80 TO THE IMPERIAL BEACH MUNICIPAL CODE, PERTAINING TO ADULT ENTERTAINMENT ESTABLISHMENTS.

CITY CLERK

DATE



**STAFF REPORT
CITY OF IMPERIAL BEACH**

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: GARY BROWN, CITY MANAGER

MEETING DATE: SEPTEMBER 1, 2010
ORIGINATING DEPT.: COMMUNITY DEVELOPMENT DEPARTMENT
 GREG WADE, DIRECTOR *GW*
 DAVID GARCIAS, CODE COMPLIANCE OFFICER

SUBJECT: INTRODUCTION AND FIRST READING: PROPOSED ORDINANCE 2010-1109 TO AMEND THE PROVISIONS OF THE CITY OF IMPERIAL BEACH MUNICIPAL CODE, AMENDING SECTION 1.12.020 OF CHAPTER 1.12 AND SECTIONS 1.22.030, 1.22.060, 1.22.070, 1.22.080, 1.22.100, 1.22.110, 1.22.120, AND 1.22.160 OF CHAPTER 1.22 OF THE IMPERIAL BEACH MUNICIPAL CODE REGARDING CIVIL PENALTIES, ADMINISTRATIVE CITATIONS, AND FINES.

BACKGROUND / DISCUSSION:

In 2005, the City Council adopted Ordinance 2005-1024 amending Chapter 1.12 and adding Chapter 1.22 of the Imperial Beach Municipal Code establishing Administrative Citations and fines.

Administrative Citations have been successfully administered and issued by the Imperial Beach Code Compliance Division. The process has been similar to the process applicable to parking citations. When an enforcement officer determines that a violation of the Municipal Code has occurred, the officer has the authority to issue an Administrative Citation to the person responsible for the violation. If the violation does not create an immediate danger to health and safety, then the responsible person may be issued a warning notice for the first violation.

If the violation is not corrected by a correction date, or there is a second or subsequent violation of the same ordinance, term, or condition anytime within 18-months, an Administrative Citation may be issued with a fine assessed.

PROCEDURE:

The proposed amendments to Chapter 1.12 and 1.22 will clarify and streamline the Civil Penalties and Administrative Citation process. The main proposed changes are:

1. Changing the date to calculate the appeal period. The deadline to appeal a citation and fine would continue to be thirty (30) days, but the date to calculate the appeal period would change to thirty days from the date the Administrative Citation is issued rather than thirty days from the date violations are to be corrected. This change is in line with other jurisdictions, and helps standardize the issuance of citations for officers and inspectors. This thirty-day appeal period is only for cases where an Administrative Citation has been issued, and a fine assessed.

2. Clarify that civil penalties may be assessed for violation(s) of any provision of the municipal code.
3. If a violation does not create an immediate danger to life, health, or safety of persons or property, the responsible person may be issued a warning notice for the first violation. The responsible person will be given a reasonable period of time to correct the violation, and the time provided to correct the violation will depend on the nature and extent of work required. Providing for a reasonable period of time to correct a violation allows staff to account for the nature and extent of work required to abate the violation.
4. The unpaid fine(s), plus interest and late charges, may be declared a special assessment against any real property, a notice of lien shall be recorded in the Office of the County Recorder, and the amounts shall be collected at the same time and in the same manner as ordinary property taxes. This clarifies the procedures for collecting unpaid fines.

CONCLUSION:

These proposed amendments to the ordinance will allow staff to perform code compliance duties in a more efficient manner; and will standardize the process for issuing Administrative Citations for inspectors and officers.

FISCAL ANALYSIS:

The amendments to the regulations are not expected to produce any change or increase to current revenue to the City. The expedited administrative process is anticipated to enhance code compliance and reduce enforcement costs.

DEPARTMENT RECOMMENDATION:

Staff Recommends that the Mayor and City Council:

1. Receive the report;
2. Mayor calls for introduction of Ordinance No. 2010-1109, amending section 1.12.020 of chapter 1.12 and sections 1.22.030, 1.22.060, 1.22.070, 1.22.080, 1.22.100, 1.22.110, 1.22.120, and 1.22.160 of chapter 1.22 of the Imperial Beach Municipal Code regarding civil penalties, administrative citations, and fines;
3. City Clerk reads title of Ordinance No. 2010-1109; and
4. Motion to dispense first reading of Ordinance No. 2010-1109 and set the matter for adoption at the next regularly scheduled City Council meeting, and authorize the publication in a newspaper of general circulation.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation.



Gary Brown, City Manager

Attachments:

1. Ordinance No. 2010-1109
2. Strikethrough version of Ordinance No. 2010-1109

ORDINANCE NO. 2010-1109

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA AMENDING SECTION 1.12.020 OF CHAPTER 1.12 AND SECTIONS 1.22.030, 1.22.060, 1.22.070, 1.22.080, 1.22.100, 1.22.110, 1.22.120, AND 1.22.160 OF CHAPTER 1.22 OF THE IMPERIAL BEACH MUNICIPAL CODE REGARDING CIVIL PENALTIES, ADMINISTRATIVE CITATIONS, AND FINES

THE IMPERIAL BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Section 1.12.020 of Chapter 1.12 (General Penalty) of the Imperial Beach Municipal Code is amended to read as follows:

1.12.020. Civil penalties—Procedures.

A. Any person or organization violating any provision of this code, or rules and regulations adopted thereunder, or the conditions of any permit issued pursuant to such ordinance, rule or regulation, or by any act of commission or omission procures, aids or abets such violation, shall be subject to civil penalties as provided in this chapter.

B. Civil penalties may be directly assessed by means of a notice and order issued pursuant to Titles 8, 15, or 19, or may be recovered by legal action. The notice and hearing procedures in Chapter 1.16 apply.

C. Civil penalties assessed by means of notice and order shall be collected in accordance with the lien, personal obligation and other procedures specified in this code. Civil penalties assessed in a legal action shall be collected in the same manner as judgments in civil actions.

D. Where the conduct constituting a violation is of a continuing nature, each day of such conduct is a separate and distinct violation. Civil penalties for failure to obtain any required permit shall begin to accrue on the first day activity subject to the permit requirement is commenced, and shall cease to accrue on the day the permit is obtained. Civil penalties for violation of any order to cease violation or notice and order to correct shall begin to accrue on the first day such order or notice is posted, and shall cease on the day the violation is actually stopped.

E. 1. A civil penalty for a violation of any ordinance, rule or regulation by a person engaged in a noncommercial venture shall be assessed at the rate of fifty dollars per day per violation.

2. A civil penalty for a violation of any ordinance, rule or regulation by a person engaged in a commercial venture shall be assessed at the rate of one hundred dollars per day per violation.

F. Penalties for the second separate violation of a like nature by the same person shall be double the rates identified in subsection E of this section. Penalties for any separate violation of a like nature beyond a second violation by the same person shall be triple the rates identified in subsection E.

SECTION 2: Section 1.22.030 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.030. Issuance of Administrative Citation.

A. Any person who violates any provision of the Imperial Beach Municipal Code or regulation of the City, any condition of approval of a permit or entitlement, any condition of an environmental review, or any term or condition of any agreement with the City made pursuant to the police power may be issued an administrative citation by an Enforcement Officer as provided in this Chapter. A violation of this Code includes, but is not limited to, all violations of the Municipal Code and the failure to comply with any condition imposed by any entitlement, permit, city agreement or environmental review issued or approved pursuant to this Code.

B. Each and every day that a violation of the Municipal Code exists constitutes a separate and distinct offense. A separate citation may be issued for each day a violation occurs.

C. A civil fine shall be assessed by means of an administrative citation issued by the Enforcement Officer and shall be payable directly to the City of Imperial Beach.

D. Fines shall be assessed in the amounts specified by resolution of the City Council, or as follows where no amount is otherwise specified:

- (1) A fine not exceeding one hundred dollars (\$100.00) for a first violation;
- (2) A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same ordinance or permit within an eighteen-month (18) period from the date of the first violation;
- (3) A fine not exceeding five hundred dollars (\$500.00) for the third violation of the same ordinance or permit within an eighteen-month (18) period from the date of the first violation.
- (4) A fine not exceeding one thousand dollars (\$1,000.00) for each additional violation of the same ordinance or permit within an eighteen-month (18) period from the date of the first violation.

E. A second or subsequent violation need only be of the same ordinance, term, or condition to require the larger fine, and need not involve the same personnel or property, provided that the same responsible person is cited. The fine amounts shall be cumulative where multiple citations are issued.

F. If the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues, that do not create an immediate danger to life, health, or safety of persons or property, then the responsible person shall be issued a warning only on the first violation. The warning will advise the responsible person of the nature of the violation and the date upon which the violation shall be corrected. The responsible person will be given a reasonable period of time to correct the violations, and the time

provided to correct the violation will depend on the nature and extent of work required-. If the violation is not corrected within that time period, an administrative citation with a fine shall be issued.

SECTION 3: Section 1.22.060 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.060. Satisfaction of Administrative Citation.

A. Upon receipt of a citation, the responsible person must do the following:

- (1) Pay the fine to the City within thirty (30) calendar days from the date the administrative citation is issued. All fines assessed shall be payable to the Imperial Beach City's Treasurer. Payment of a fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action by the City; or
- (2) Contest the administrative citation and request an Administrative Hearing within thirty (30) calendar days from the date the administrative citation is issued.

SECTION 4: Section 1.22.070 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.070. Appeal of Citation.

A. Any recipient of an administrative citation may contest that there was a violation of the Municipal Code or that he or she is the responsible person by completing a request for hearing form and returning it to the City within thirty (30) calendar days from the _date the administrative citation is issued.

B. The request for hearing form must be accompanied by either an advanced deposit of the fine or a request for hardship waiver. Any administrative citation fine which has been deposited shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation(s) or that there was no violation(s) as charged in the administrative citation.

SECTION 5: Section 1.22.080 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.080. Hardship Waiver.

A. A person who files a request for an Administrative Hearing may also request at the same time a hardship waiver of the fine deposit. To seek such a waiver and obtain a separate hearing on the request, the responsible person must check the box indicating this request on the form contained on the reverse side of the citation and attach a statement of the grounds for the request. To be effective, this form requesting the waiver and the Administrative Hearing must be received by the City Manager's office within fifteen (15) calendar days of the date the citation is issued.

B. The waiver request will be decided by the City Manager and issue the advance deposit hardship waiver only if the responsible party submits to the City Manager a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the City Manager the person's actual financial inability to deposit with the City the full amount of the fine in advance of the hearing.

C. The City Manager shall inform the responsible party in writing of whether the waiver was approved, by serving the party personally or by mail at the address provided in the waiver application. The City Manager's determination is final and is not subject to appeal or judicial review.

D. If the waiver is denied, the responsible party shall pay the fine amount within ten (10) calendar days. Failure to make the deposit by the time required shall be deemed an abandonment of the contest and renders the fine delinquent.

SECTION 6: Section 1.22.100 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.100. Hearing Procedure.

A. No hearing to contest an administrative citation before a Hearing Officer shall be held unless and until a request for hearing form has been completed and submitted, and, the fine has been deposited in advance, or an advance deposit hardship waiver has been issued.

B. A hearing before the Hearing Officer shall be set for a date that is not less than fifteen (15) calendar and not more than sixty (60) calendar days from the date that the request for hearing is filed in accordance with the provisions of this Chapter. The responsible party requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) calendar days prior to the date of the hearing.

C. At least ten (10) calendar days prior to the hearing, the recipient of an administrative citation shall be provided with copies of the citations, reports and other documents submitted or relied upon by the Enforcement Officer. If, after copies of documents have been provided to the responsible party, the City determines to submit to the Hearing Officer additional documents then, whenever possible, a copy of such documents shall be provided to party prior to the hearing. No other discovery is permitted. Formal rules of evidence shall not apply.

D. The hearing officer shall only consider evidence that is relevant to whether the violation(s) occurred and whether the responsible person has caused or maintained the violation(s). Courtroom rules of evidence shall not apply. Relevant hearsay evidence and written reports may be admitted whether or not the speaker or author is present to testify if the Hearing Officer determines that the evidence is reliable. Admission of evidence and the conduct of the hearing shall be controlled by the Hearing Officer in accordance with the fundamentals of due process. The Hearing Officer may limit the total length of the hearing to one hour, and shall allow the responsible party at least as much time to present its case as is allowed the City.

E. At the hearing, the reasonable party requesting the hearing shall be given the opportunity to present, either themselves or through a representative, evidence and testimony concerning the administrative citation. The City's case shall be presented by an Enforcement Officer or by any other authorized agent of the City.

F. The failure of the responsible party, either personally or through counsel, of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust his or her administrative remedies.

G. The Hearing Officer may consolidate administrative citations issued to the same owner or responsible party.

H. The Hearing Officer may continue the hearing and request additional information from the Enforcement Officer or the recipient of the administrative citation prior to issuing a written decision.

SECTION 7: Section 1.22.110 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.110. Hearing Officer's Decision.

A. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer may announce a decision orally, but in any event, shall prepare a written decision. The decision shall be provided to the parties within ten (10) calendar days of the hearing and shall either affirm the issuance of the citation as issued or dismiss the citation. The decision shall briefly state the reasons for the conclusion of the Hearing Officer. The City shall personally deliver the Notice of Decision for the Administrative Hearing to the responsible party. The decision of the Hearing Officer shall be final. If the Hearing Officer determines that First Amendment rights are involved, the decision shall be issued orally at the conclusion of the hearing and shall be effective immediately. A written decision shall thereafter be issued as provided here in below.

B. If the Hearing Officer affirms the issuance of the administrative citation, then the deposit with the City shall be retained by the City. If a hardship waiver was granted, the decision shall set forth a payment schedule for the fine.

C. If the Hearing Officer determines that the administrative citation should be canceled and the fine was deposited with the City, then the City shall refund the deposit within ten (10) calendar days of the Hearing Officer's decision.

D. The Hearing Officer shall not have the power to reduce the fine. The Hearing Officer may impose conditions and deadlines to correct any violations or require payment of any outstanding penalties.

SECTION 8: Section 1.22.120 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.120. Failure to Pay Fines

A. The failure of any person to pay the civil fines imposed by an administrative citation within the time specified on the citation may result in the filing of a claim with the Small Claims Court or the Superior Court for recovery of the fine. The only issue to be adjudicated by the court shall be whether or not the fines were paid. A person cited may only obtain judicial review of the validity of the citation by writ of mandate after exhausting their administrative remedies by requesting and participating in an administrative hearing before a hearing officer. In the court action, the City may also recover its collection costs, including the cost of the Hearing Officer, and any court fees, according to proof.

B. In lieu of or in addition to the filing of a court action, the amount of the unpaid fine plus interest and late charges as provided by this chapter, may be declared a special assessment against any real property owned by the responsible party and the City may impose a Code Enforcement Lien, in the amount of the fine plus interest and late charges, on the real property upon which the violation occurs. The City Manager shall record a notice of lien in the Office of the County Recorder. When so made and confirmed, the cost shall constitute a lien on that property for the amount of the assessment.

C. After confirmation and recordation, a copy shall be turned over to the tax collector for the County of San Diego. At that point, it will be the duty of the tax collector to add the amounts of the respective assessments to the next regular property tax bills levied against the lots and parcels of land for municipal purposes. Those amounts shall be collected at the same time and in the same manner as ordinary property taxes are collected, and shall be subject to the same penalties and procedures under foreclosure and sale as provided for with ordinary municipal taxes. In the alternative, after recording, the lien may be foreclosed by judicial or other sale in the manner and means provided by law.

D. The City at its discretion may pursue any and all legal and equitable remedies for the collection of unpaid fines, interest and penalties. The use of one recovery method does not preclude the use of any other recovery method.

SECTION 9: Section 1.22.160 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.160. Procedural Compliance.

City's failure to comply with any procedural requirement of this Chapter, failure of any person to receive any notice or decision specified in this Chapter, or of any person to receive any copy required to be provided by this Chapter shall not affect the validity of proceedings conducted hereunder unless the responsible person is denied constitutional due process thereby.

SECTION 10: The City Clerk is directed to prepare and have published a summary of this ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast pursuant to the provisions of Government Code section 36933.

SECTION 11: This ordinance will take effect thirty (30) days after the date of its passage and adoption.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California, held the 1 day of September 2010 by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

JAMES C. JANNEY, MAYOR

ATTEST:

Jacqueline M. Hald

JACQUELINE M. HALD, CMC
CITY CLERK

APPROVED AS TO FORM:

JENNIFER LYON
CITY ATTORNEY

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and exact copy of Ordinance No. 2010-1109 – An Ordinance of the City Council of the City of Imperial Beach, California AMENDING SECTION 1.12.020 OF CHAPTERS 1.12 AND SECTIONS 1.22.030, 1.22.060, 1.22.070, 1.22.080, 1.22.100, 1.22.110, 1.22.120, AND 1.22.160 OF CHAPTER 1.22 OF THE IMPERIAL BEACH MUNICIPAL CODE REGARDING CIVIL PENALTIES, ADMINISTRATIVE CITATIONS, AND FINES.

CITY CLERK

DATE

ORDINANCE NO. 2010-1109

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA AMENDING SECTION 1.12.020 OF CHAPTER 1.12 AND SECTIONS 1.22.030, 1.22.060, 1.22.070, 1.22.080, 1.22.100, 1.22.110, 1.22.120, AND 1.22.160 OF CHAPTER 1.22 OF THE IMPERIAL BEACH MUNICIPAL CODE REGARDING CIVIL PENALTIES, ADMINISTRATIVE CITATIONS, AND FINES

THE IMPERIAL BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Section 1.12.020 of Chapter 1.12 (General Penalty) of the Imperial Beach Municipal Code is amended to read as follows:

1.12.020. Civil penalties—Procedures.

A. Any person or organization violating any ~~land-use ordinance as defined in Titles 15 and 19 of this code, any provisions of Chapter 8.50~~ provision of this code, or rules and regulations adopted thereunder, or the conditions of any permit issued pursuant to such ordinance, rule or regulation, or by any act of commission or omission procures, aids or abets such violation, shall be subject to civil penalties as provided in this chapter.

B. Civil penalties may be directly assessed by means of a notice and order issued pursuant to Titles 8, 15, or 19, or may be recovered by legal action. The notice and hearing procedures in Chapter 1.16 apply.

C. Civil penalties assessed by means of notice and order shall be collected in accordance with the lien, personal obligation and other procedures specified in this code. Civil penalties assessed in a legal action shall be collected in the same manner as judgments in civil actions.

D. Where the conduct constituting a violation is of a continuing nature, each day of such conduct is a separate and distinct violation. Civil penalties for failure to obtain any required permit shall begin to accrue on the first day activity subject to the permit requirement is commenced, and shall cease to accrue on the day the permit is obtained. Civil penalties for violation of any order to cease violation or notice and order to correct shall begin to accrue on the first day such order or notice is posted, and shall cease on the day the violation is actually stopped.

E. 1. A civil penalty for a violation of any ~~land-use~~ ordinance, rule or regulation by a person engaged in a noncommercial venture shall be assessed at the rate of fifty dollars per day per violation.

2. A civil penalty for a violation of any ~~land-use~~ ordinance, rule or regulation by a person engaged in a commercial venture shall be assessed at the rate of one hundred dollars per day per violation.

F. Penalties for the second separate violation of a like nature by the same person shall be double the rates identified in subsection E of this section. Penalties for any

separate violation of a like nature beyond a second violation by the same person shall be triple the rates identified in subsection E.

SECTION 2: Section 1.22.030 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.030. Issuance of Administrative Citation.

A. Any person who violates any provision of the Imperial Beach Municipal Code or regulation of the City, any condition of approval of a permit or entitlement, any condition of an environmental review, or any term or condition of any agreement with the City made pursuant to the police power may be issued an administrative citation by an Enforcement Officer as provided in this Chapter. A violation of this Code includes, but is not limited to, all violations of the Municipal Code and the failure to comply with any condition imposed by any entitlement, permit, city agreement or environmental review issued or approved pursuant to this Code.

B. Each and every day that a violation of the Municipal Code exists constitutes a separate and distinct offense. A separate citation may be issued for each day a violation occurs.

C. A civil fine shall be assessed by means of an administrative citation issued by the Enforcement Officer and shall be payable directly to the City of Imperial Beach.

D. Fines shall be assessed in the amounts specified by resolution of the City Council, or as follows where no amount is otherwise specified:

(1) A fine not exceeding one hundred dollars (\$100.00) for a first violation;

(2) A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same ordinance or permit within an eighteen-month (18) period from the date of the first violation;

(3) A fine not exceeding five hundred dollars (\$500.00) for the third violation of the same ordinance or permit within an eighteen-month (18) period from the date of the first violation.

(4) A fine not exceeding one thousand dollars (\$1,000.00) for each additional violation of the same ordinance or permit within an eighteen-month (18) period from the date of the first violation.

E. A second or subsequent violation need only be of the same ordinance, term, or condition to require the larger fine, and need not involve the same personnel or property, provided that the same responsible person is cited. The fine amounts shall be cumulative where multiple citations are issued.

F. If the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues, that do not create an immediate danger to life, health, ~~and-or~~ safety of

persons or property, then the responsible person shall be issued a warning only on the first violation. The warning will advise the responsible person of the nature of the violation and the date upon which the violation shall be corrected. The responsible person will be given a reasonable period of time to correct the violations, and the time provided to correct the violation will depend on the nature and extent of work required ~~fifteen days to correct the violation~~. If the violation is not corrected within that time period, an administrative citation with a fine shall be issued.

SECTION 3: Section 1.22.060 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.060. Satisfaction of Administrative Citation.

A. Upon receipt of a citation, the responsible person must do the following:

- (1) Pay the fine to the City within thirty (30) calendar days from the ~~correction date of the administrative citation~~ date the administrative citation is issued. All fines assessed shall be payable to the Imperial Beach City's Treasurer. Payment of a fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action by the City; or
- (2) Contest the administrative citation and request an Administrative Hearing within thirty (30) calendar days from the ~~correction date of the administrative citation~~ date the administrative citation is issued.

SECTION 4: Section 1.22.070 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.070. Appeal of Citation.

A. Any recipient of an administrative citation may contest that there was a violation of the Municipal Code or that he or she is the responsible person by completing a request for hearing form and returning it to the City within thirty (30) calendar days from the ~~correction date of the administrative citation~~ date the administrative citation is issued.

B. The request for hearing form must be accompanied by either an advanced deposit of the fine or a request for hardship waiver. Any administrative citation fine which has been deposited shall be refunded if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation(s) or that there was no violation(s) as charged in the administrative citation.

SECTION 5: Section 1.22.080 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.080. Hardship Waiver.

A. A person who files a request for an Administrative Hearing may also request at the same time a hardship waiver of the fine deposit. To seek such a waiver and obtain a separate hearing on the request, the responsible person must check the box indicating this request on the form contained on the reverse side of the citation and attach a

statement of the grounds for the request. To be effective, this form requesting the waiver and the Administrative Hearing must be received by the City Manager's office within fifteen [\(15\) calendar](#) days of the date the citation is issued.

B. The waiver request will be decided by the City Manager and issue the advance deposit hardship waiver only if the responsible party submits to the City Manager a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the City Manager the person's actual financial inability to deposit with the City the full amount of the fine in advance of the hearing.

C. The City Manager shall inform the responsible party in writing of whether the waiver was approved, by serving the party personally or by mail at the address provided in the waiver application. The City Manager's determination is final and is not subject to appeal or judicial review.

D. If the waiver is denied, the responsible party shall pay the fine amount within ten [\(10\) calendar](#) days. Failure to make the deposit by the time required shall be deemed an abandonment of the contest and renders the fine delinquent.

SECTION 6: Section 1.22.100 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.100. Hearing Procedure.

A. No hearing to contest an administrative citation before a Hearing Officer shall be held unless and until a request for hearing form has been completed and submitted, and, the fine has been deposited in advance, or an advance deposit hardship waiver has been issued.

B. A hearing before the Hearing Officer shall be set for a date that is not less than fifteen [\(15\) calendar](#) and not more than sixty [\(60\) calendar](#) days from the date that the request for hearing is filed in accordance with the provisions of this Chapter. The responsible party requesting the hearing shall be notified of the time and place set for the hearing at least ten [\(10\) calendar](#) days prior to the date of the hearing.

C. At least ten [\(10\) calendar](#) days prior to the hearing, the recipient of an administrative citation shall be provided with copies of the citations, reports and other documents submitted or relied upon by the Enforcement Officer. If, after copies of documents have been provided to the responsible party, the City determines to submit to the Hearing Officer additional documents then, whenever possible, a copy of such documents shall be provided to party prior to the hearing. No other discovery is permitted. Formal rules of evidence shall not apply.

D. The hearing officer shall only consider evidence that is relevant to whether the violation(s) occurred and whether the responsible person has caused or maintained the violation(s). Courtroom rules of evidence shall not apply. Relevant hearsay evidence and written reports may be admitted whether or not the speaker or author is present to testify if the Hearing Officer determines that the evidence is reliable. Admission of evidence and the conduct of the hearing shall be controlled by the Hearing Officer in accordance with the fundamentals of due process. The Hearing Officer may limit the total length of

the hearing to one hour, and shall allow the responsible party at least as much time to present its case as is allowed the City.

E. At the hearing, the reasonable party requesting the hearing shall be given the opportunity to present, either themselves or through a representative, evidence and testimony concerning the administrative citation. The City's case shall be presented by an Enforcement Officer or by any other authorized agent of the City.

F. The failure of the responsible party, either personally or through counsel, of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust his or her administrative remedies.

G. The Hearing Officer may consolidate administrative citations issued to the same owner or responsible party.

H. The Hearing Officer may continue the hearing and request additional information from the Enforcement Officer or the recipient of the administrative citation prior to issuing a written decision.

SECTION 7: Section 1.22.110 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.110. Hearing Officer's Decision.

A. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer may announce a decision orally, but in any event, shall prepare a written decision. The decision shall be provided to the parties within ten [\(10\) calendar](#) days of the hearing and shall either affirm the issuance of the citation as issued or dismiss the citation. The decision shall briefly state the reasons for the conclusion of the Hearing Officer. The City shall personally deliver the Notice of Decision for the Administrative Hearing to the responsible party. The decision of the Hearing Officer shall be final. If the Hearing Officer determines that First Amendment rights are involved, the decision shall be issued orally at the conclusion of the hearing and shall be effective immediately. A written decision shall thereafter be issued as provided here in below.

B. If the Hearing Officer affirms the issuance of the administrative citation, then the deposit with the City shall be retained by the City. If a hardship waiver was granted, the decision shall set forth a payment schedule for the fine.

C. If the Hearing Officer determines that the administrative citation should be canceled and the fine was deposited with the City, then the City shall refund the deposit within ten [\(10\) calendar](#) days of the Hearing Officer's decision.

D. The Hearing Officer shall not have the power to reduce the fine. The Hearing Officer may impose conditions and deadlines to correct any violations or require payment of any outstanding penalties.

SECTION 8: Section 1.22.120 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.120. Failure to Pay Fines

A. The failure of any person to pay the civil fines imposed by an administrative citation within the time specified on the citation may result in the filing of a claim with the Small Claims Court or the Superior Court for recovery of the fine. The only issue to be adjudicated by the court shall be whether or not the fines were paid. A person cited may only obtain judicial review of the validity of the citation by writ of mandate after exhausting their administrative remedies by requesting and participating in an administrative hearing before a hearing officer. In the court action, the City may also recover its collection costs, including the cost of the Hearing Officer, and any court fees, according to proof.

B. In lieu of or in addition to the filing of a court action, the amount of the unpaid fine plus interest and late charges as provided by this chapter, may be declared a special assessment against any real property owned by the responsible party and the City may impose a Code Enforcement Lien, in the amount of the fine plus interest and late charges, on the real property upon which the violation occurs. ~~Any lien imposed pursuant to this chapter shall attach upon the recordation of a Notice of Code Enforcement Lien in the Office of the County Recorder.~~ The City Manager shall record a notice of lien in the Office of the County Recorder. When so made and confirmed, the cost shall constitute a lien on that property for the amount of the assessment.

C. After confirmation and recordation, a copy shall be turned over to the tax collector for the County of San Diego. At that point, it will be the duty of the tax collector to add the amounts of the respective assessments to the next regular property tax bills levied against the lots and parcels of land for municipal purposes. Those amounts shall be collected at the same time and in the same manner as ordinary property taxes are collected, and shall be subject to the same penalties and procedures under foreclosure and sale as provided for with ordinary municipal taxes. In the alternative, after recording, the lien may be foreclosed by judicial or other sale in the manner and means provided by law.

~~D.~~ The City at its discretion may pursue any and all legal and equitable remedies for the collection of unpaid fines, interest and penalties. The use of one recovery method does not preclude the use of any other recovery method.

SECTION 9: Section 1.22.160 of Chapter 1.22 (Administrative Citations and Fines) of the Imperial Beach Municipal Code is amended to read as follows:

1.22.160. Procedural Compliance.

City's ~~F~~failure to comply with any procedural requirement of this Chapter, failure of any person to receive any notice or decision specified in this Chapter, or of any person to receive any copy required to be provided by this Chapter shall not affect the validity of proceedings conducted hereunder unless the responsible person is denied constitutional due process thereby.

SECTION 10: The City Clerk is directed to prepare and have published a summary of this ordinance no less than five days prior to the consideration of its adoption and again within

15 days following adoption indicating votes cast pursuant to the provisions of Government Code section 36933.

SECTION 311: This ordinance will take effect thirty (30) days after the date of its passage and adoption.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California, held the 1 day of September 2010 by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

JAMES C. JANNEY, MAYOR

ATTEST:

Jacqueline M. Hald

JACQUELINE M. HALD, CMC
CITY CLERK

APPROVED AS TO FORM:

JENNIFER LYON
CITY ATTORNEY

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and exact copy of Ordinance No. 2010-1109 – An Ordinance of the City Council of the City of Imperial Beach, California AMENDING SECTION 1.12.020 OF CHAPTERS 1.12 AND SECTIONS 1.22.030, 1.22.060, 1.22.070, 1.22.080, 1.22.100, 1.22.110, 1.22.120, AND 1.22.160 OF CHAPTER 1.22 OF THE IMPERIAL BEACH MUNICIPAL CODE REGARDING CIVIL PENALTIES, ADMINISTRATIVE CITATIONS, AND FINES.

CITY CLERK

DATE



STAFF REPORT
CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: GARY BROWN, CITY MANAGER

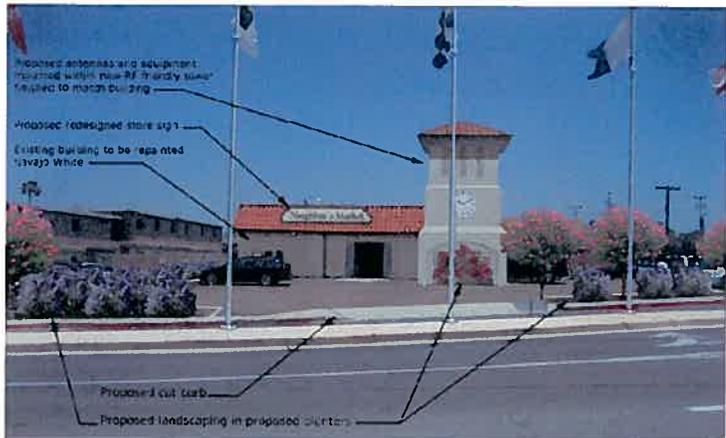
MEETING DATE: SEPTEMBER 1, 2010

ORIGINATING DEPT.: COMMUNITY DEVELOPMENT DEPARTMENT
GREG WADE, COMMUNITY DEVELOPMENT DIRECTOR
JIM NAKAGAWA, AICP, CITY PLANNER
TYLER FOLTZ, ASSOCIATE PLANNER

SUBJECT: PUBLIC HEARING: AT&T MOBILITY (APPLICANT)/
EMMANUEL DANIEL (OWNER); CONDITIONAL USE PERMIT
(CUP 080046), DESIGN REVIEW CASE (DRC 080047), AND
SITE PLAN REVIEW (SPR 080048) TO INSTALL A
TELECOMMUNICATION FACILITY IN THE FORM OF A CLOCK
TOWER ATTACHED TO AN EXISTING COMMERCIAL
BUILDING LOCATED AT 1497 13th STREET (APN 633-223-47-
00) IN THE C-3 (NEIGHBORHOOD COMMERCIAL) ZONE. MF
992.

PROJECT DESCRIPTION/BACKGROUND:

This is an application (MF 992) originally submitted on September 23, 2008 for a Conditional Use Permit (CUP 080046), Design Review Case (DRC 080047), and Site Plan Review (SPR 080048) to install a telecommunication facility in the form of a clock tower attached to an existing commercial building located at 1497 13th Street (APN 633-223-47-00) in the C-3 (Neighborhood Commercial) Zone. Installation and/or modification of wireless facilities per Ordinance 2002-983 are

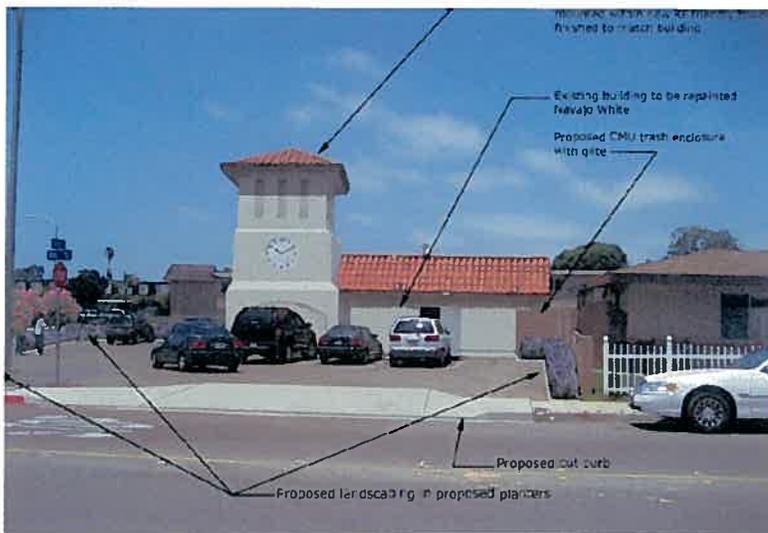


subject to approval of a conditional use permit per Imperial Beach Municipal Code (IBMC) 19.90.040 – Wireless Communications Facilities: Permit Types. Per the Development and Design Standards, installation and/or modification of wireless facilities must meet specific design criteria as outlined in IBMC 19.90 – Wireless Communications Facilities. The project also was subject to design review by the Design Review Board because the project requires a conditional use permit (IBMC 19.83.020).

PROJECT EVALUATION/DISCUSSION:

VISUAL QUALITY ISSUES

The proposed telecommunication facility will consist of the installation and operation of twelve (12) panel antennas mounted inside a new 28-foot tall clock tower that would be attached to an existing commercial building (see Attachment 3 - Photosimulations). In addition, associated equipment cabinets will be installed inside of the proposed clock tower. Landscaping and a trash/recycling enclosure also are proposed as part of this project. Electric and telephone services are required and will be extended to the project area via underground conduits.



The 28-foot tall clock tower concealing the antennae and equipment would be the most conspicuous aspect of this proposal. The structure would be built on the southwest corner of an existing commercial building and would be textured to match the existing building. The three-tiered clock tower would provide architectural features by way of recessed arches at base, clocks in the middle tier of the south and west tower elevations, and projections on the top tier that would provide aesthetic interest. Landscaping will be provided in the western recessed arch area of the clock tower to provide additional aesthetic appeal for the storefront. The applicant claims that a landscape planter in the southern recessed arch area is not feasible because it would impact existing parking. The existing building and proposed clock tower would be painted with a new color (Navajo White) to provide a cohesive design and appearance, and the roof of the proposed clock tower would match that of the existing building (Spanish tile). One condition of approval for the project is that the existing building and clock tower shall provide an architectural theme executed on all exterior surfaces; thus, the façade of the existing building shall be improved, wherever necessary, to match the new addition of the clock tower facility to provide a cohesive aesthetic appearance. Wireless facilities use transmitting antennae to communicate with mobile handsets and other wireless devices. The height of the antenna is critical to the facilities performance because the signal must be elevated above ground level at a height that provides a clear line-of-sight to clear any topographical barriers and existing natural and building environment. The clock tower would conceal the antennae and associated equipment and would provide architectural interest to an existing single-story retail commercial building.

The applicant proposes to enhance the 13th Street/Iris Avenue intersection with new landscaped planters between the sidewalk and parking lot along the west property line. Landscaping also will be provided along the north and east property lines. The landscaping would include bushes and small trees that would be colorful, drought tolerant (xeriscape), varied in height, and separated at a distance that would not impede safety or create a wall-like effect. The planters would provide aesthetic appeal and would also assist in capturing storm water run-off. All landscaping will be maintained by the applicant and/or property owner.

The existing cabinet sign on the west façade of the building would be removed and replaced (all other signage would be removed). Initially a wooden wall sign was considered, and the Design Review Board recommended that lighting be provided for the sign as a condition of approval for the design. However, after reviewing the logistics of providing lighting for the sign, the applicant now proposes a new internally lit cabinet sign for the west façade. The proposed sign would provide a Spanish-styled appearance with a dark frame and dark text on a lighter colored background that would correspond with the proposed color of the building, and would be in substantial conformance with the sign reviewed by the Design Review Board in size, shape, and color.

A new trash/recycling enclosure is proposed on the eastern property line. The proposed color of the enclosure is brown and landscaping will be provided directly south of the enclosure to provide screening, which will assist in providing an aesthetically pleasing design. In addition, driving areas and parking spaces shall be re-surfaced and/or re-striped where necessary. Also, both driveway approaches would be reconstructed to meet accessibility standards, and approximately five feet of property adjacent to the driveway approaches shall be required to be dedicated to the City/public right-of-way.

The overall design of the proposed clock tower, landscape improvements, and compliant trash/recycling enclosure, should contribute positively in enhancing the aesthetic appeal of the property along 13th Street and Iris Avenue. In addition, a functional clock would provide community benefit and interest.

The location of the telecommunication facility was examined. The applicant claims that the proposed location was chosen because it would meet the desired coverage objectives as well as locating on a commercially zoned property. All other potential sites in the coverage area are within residential areas. Staff recommended that the applicant study the feasibility of co-locating at the newly constructed wireless facility located at 1471 Grove Avenue. The applicant claims that 1471 Grove Avenue is located farther north and east than AT&T deemed necessary to fill an existing service. In addition, the applicant claims that other AT&T sites that service the vicinity of Grove Avenue already exist. Staff also recommended locating on the Naval Landing Field (Ream Field). However, the applicant has stated that the Navy has not responded to a letter of inquiry from AT&T, and the delay in receiving a response from the Navy suggests that wireless facilities are not a priority or given much consideration by the Navy.

GENERAL PLAN/ZONING CONSISTENCY

The proposed development is subject to IBMC 19.90 - Wireless Communications Facilities, Ordinance 2002-983 and Ordinance 2003-997. The purpose of the chapter is to establish standards for the siting, development and maintenance of wireless communications facilities and antenna throughout the city. The chapter is also intended to protect and promote the public health, safety and welfare, as well as the aesthetic quality of the city as set forth in the goals, objectives and policies of the General Plan. The proposed development meets the Development and Design Standards as outlined in IBMC 19.90. The project is located in the C-3 (Neighborhood Commercial) Zone. The purpose of the C-3 Zone is to provide areas for business to meet local demand for commercial goods and services.

Standards	Provided/Proposed
The installation of wireless communications facilities may not reduce the number of required parking spaces on a proposed site.	No parking spaces will be removed. Two additional parking spaces will be provided.
Wireless communications facilities and accessory equipment must meet the required setbacks of the underlying zone, except that in a residential zone, the minimum setback for an antenna or equipment building from any property line is twenty feet.	There are no setbacks for the C-3 Zone.
Wireless communications facilities must meet the height requirement of the underlying zone, unless a greater height is approved through the conditional use permit.	There proposed height of the clock tower facility is 28 feet, meeting the maximum height limit of 28 feet in the C-3 zone.
A service provider with a wireless communications facility in the city must obtain a city business license.	This will be a condition of approval for the CUP.
The visual impact of wireless communications facilities must be minimized to the maximum extent feasible, taking into consideration technological requirements, through the use of placement, screening, camouflage, and landscaping, so that the facility is compatible with adjacent uses, existing architectural elements, topography, neighborhood landscaping, building materials, and other site characteristics.	The proposed antennae will be concealed inside of a clock tower stealth structure, not discernable as antenna. The associated equipment also will be concealed in the clock tower.
The colors and materials of wireless communications facilities must blend into their backgrounds.	The proposed clock tower facility and existing building will be painted to match and will provide aesthetic appeal to the existing commercial building.
Facade-mounted antennae must be integrated architecturally into the style/character of the structure to which they are attached; they must be painted and textured to match the existing structure; and they may not project more than eighteen inches from the face of the building or other support structure unless approved by a conditional use permit.	There are no proposed façade-mounted facilities.
Roof-mounted antennae may not exceed the minimum height necessary to serve the operator's service area, while complying with the building height requirements of this title; they must be designed to minimize their visibility from surrounding areas; and they must be painted and textured to match the existing structure or building.	There are no proposed roof-mounted facilities.
Freestanding facilities, including towers, lattice towers, and monopoles, are discouraged unless no reasonable alternative is possible. If a freestanding facility is necessary, it may not exceed the minimum functional height and width required to support the proposed wireless facility.	The proposed 28-foot clock tower structure is the desired functional height for the antennas.

Proposed freestanding facilities must be stealth facilities; they must be painted and designed to blend in with the surrounding area; and they must be landscaped, if necessary, to minimize visual impacts.	The proposed clock tower will be attached to an existing commercial building and should provide aesthetic appeal to the surrounding area.
Wireless facility support structures, such as equipment buildings, cabinets, cables, air conditioning units, and fencing, must be painted and textured to match the surrounding physical area and screened with landscaping in order to minimize visual impacts	The accessory equipment will locate within the proposed clock tower structure. Electric and telephone services are required to be extended to the project area via underground conduits.
No advertising signs may be placed on any facility or equipment.	There are no proposed advertising signs for the wireless facility.

SURROUNDING ZONING AND LAND USE

North: R-2000 (Medium-Density Residential)
 South: UR (Urban Reserve)
 East: C-3 (Neighborhood Commercial)
 West: R-2000 (Medium-Density Residential)

ENVIRONMENTAL STATUS:

This project may be categorically exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301(e) (Existing Facilities – Additions to existing structures).

COASTAL JURISDICTION:

This project is not located in the coastal zone as defined by the California Coastal Act of 1976.

FISCAL ANALYSIS:

The applicant has deposited \$6,500.00 in Project Account Number 080046 to fund the processing of this application.

DESIGN REVIEW BOARD (DRB) RECOMMENDATION:

On July 15, 2010, the Design Review Board recommended approval of the project as proposed (Four (4) Ayes, Zero (0) Noes, One (1) Absent) with the conditions that landscaping be provided in the western recessed arch area at the base of the clock tower, and that lighting be provided for the proposed sign (which was thought to be an unlit wooden sign). The applicant has addressed these conditions by provided landscaping in the western recessed arch area, and has modified the proposed sign so that it would be internally lit, while maintaining the colors, shape, and size of the sign reviewed by the Design Review Board.

DEPARTMENT RECOMMENDATION:

1. Open the public hearing and entertain testimony.
2. Close the public hearing.
3. Adopt Resolution No. 2010-6928, approving Conditional Use Permit (CUP 080046), Design Review Case (DRC 080047), and Site Plan Review (SPR 080048), which makes the necessary findings and provides conditions of approval in compliance with local and state requirements.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation.



Gary Brown
City Manager

Attachments:

1. Resolution No. 2010-6928
2. Plans
3. Photo Simulations
4. Coverage Map

c: file MF 992
Kerrigan Diehl/Shelly Kilbourn, Plancom, Inc., 302 State Place, Escondido, CA 92029
Emmanuel Daniel, 1221 Avocado Summit Drive, El Cajon, CA 92019

[Return to Agenda](#)

RESOLUTION NO. 2010-6928

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT (CUP 080046), DESIGN REVIEW CASE (DRC 080047), AND SITE PLAN REVIEW (SPR 080048) TO INSTALL A TELECOMMUNICATION FACILITY IN THE FORM OF A CLOCK TOWER ATTACHED TO AN EXISTING COMMERCIAL BUILDING LOCATED AT 1497 13th STREET (APN 633-223-47-00). MF 992.

APPLICANT: AT&T MOBILITY

WHEREAS, on September 1, 2010, the City Council of the City of Imperial Beach held a duly noticed public meeting to consider the merits of approving or denying an application for a Conditional Use Permit (CUP 080046), Design Review Case (DRC 080047), and Site Plan Review (SPR 080048) to install a telecommunication facility in the form of a clock tower attached to an existing commercial building located at 1497 13th Street (APN 633-223-47-00) in the C-3 (Neighborhood Commercial) Zone, a site legally described as follows:

Lot 12, Book 5 of Sea Breeze Gardens Unit No. 2, in the City of Imperial Beach, County of San Diego, State of California, according to Map thereof No. 2117, filed in the office of the County Recorder of San Diego County, July 2, 1928. Excepting therefrom the Easterly 100 Feet thereof; and

WHEREAS, on July 15, 2010, the Design Review Board adopted DRB Resolution No. 2010-04, with a vote of four (4) ayes, zero (0) noes, and one (1) absent, recommending conditional approval of the project design; and

WHEREAS, the project design of a telecommunication facility in the form of a clock tower attached to an existing commercial building is compatible in use and appearance with other structures in the vicinity because it would be hidden; and, therefore, would be consistent with Policy D-8 of the Design Element of the General Plan and with Ordinance Nos. 2002-983 and 2003-997; and,

WHEREAS, this project consisting of one stealth wireless facility structure complies with the Application Requirements of Section 19.90.050, the Development and Design Standards of Section 19.90.070 and will be required to comply with the Operations and Maintenance Standards of Section 19.90.080 of Chapter 19.90 "Wireless Communication Facilities" of the zoning ordinance; and

WHEREAS, the City Council of the City Of Imperial Beach hereby finds that necessity compels placement of this facility in this location to avoid a significant gap in wireless communications coverage; and

WHEREAS, the City Council of the City Of Imperial Beach hereby finds that the proposed conditions are consistent with the Federal Telecommunications Act of 1996; and

WHEREAS, this project complies with the requirements of the California Environmental Quality Act (CEQA) as this project shall be categorically exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities: Additions to existing structures); and

WHEREAS, the City Council further offers the following findings in support of its decision to conditionally approve the project:

CONDITIONAL USE PERMIT FINDINGS:

- 1. The proposed use at the particular location is necessary or desirable to provide a service or facility, which will contribute to the general well being of the neighborhood or community.**

The proposed wireless telecommunication facility at 1497 13th Street will provide expanded communication services to the City of Imperial Beach commercial and residential development, avoiding gaps in wireless communications coverage and therefore contribute to the general well being of the neighborhood or community. The structure will be disguised as a clock tower attached to an existing commercial building. The project is subject to Chapter 19.90, "Wireless Communications Facilities," Ordinance No. 2002-983 and Ordinance No. 2003-997, which establishes the standards for siting, development and maintenance of wireless communications facilities and antenna throughout the city.

- 2. The proposed use will not, under any circumstances, of the particular use, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.**

The proposed development, installation of a telecommunications facility concealed in a clock tower attached to an existing commercial building at 1497 13th Street, will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity as it will be required to comply with Chapter 19.90, "Wireless Communications Facilities," which is to provide for the public safety, health and welfare, as well as for the aesthetic quality as set forth in the goals, objectives and policies of the General Plan. In the Conditions of Approval, specific conditions have been set forth by the Community Development Department and the Public Works Department to mitigate the concerns such a development project may create. The 1996 Federal Telecommunications Act preempts local jurisdictions from addressing any health effects of the facilities.

- 3. The proposed use will comply with the regulations and conditions specified in the title for such use and for other permitted uses in the same zone.**

The proposed use will comply with the regulations and conditions specified in the title for such use and for other permitted uses for wireless communication facilities (Chapter 19.90). Compliance is demonstrated by the following:

Standards	Provided/Proposed
The installation of wireless communications facilities may not reduce the number of required parking spaces on a proposed site.	No parking spaces will be removed. Two additional parking spaces will be provided.
Wireless communications facilities and accessory equipment must meet the required setbacks of the underlying zone, except that in a residential zone, the minimum setback for an antenna or equipment building from any property line is twenty feet.	There are no setbacks for the C-3 Zone.

<p>Wireless communications facilities must meet the height requirement of the underlying zone, unless a greater height is approved through the conditional use permit.</p>	<p>There proposed height of the clock tower facility is 28 feet, meeting the maximum height limit of 28 feet in the C-3 zone.</p>
<p>A service provider with a wireless communications facility in the city must obtain a city business license.</p>	<p>This will be a condition of approval for the CUP.</p>
<p>The visual impact of wireless communications facilities must be minimized to the maximum extent feasible, taking into consideration technological requirements, through the use of placement, screening, camouflage, and landscaping, so that the facility is compatible with adjacent uses, existing architectural elements, topography, neighborhood landscaping, building materials, and other site characteristics.</p>	<p>The proposed antennae will be concealed inside of a clock tower stealth structure, not discernable as antenna. The associated equipment also will be concealed in the clock tower.</p>
<p>The colors and materials of wireless communications facilities must blend into their backgrounds.</p>	<p>The proposed clock tower facility and existing building will be painted to match and will provide aesthetic appeal to the existing commercial building.</p>
<p>Facade-mounted antennae must be integrated architecturally into the style/character of the structure to which they are attached; they must be painted and textured to match the existing structure; and they may not project more than eighteen inches from the face of the building or other support structure unless approved by a conditional use permit.</p>	<p>There are no proposed façade-mounted facilities.</p>
<p>Roof-mounted antennae may not exceed the minimum height necessary to serve the operator's service area, while complying with the building height requirements of this title; they must be designed to minimize their visibility from surrounding areas; and they must be painted and textured to match the existing structure or building.</p>	<p>There are no proposed roof-mounted facilities.</p>
<p>Freestanding facilities, including towers, lattice towers, and monopoles, are discouraged unless no reasonable alternative is possible. If a freestanding facility is necessary, it may not exceed the minimum functional height and width required to support the proposed wireless facility.</p>	<p>The proposed 28-foot tall clock tower structure is the desired functional height for the antennas.</p>
<p>Proposed freestanding facilities must be stealth facilities; they must be painted and designed to blend in with the surrounding area; and they must be landscaped, if necessary, to minimize visual impacts.</p>	<p>The proposed clock tower will be attached to an existing commercial building and should provide aesthetic appeal to the surrounding area.</p>

Wireless facility support structures, such as equipment buildings, cabinets, cables, air conditioning units, and fencing, must be painted and textured to match the surrounding physical area and screened with landscaping in order to minimize visual impacts	The accessory equipment will locate within the proposed clock tower structure. Electric and telephone services are required to be extended to the project area via underground conduits.
No advertising signs may be placed on any facility or equipment.	There are no proposed advertising signs for the wireless facility.

4. The granting of such conditional use permit will be in harmony with the purpose and intent of this code, the adopted general plan and the adopted local coastal program.

The granting of the conditional use permit to install a telecommunication facility concealed in a stealth structure at 1497 13th Street, will be in harmony with the purpose and intent of the zoning code (Chapter 19.90) and with the adopted general plan as the potential visual impacts of the proposal have been mitigated by design; i.e. the antennas and equipment shall be located within a stealth clock tower structure attached to an existing commercial building.

NOW, THEREFORE, BE IT RESOLVED that Conditional Use Permit (CUP 080046), Design Review Case (DRC 080047), and Site Plan Review (SPR 080048) to install a telecommunication facility (clock tower structure) located at 1497 13th Street (APN 633-223-47-00) in the C-3 (Neighborhood Commercial) Zone is hereby **approved** by the City Council of the City of Imperial Beach subject to the following:

CONDITIONS OF APPROVAL

PLANNING

1. Final building plans and project development shall be in substantial accordance with the approved plans dated August 2, 2010 and photosimulations dated August 19, 2010, on file in the Community Development Department and with the conditions required herein.
2. All notes on plans shall reference City of Imperial Beach codes and regulations.
3. Applicant shall provide documentation certifying that all licenses and other approvals required by the Federal Communications Commission and, if necessary, the California Public Utilities Commission, have been obtained for the proposed site prior to issuance of building permits.
4. Antennae and associated equipment are to be located entirely inside the clock tower structure, and shall be hidden.
5. The existing building and clock tower shall provide an architectural theme executed on all exterior surfaces. The façade of existing building shall be improved, wherever necessary, to match the new addition of the clock tower facility to provide a cohesive aesthetic appearance.

6. The two driveway approaches must be improved to meet accessibility requirements (see condition 25). Approximately five-feet of property adjacent to the two driveway approaches shall be dedicated to the City/public right-of-way. Dedication shall take place prior to issuance of building permits. The applicant and/or property owner shall provide all necessary documentation and associated materials to process the dedication.
7. Driving areas and parking spaces shall be re-surfaced and/or re-striped to meet minimum standards with approved materials wherever necessary.
8. Landscaping shall be drought tolerant (xeriscape).
9. Drainage shall flow to landscaping and be maintained on site.
10. New and existing landscaping throughout the property and public right-of-way shall be permanently maintained by the applicant and/or property owner.
11. Clock shall remain functional and permanently maintained.
12. Outdoor sales and displays shall be removed from the property.
13. Project shall comply with all wireless facility operation and maintenance standards stated in Imperial Beach Municipal Code 19.90.080, which are as follows:
 - Air conditioning units and noise-generating equipment must comply with the noise standards in Chapter 19.32;
 - In residential zones, security lighting must be operated with a timing device and shielded to limit light exposure on neighboring properties;
 - Wireless communications facilities and related equipment must be maintained in good condition, free from trash, debris, graffiti and all other forms of vandalism. Any damaged wireless communications facilities or equipment must be repaired as soon as reasonably possible, so as to minimize dangerous conditions and visual blight;
 - Landscaping elements of a wireless communications facility must be maintained in good condition. Damaged, dead or decaying landscaping must be replaced as promptly as possible;
 - In residential zones, routine equipment maintenance may only be conducted between eight a.m. and five p.m., Monday through Friday. In all other zones, routine maintenance may be conducted at any time;
 - Emergency maintenance may only be conducted during power outages or equipment failure;
 - In residential zones, non-emergency visits for scheduled upgrades, other than as described in subsection E of this section, require seventy-two-hour notice to the City and adjacent neighbors. No more than one scheduled upgrade is permitted every twelve months;
 - A statement that the wireless communications facility conforms with the current FCC safe-exposure standards must be submitted annually to the director of community development. (Ord. 2002-983 § 30 (part), 2002).

14. Appropriate BMP's shall be in place during any maintenance of base station equipment to prevent any materials to enter storm drain conveyance system.
15. Project shall provide for co-location for a separate provider, if possible.
16. Noise from the equipment shall not have a negative effect on the existing neighborhood. If the facility receives any noise complaints, the applicant shall investigate said complaint and mitigate any issues to meet Imperial Beach Municipal Code noise requirements.
17. Any electric and telephone services shall be connected via underground conduits extended to the project area.
18. Applicant and/or service provider shall obtain a city business license prior to issuance of building permit.
19. Approval of this request shall not waive compliance with any portion of the Building Code and Municipal Code in effect at the time a building permit is issued.
20. All negative balances in the project account (080046) shall be paid prior to building permit issuance and final inspection.
21. Approval of Conditional Use Permit (CUP 080046), Design Review Case (DRC 080047), and Site Plan Review (SPR 080048) for this project is valid for a one-year **vesting** period from the date of approval, to **expire** on **September 1, 2011**. Conditions of approval must be satisfied, building permits issued, and substantial construction must have commenced prior to this date, or a time extension is granted by the City prior to expiration. This expiration date is separate from the sunset expiration date of 10 years for the life of the conditional use permit.
22. The applicant or applicant's representative shall read, understand, and accept the conditions listed herein and shall, within 30 days, return a signed statement accepting said conditions.
23. Conditional use permits for wireless communication facilities have a maximum term of ten (10) years, with an automatic review in five (5) years at a public hearing (IBMC 19.90.090). The applicant will be required to renew the Conditional Use Permit (CUP 100026) prior to the **expiration** date, **September 1, 2011**, in accordance with Chapter 19.82.

PUBLIC WORKS

24. No building roof or landscape water drains may be piped to the street or onto impervious surfaces that lead to the street. A design that has these water discharges directly into the storm drain conveyance system (onto an impervious surface that flows to the street) is in violation of the Municipal Storm Water Permit - Order 2001-01.

25. Reconstruct driveway approaches on 13th Street and Iris Avenue as necessary to comply with Regional Standard Drawing G-14A (Driveway approach with sidewalk contiguous with curb). Sidewalk cuts must coincide with the existing sidewalk 5-foot sections. A sidewalk section cannot be cut into smaller sections. Likewise the Curb & Gutter cut for the driveway, must not leave an existing curb and gutter section less than 9 feet in length. **(Note: the construction of the G-14A ADA compliant driveway approaches will require the dedication of approximately 5-feet of property adjacent to the driveway approach.)**
26. Damaged curb and gutter adjacent to driveway approach on Iris Avenue shall be repaired in addition to the reconstruction of the driveway approach.
27. For alley, sidewalk or curb & gutter replacement ensure compliance with San Diego Regional Standard Drawing G-11 in that, the "Area to be removed [must be] 5' or from joint to joint in panel, whichever is less." The distance between joints or score marks must be a minimum of 5-feet. Where the distance from "Area to be removed", to existing joint, edge or score mark is less than the minimum shown, "Area to be removed" shall be extended to that joint, edge or score mark.
28. For any work to be performed in the street or alley, submit a traffic control plan for approval by Public Works Director a minimum of 5 working days in advance of street work. Traffic control plan is to be per Regional Standard Drawings or CALTRANS Traffic Control Manual.
29. All street work construction requires a Class A contractor to perform the work. All pavement transitions shall be free of tripping hazards. Street repairs must achieve 95% sub soil compaction. Asphalt repair must be a minimum of four (4) inches thick asphalt placed in the street trench. Asphalt shall be AR4000 ½ mix (hot).
30. For any project that proposes work within the public right-of-way (i.e., driveway removal/construction, sidewalk removal/construction, street or alley demolition/reconstruction, landscaping and irrigation, fences, walls within the public right-of-way, etc.), a Temporary Encroachment Permit (TEP) shall be applied for and approved either prior to or concurrent with issuance of the building permit required for the project. Application for a Temporary Encroachment Permit shall be made on forms available at the Community Development Department Counter.
31. Construct trash or refuse enclosure and a recycling enclosure to comply with IBMC 19.74.090. Trash and recycling enclosures it to be enclosed by a six-foot high masonry wall and gate. The minimum size refuse enclosure shall be 6' by 9' and the minimum recycling enclosure shall be 4' by 8'.
32. Any disposal/transportation of solid waste / construction waste in roll off containers must be contracted through the City's waste management provider unless the hauling capability exists integral to the prime contractor performing the work.
33. The existing parcel impervious surfaces are required to not increase beyond the current impervious services as a post-installation condition in order to maximize the water runoff infiltration area on the parcel in compliance with Municipal Storm Water Permit – Order R9 - 2007-01. All landscape areas, including grass and mulch areas, must be improved to consist of at least 12-inches of loamy soil in order to maximize the water absorption during wet weather condition and minimize irrigation runoff.

34. Install survey monuments on southeast and northwest property lines in or adjacent to the sidewalk. Record same with county office of records.
35. In accordance with I.B.M.C. 12.32.120, applicant must place and maintain warning lights and barriers at each end of the work, and at no more than 50 feet apart along the side thereof from sunset of each day until sunrise of the following day, until the work is entirely completed. Barriers shall be placed and maintained not less than three feet high.
36. Require applicant to provide verification of post construction Best Management Practice (BMP) maintenance provisions through a legal agreement, covenant, CEQA mitigation requirement, and / or Conditional Use Permit. Agreement is provided through the Community Development Department.
37. Property owner must institute "Best Management Practices" to prevent contamination of storm drains, ground water and receiving waters during both construction and post construction. The property owner or applicant BMP practices shall include but are not limited to:
 - Contain all construction water used in conjunction with the construction. Contained construction water is to be properly disposed in accordance with Federal, State, and City statutes, regulations and ordinances.
 - All recyclable construction waste must be properly recycled and not disposed in the landfill.
 - Water used on site must be prevented from entering the storm drain conveyance system (i.e. streets, gutters, alley, storm drain ditches, storm drain pipes).
 - All wastewater resulting from cleaning construction tools and equipment must be contained on site and properly disposed in accordance with Federal, State, and City statutes, regulations, and ordinances.
 - Erosion control - All sediment on the construction site must be contained on the construction site and not permitted to enter the storm drain conveyance system. Applicant is to cover disturbed and exposed soil areas of the project with plastic-like material (or equivalent product) to prevent sediment removal into the storm drain system.
38. Applicant shall underground utilities to this installation. I.B.M.C. 13.08.060.C applies.

APPEAL PROCESS UNDER THE CALIFORNIA CODE OF CIVIL PROCEDURE (CCP): The time within which judicial review of a City Council decision must be sought is governed by Section 1094.6 of the CCP. A right to appeal a City Council decision is governed by CCP Section 1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

PROTEST PROVISION: The 90-day period in which any party may file a protest, pursuant to Government Code Section 66020, of the fees, dedications or exactions imposed on this development project begins on the date of the final decision.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its regular meeting held on the 1st day of September 2010, by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

JIM JANNEY, MAYOR

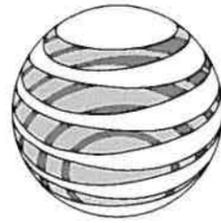
ATTEST:

JACQUELINE M. HALD, CMC
CITY CLERK

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and exact copy of Resolution No. 2010-6928 - A Resolution of the City Council of the City of Imperial Beach, California, CONDITIONAL USE PERMIT (CUP 080046), DESIGN REVIEW CASE (DRC 080047), AND SITE PLAN REVIEW (SPR 080048) TO INSTALL A TELECOMMUNICATION FACILITY IN THE FORM OF A CLOCK TOWER ATTACHED TO AN EXISTING COMMERCIAL BUILDING LOCATED AT 1497 13th STREET (APN 633-223-47-00). MF 992.

CITY CLERK

DATE



at&t

SS0049 NAVAL AUXILLARY LANDING FIELD

1497 13TH AVE
IMPERIAL BEACH, CA 91932

ARCHITECT



DI DONATO ASSOCIATES
ARCHITECTURE + GRAPHICS
3835 FIRST AVENUE, SUITE 100 - SAN DIEGO - CA 92103
619.299.4210 - 619.299.4250 FAX - DDONATO@AOL.COM

PROJECT NAME

SS0049
NAVAL AUXILLARY LANDING FIELD
1497 13TH STREET, IMPERIAL BEACH, CA 92113

ISSUES REVISIONS

DATE	BY	ISSUE DESCRIPTION
07-23-08	CMS	ISSUE FOR REVIEW
08-08-08	CMS	ISSUE FOR SUBMIT
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08-01-09	CMS	REVISED PER COMMENTS
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05-26-10	CMS	REVISED PER PLANNING COMMENTS
06-28-10	CMS	REVISED PER PLANNING COMMENTS
08-02-10	CMS	REVISED PER PLANNING COMMENTS

SHEET INFORMATION

DI DONATO ASSOCIATES
ARCHITECTURE + GRAPHICS
T01
TITLE SHEET
SS0049

0801.16
PLOT SCALE 1 : 1/24x36 (1' SIZE)

- DRIVING DIRECTIONS FROM AT&T WIRELESS OFFICE:
- FROM MIRA MESA BLVD. MERGE ONTO 1-15 SOUTH
 - CONTINUE ON CA-15 SOUTH
 - MERGE ON TO 1-5 SOUTH
 - TAKE EXIT 4 FOR CORONADO AVE
 - TURN RIGHT AT CORONADO AVE
 - TURN LEFT AT 13TH ST

PROJECT APPLICANT:
AT&T WIRELESS
6925 LUSK BLVD
SAN DIEGO, CA 92121

CONSTRUCTION MANAGER:
JUDE MARTINEZ
BLACK AND VEATCH
9820 WILLOW CREEK ROAD,
SUITE 310
SAN DIEGO, CA 92131

PROPERTY OWNER:
EMMANUEL DANIEL
1221 AVOCADO SUMMIT
EL CAJON, CA 92019
PHONE: 858.679.4230

ARCHITECT:
DI DONATO ASSOCIATES
3835 FIRST AVE, SUITE 100
SAN DIEGO, CA 92103
619.299.4210 PHONE
619.299.4250 FAX
ddonato@aol.com

PLANNING REPRESENTATIVE:
DARRELL DAUGHERTY
PLANCOM INC.
302 STATE PLACE
ESCONDIDO, CA 92029
619-917-8703 PHONE

SITE ACQUISITION:
SHELLY KILBOURN
PLANCOM INC.
302 STATE PLACE
ESCONDIDO, CA 92029
619-208-4685

R.F. ENGINEERING REPRESENTATIVE:
RAVI JINDAL
5738 PACIFIC CENTER BLVD.
SAN DIEGO, CA 92121
619-699-9254

PROJECT DESCRIPTION:
THE PROJECT CONSISTS OF THE INSTALLATION AND OPERATION OF (12) TWELVE PANEL ANTENNAS AND ASSOCIATED EQUIPMENT CABINETS FOR AT&T WIRELESS TELECOMMUNICATIONS NETWORK.

A TOTAL OF (12) TWELVE ANTENNAS ARE TO BE MOUNTED INSIDE A PROPOSED RF FRIENDLY TOWER ATTACHED TO AN EXISTING BUILDING. THE INDOOR EQUIPMENT CABINETS, ARE TO BE LOCATED INSIDE A PROPOSED TOWER.

THE FACILITY WILL ENHANCE THE GENERAL HEALTH, SAFETY, AND WELFARE OF THE COUNTY AND SURROUNDING CITIES BY PROVIDING MORE RELIABLE CELLULAR COMMUNICATION AT THIS LOCATION.

NOTE: NO EXISTING CARRIERS.

- T01 TITLE SHEET
- Z01 SITE PLAN
- Z02 AREA PLAN
- Z03 ELEVATIONS
- Z04 ELEVATIONS
- Z05 DETAILS

SITE ADDRESS:
1497 13TH AVE
IMPERIAL BEACH, CA 91932

JURISDICTION:
CITY OF IMPERIAL BEACH

ASSESSOR'S PARCEL NUMBER:
633-223-47-00

CURRENT USE:
RETAIL STORE

LATITUDE:
32°34'09.88" N

EXISTING OCCUPANCY:
M

LONGITUDE:
117°06'19.39" W

PROPOSED OCCUPANCY:
N/A

TOTAL SITE AREA:
±0.20 ACRES PER
SAN DIEGO COUNTY ASSESSOR

WATER/SEWAGE:
N/A

EXISTING FLOOR AREA:
1,378 SF

UTILITIES:
ELECTRICAL: SDG&E
TELEPHONE: AT&T
FIRE DEPT.: CITY OF SAN DIEGO

PROPOSED PROJECT AREA:
APPROX. 400 SF

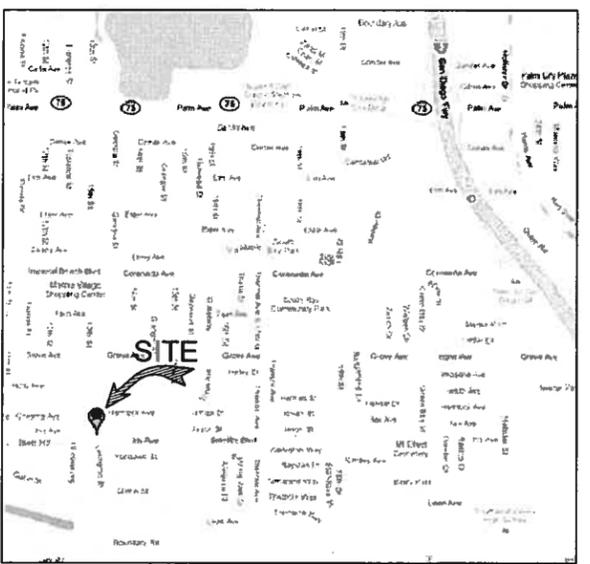
EXISTING TYPE OF CONSTRUCTION:
TYPE V-B UNSPRINKLERED

PROPOSED TYPE OF CONSTRUCTION:
TYPE V-B

EXISTING ZONING:
C-3 COMMERCIAL

ALL WORK SHALL COMPLY WITH THE FOLLOW APPLICABLE CODES:
CALIFORNIA BUILDING CODE, 2007 EDITION
CALIFORNIA PLUMBING CODE, 2007 EDITION
CALIFORNIA MECHANICAL CODE, 2007 EDITION
CALIFORNIA ELECTRICAL CODE, 2007 EDITION
CALIFORNIA FIRE CODE, 2007 EDITION

IN THE EVENT OF CONFLICT, THE MOST RESTRICTIVE CODE SHALL PREVAIL



THOMAS BROTHER'S MAP #1349-H2 ©2008 GOOGLE - MAP DATA ©NAVTEQ

VICINITY MAP

(PENDING RECEIPT OF TITLE REPORT)

A PORTION OF LOT 12 OF SEABREEZE GARDENS CONDOMINIUMS MAP NO. 15003, IN THE CITY OF IMPERIAL BEACH, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AS SHOWN ON SAID MAP, RECORDED IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

LEGAL DESCRIPTION

CONTACTS

#	TYPE OF INSPECTION	DESIGN STRENGTH

SPECIAL INSPECTIONS

PROJECT INFORMATION

FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. WIRELESS TELECOMMUNICATIONS MECHANICAL EQUIPMENT ROOMS ARE EXEMPT FROM REQUIREMENTS TO PROVIDE BUILDING UPGRADES FOR DISABLED ACCESS PER THE FOLLOWING:

CBC SECTION 1105B-BUILDING ACCESSIBILITY
CAL ACS ACCESSIBILITY STANDARDS INTERPRETIVE MANUAL

ADA COMPLIANCE

SHEET INDEX

CONSTRUCTION REPRESENTATIVE	
SITE ACQUISITION	
R.F. ENGINEERING REPRESENTATIVE	
PLANNING REPRESENTATIVE	
AT&T REPRESENTATIVE	
LANDLORD	
OM-E911	

APPROVALS

1

2

3

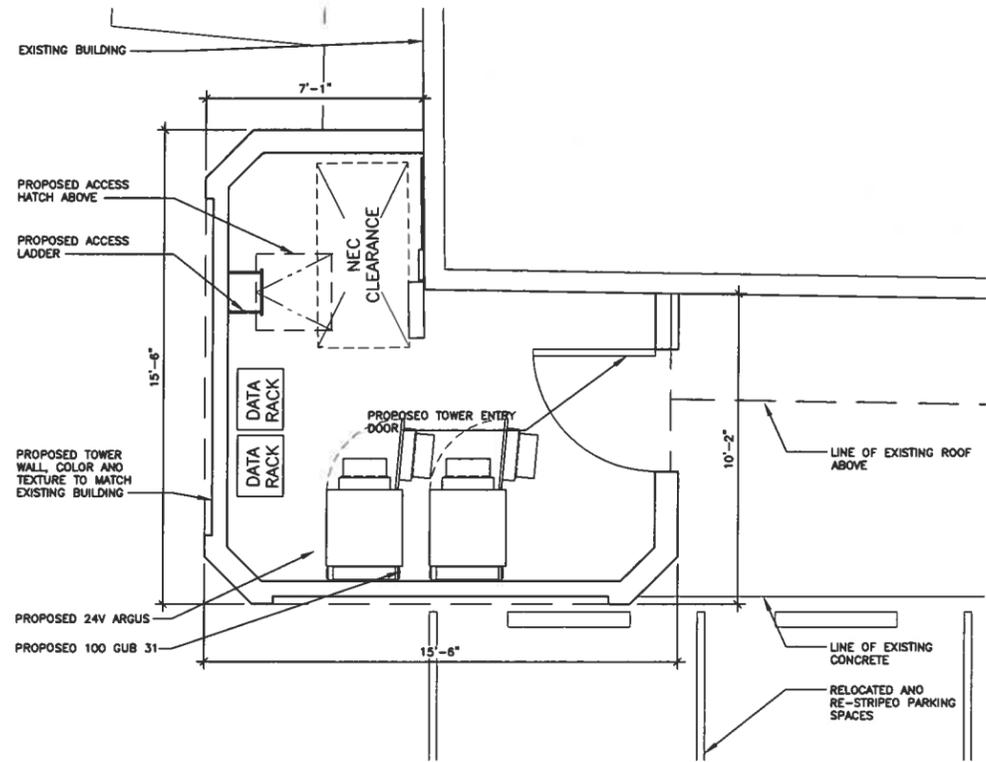
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5

6

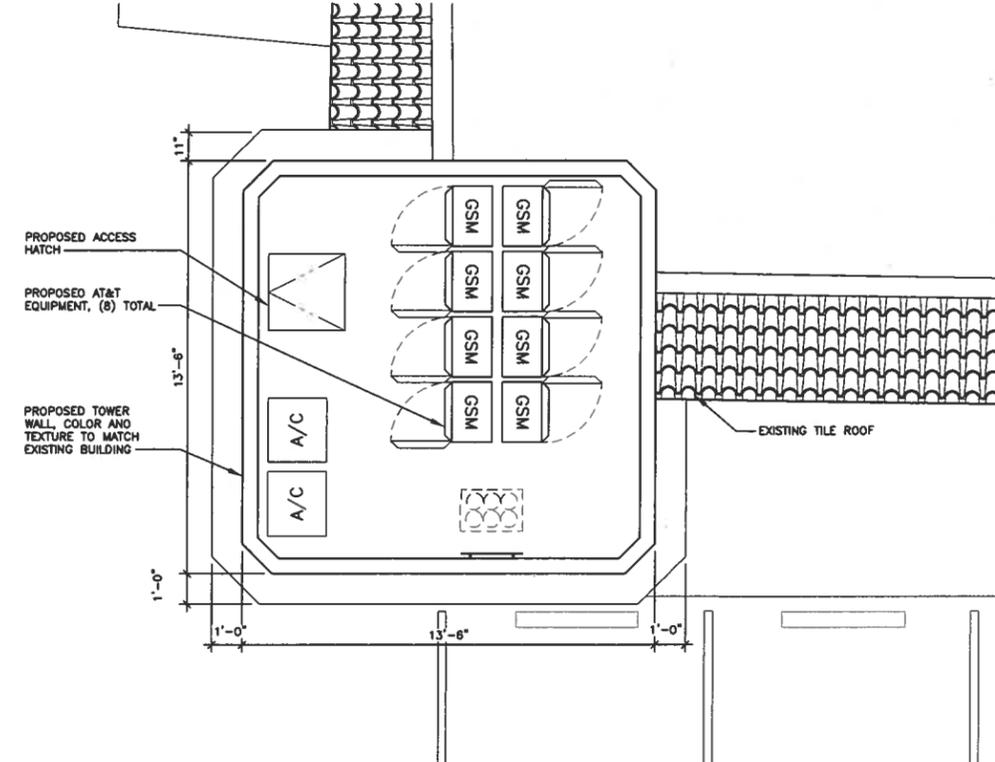
7

8



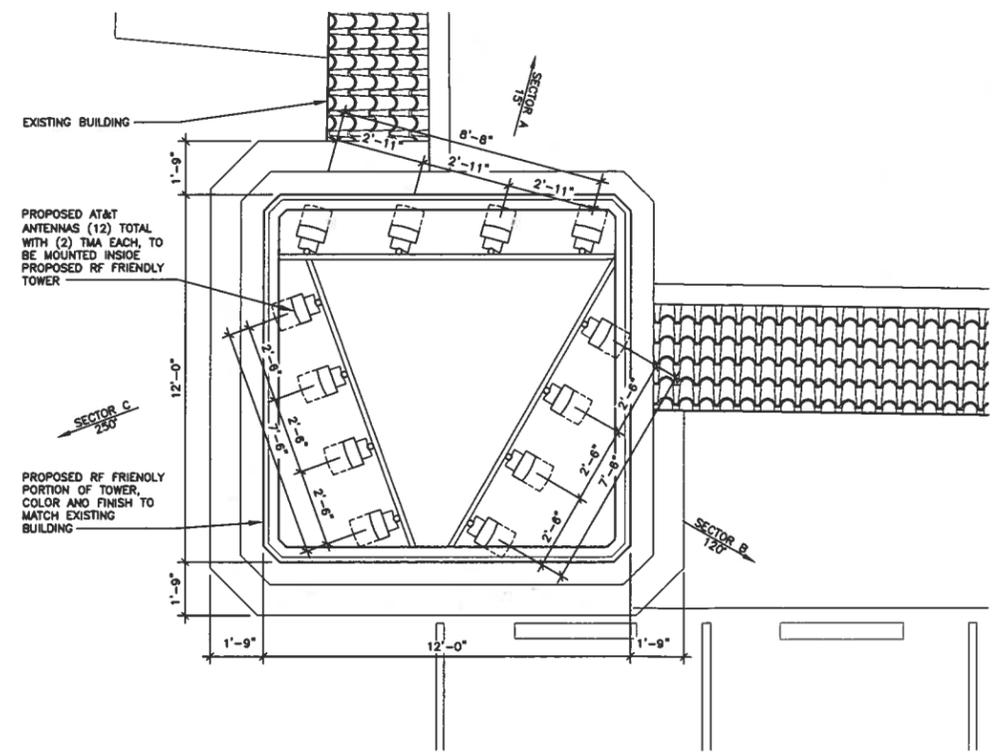
AREA PLAN AT PARKING LOT
3/8"=1'-0"

1



AREA PLAN AT EQUIPMENT
3/8"=1'-0"

2



AREA PLAN AT ANTENNAS
3/8"=1'-0"

3



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PROJECT NAME

SS0049
NAVAL AUXILIARY LANDING FIELD
1497 13TH STREET, IMPERIAL BEACH, CA 92113



ISSUES REVISIONS

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08-14-08	CMS	ISSUED PER REDLINES
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08-02-10	CMS	REVISED PER PLANNING COMMENTS

SHEET INFORMATION

DI DONATO ASSOCIATES
ARCHITECTURE + GRAPHICS

Z02
AREA PLAN

0801.18
PLOT SCALE 1:1 (24x36" D SIZE)

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PROJECT NAME

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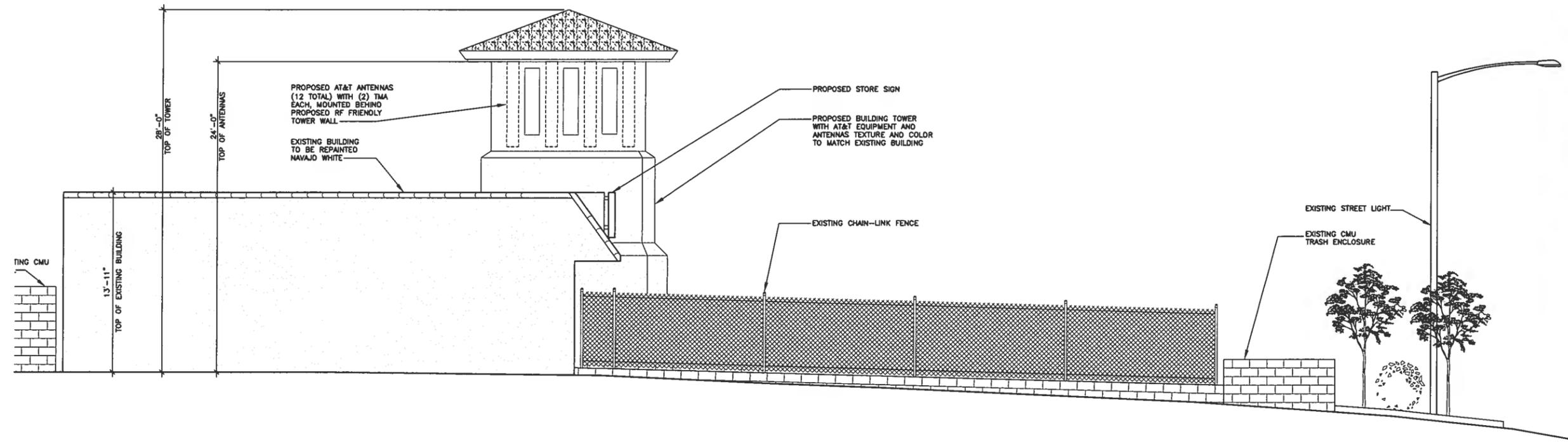
SHEET INFORMATION

DI DONATO ASSOCIATES
ARCHITECTURE + GRAPHICS

Z03
ELEVATIONS

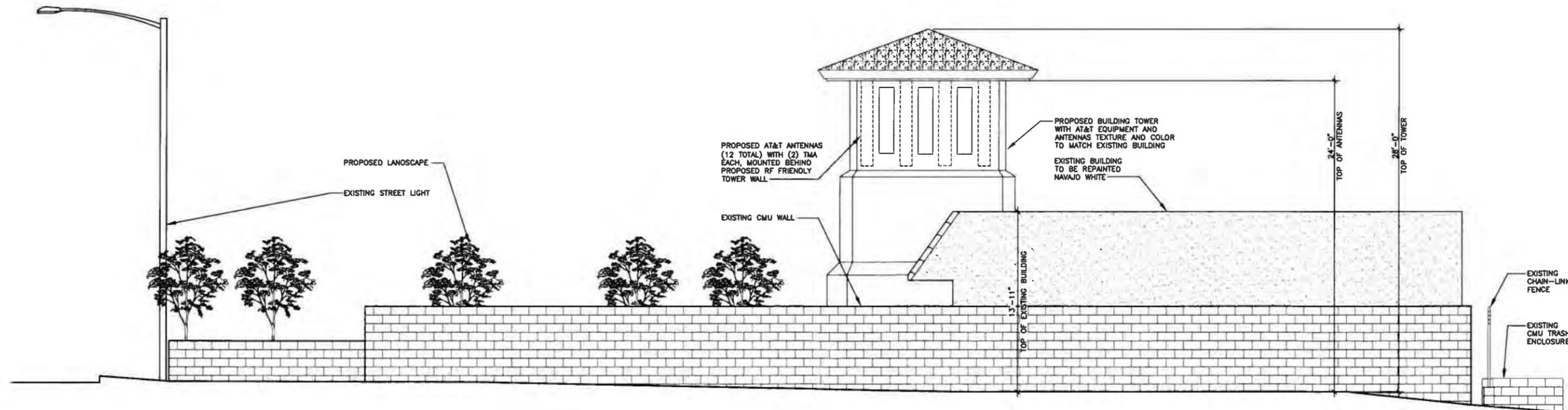
0801.18
PLOT SCALE 1/4" (24x36" D SIZE)

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NORTH ELEVATION
1/4"=1'-0"

1



EAST ELEVATION
1/4"=1'-0"

2



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PROJECT NAME

SS0049
NAVAL AUXILIARY LANDING FIELD
1497 13TH STREET, IMPERIAL BEACH, CA 92113



ISSUES REVISIONS

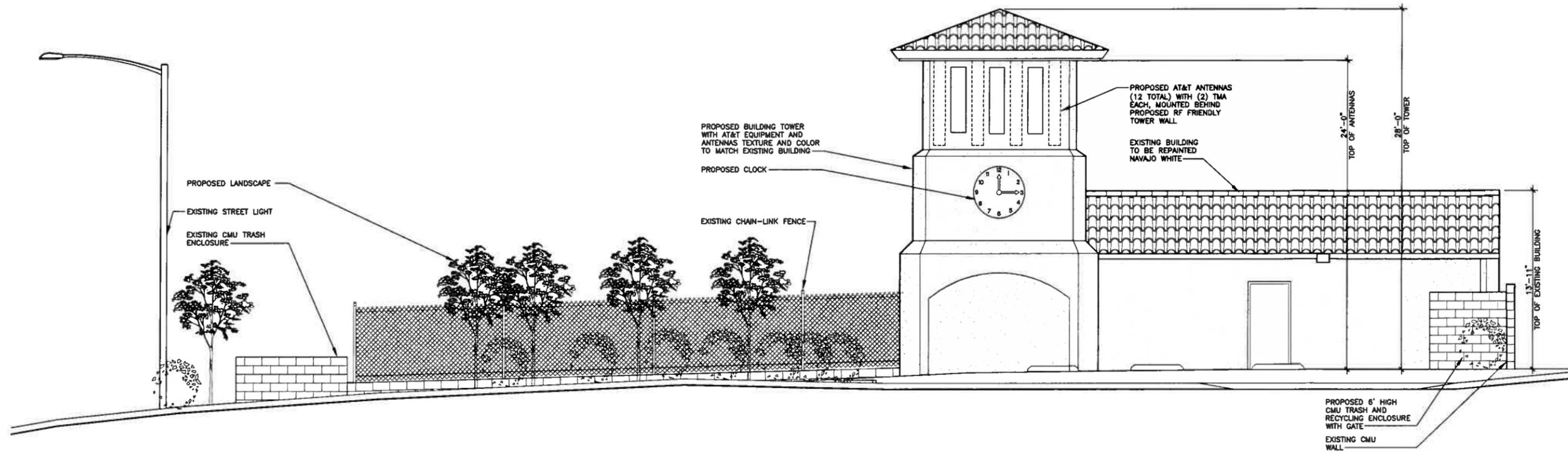
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08-02-10	CMS	REVISED PER PLANNING COMMENTS

SHEET INFORMATION

DI DONATO ASSOCIATES
ARCHITECTURE + GRAPHICS

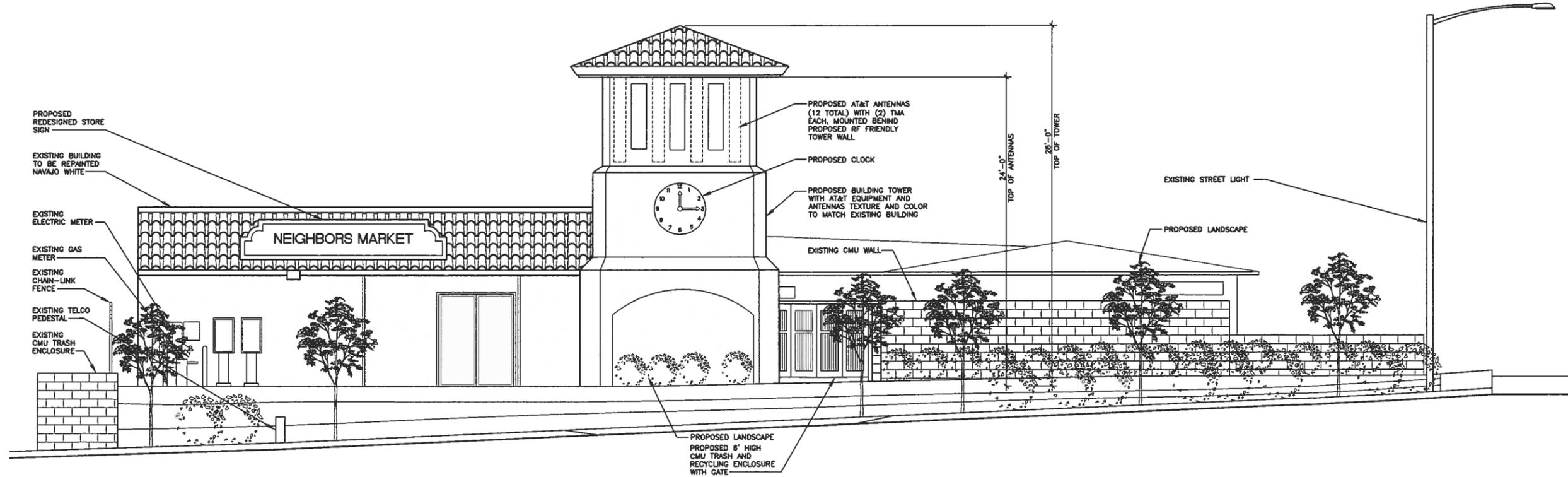
Z04
ELEVATIONS

0801.16
PLOT SCALE 1" = 1' (24x36" D SIZE)



SOUTH ELEVATION
1/4" = 1'-0"

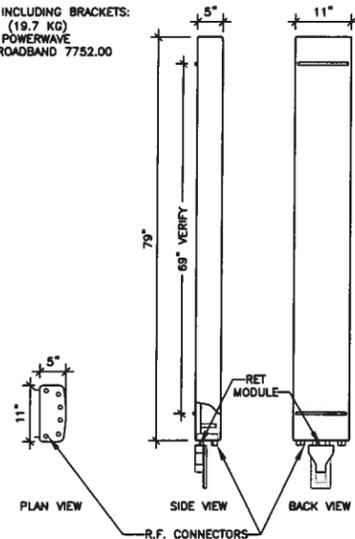
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WEST ELEVATION
1/4" = 1'-0"

2

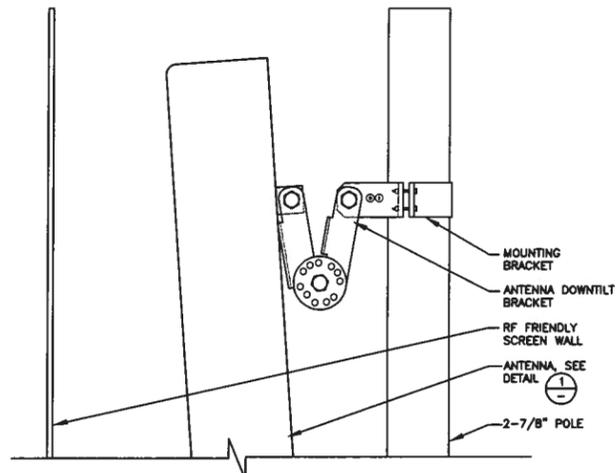
WEIGHT INCLUDING BRACKETS:
44 LBS. (19.7 KG)
MODEL: POWERWAVE
DUAL BROADBAND 7752.00



ANTENNA DETAIL

3/4" = 1'-0"

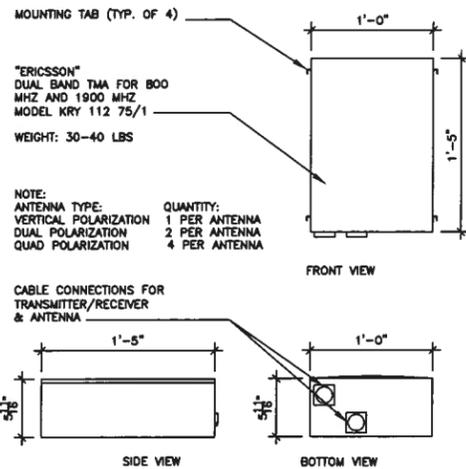
1



ANTENNA MOUNT

3" = 1'-0"

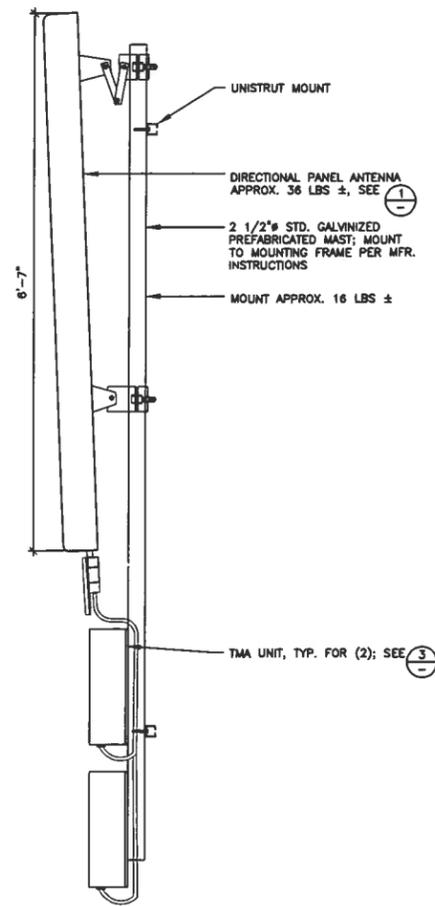
2



TMA UNIT

1 1/2" = 1'-0"

3



ANTENNA MOUNTING DETAIL

1" = 1'-0"

4



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PROJECT NAME

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1497 13TH STREET, IMPERIAL BEACH, CA 92113



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08-02-10	CMS	REVISED PER PLANNING COMMENTS

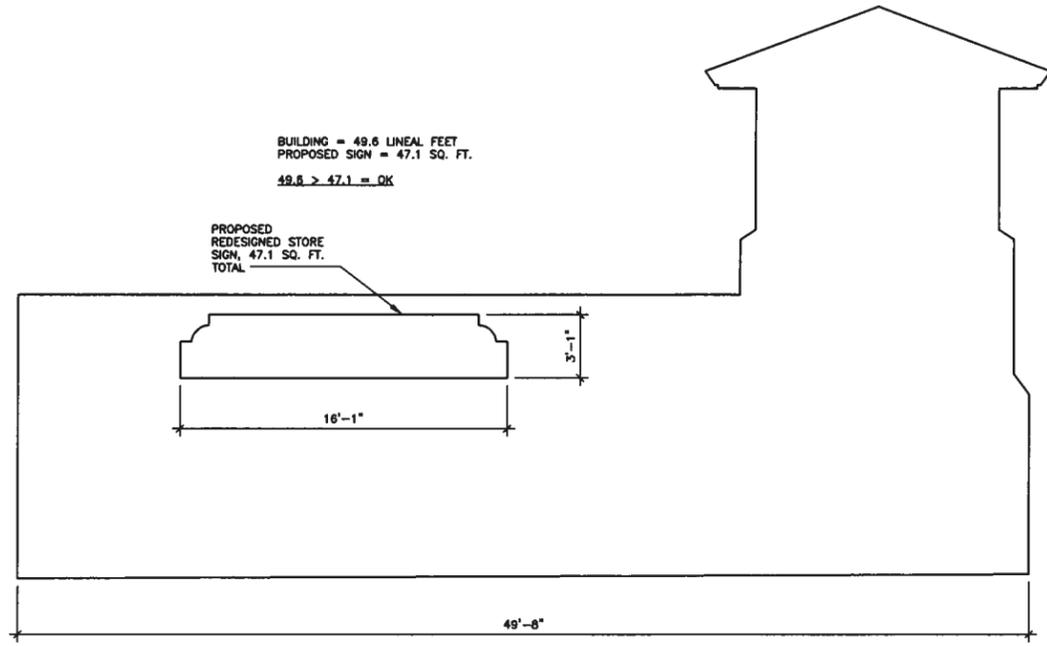
SHEET INFORMATION

DI DONATO ASSOCIATES
ARCHITECTURE + GRAPHICS

Z05

ANTENNA DETAILS

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WEST ELEVATION
1/4"=1'-0"

1

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ARCHITECT



DI DONATO ASSOCIATES
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619.298.4210 - 619.298.4250 FAX - DONA@D&A.COM

PROJECT NAME

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1487 13TH STREET, IMPERIAL BEACH, CA 92113



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08-08-08	CMS	ISSUE FOR SUBMIT
08-09-08	CMS	ISSUE FOR REVIEW
08-11-08	CMS	ISSUE FOR SUBMIT
08-18-08	CMS	REVISED PER RETLINES
08-01-09	CMS	REVISED PER COMMENTS
01-25-10	CMS	REVISED PER COMMENTS
02-12-10	CMS	REVISED PER BUILDING DEPARTMENT COMMENTS
05-28-10	CMS	REVISED PER BUILDING DEPARTMENT COMMENTS
06-28-10	CMS	REVISED PER PLANNING COMMENTS
08-02-10	CMS	REVISED PER PLANNING COMMENTS

SHEET INFORMATION

DI DONATO ASSOCIATES
ARCHITECTURE + GRAPHICS

Z06
SIGNAGE PLAN

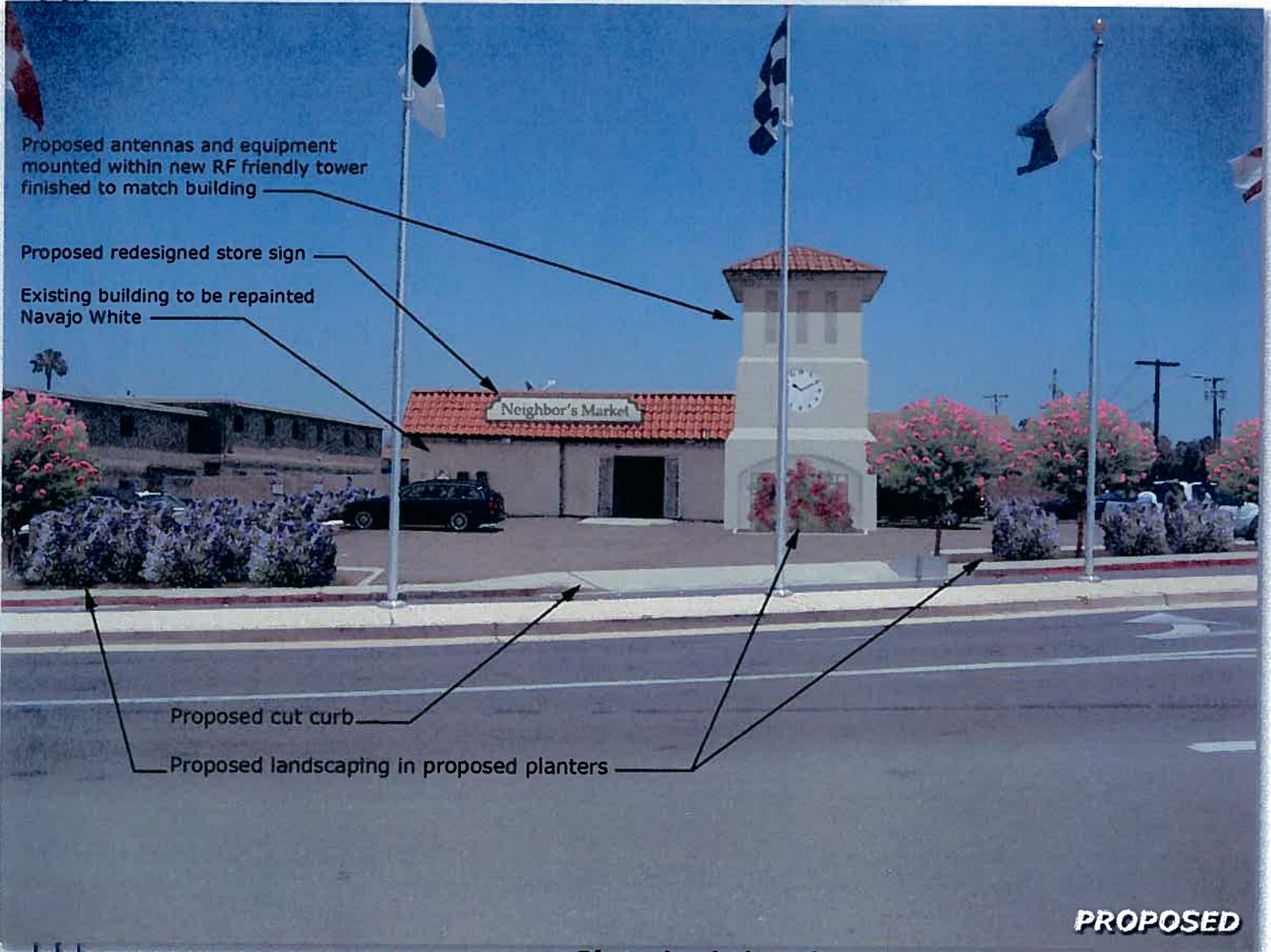
0801.16
PLOT SCALE 1 : 1 (24x36 "D" SIZE)

EXISTING



SD0049
Naval Auxillary
Landing Field
1497 13th Ave
Imperial Beach, CA
91932

ATTACHMENT 3



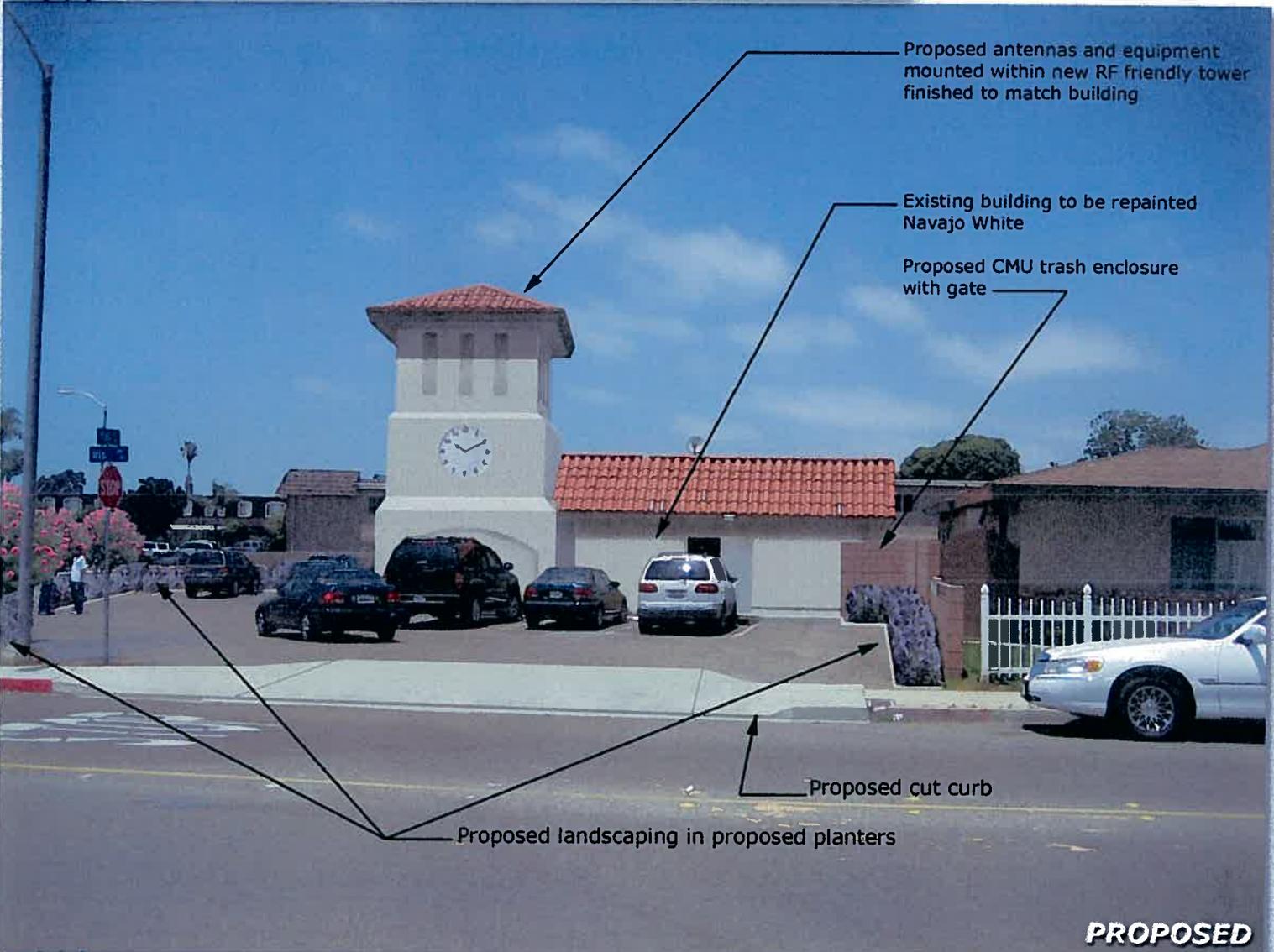
PROPOSED

Photosimulation of proposed telecommunications site

EXISTING



SD0049
Naval Auxillary
Landing Field
1497 13th Ave
Imperial Beach, CA
91932



PROPOSED

Photosimulation of proposed telecommunications site



SD0049
Naval Auxillary Landing Field
1497 13th Ave
Imperial Beach, CA 91932

ATTACHMENT 4



Existing coverage



Proposed coverage

Coverage Levels:

-  Excellent
-  Variable
-  Poor
-  No Coverage



AGENDA ITEM NO. 5.2

**STAFF REPORT
IMPERIAL BEACH REDEVELOPMENT AGENCY**

TO: CHAIR AND MEMBERS OF THE REDEVELOPMENT AGENCY

FROM: GARY BROWN, EXECUTIVE DIRECTOR

MEETING DATE: SEPTEMBER 1, 2010

ORIGINATING DEPT.: COMMUNITY DEVELOPMENT DEPARTMENT
GREG WADE, DIRECTOR *GW*
GERARD SELBY, REDEVELOPMENT COORDINATOR

SUBJECT: ADOPTION OF RESOLUTION NO. R-10-227- RESOLUTION OF NECESSITY OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY PERTAINING TO THE ACQUISITION OF CERTAIN PROPERTY OR INTEREST IN PROPERTY, LEASEHOLD INTEREST IN PROPERTY, IF ANY, AND LOSS OF GOODWILL PURSUANT TO SECTION 1263.510 OF THE CODE OF CIVIL PROCEDURE, IF ANY FOR USE BY THE AGENCY IN THE DEVELOPMENT OF 9TH & PALM REDEVELOPMENT PROJECT IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 1245.230 OF THE CODE OF CIVIL PROCEDURE OF THE STATE OF CALIFORNIA

BACKGROUND

In March 2009, the Imperial Beach Redevelopment Agency ("Agency") purchased the Miracle Shopping Center. In February 2009, the Agency issued a Request for Qualifications/Proposals ("RFQ/P") for a Real Estate Development Opportunity for the site and selected a developer to redevelop the Development Site. The proposed development will consist of approximately 44,500 square feet of four single-story retail structures and 277 parking spaces. The redevelopment of the site is expected to commence when all of the tenants have been relocated from the site.

The redevelopment will cause the displacement of businesses located in the Miracle Shopping Center. On June 17, 2009, the Agency approved a relocation plan for the 9th & Palm Redevelopment Project and started the relocation process with the existing businesses. The Agency has successfully relocated the majority of the businesses. The Agency and the relocation consultant have made repeated attempts to relocate the business known as Southbay Drugs, located at 779 Palm Avenue. Also, Southbay Drugs has not paid the Agency rent since October 2009. Accordingly, the Agency commenced an unlawful detainer action, which was unsuccessful and is currently being appealed.

DISCUSSION

Southbay Drugs is owned by Shawki Bachoua. Southbay Drugs has been contacted by the relocation consultant and provided the relocation plan and estimate of its relocation benefits and the amount valued for its fixtures and equipment. The Agency's counsel hired an appraiser to appraise the remaining term of the lease and options to renew that lease. That value was communicated with notice of this hearing and the statutory offer made pursuant to Government Code Section 7267.2.

The unit located at 779 Palm Avenue is currently occupied by Shawki Bochoua dba Southbay Drugs. The lease is a five-year lease beginning, May 15, 1998, with two options to extend the term of the lease for five years as to each extension. An Addendum to the Lease, dated January 16, 2003, allows three options to extend the lease for five years each extension, beginning May 1, 2003. The second extension was executed, and the final extension is scheduled to expire on April 30, 2018. The lease does not include a provision for early termination. Southbay Drugs was current on payment of rent through the end of September 2009 when it stopped paying rent to the Agency.

As a result of Southbay Drug's failure to pay rent, the Agency proceeded with an unlawful detainer action. Because of the Court's ruling in the unlawful detainer action, the Agency may proceed with an appeal of that action and an eminent domain action to condemn Southbay Drug's leasehold interest, if any, in order to proceed with the proposed redevelopment. Staff notified Southbay Drugs in writing of the Agency's intent to adopt a Resolution of Necessity to acquire certain interest in real property by Eminent Domain (Exhibit A). The notification was drafted and approved by the Agency's General Counsel and delivered pursuant to California Redevelopment Law. The letter informed Southbay Drugs of the method and time period to respond to the notification and the hearing date for the Agency's action.

The Agency is legally required to provide relocation benefits and payment for fixtures and equipment, leasehold interest in the property, if any, and loss of goodwill compensation, if any. However, relocation benefits are provided after the relocated businesses have provided documentation of expenditures. Payment for fixtures and equipment is for the business owner's personal property that cannot be relocated. Those fixtures have been evaluated, and the amount determined by the Agency's appraiser was provided to Southbay Drugs in conjunction with the statutory offer sent as required by the Relocation Law.

The California Eminent Domain Law provides for the compensation for loss of goodwill only if the business owner proves that the following four conditions have been met:

- The loss is caused by the taking of the property or injury to the property from which the business operates;
- The loss cannot reasonably be prevented by a relocation of the business or by taking steps and adopting procedures that a prudent person would take and adopt in preserving the goodwill;
- Compensation for the loss is not included in payments made under relocation assistance programs; and
- Compensation for the loss is not duplicated in any other compensation awarded to the business owner.

Therefore, a business owner must prove that the condemnation was the cause for any loss of

value and that every effort was made to mitigate the loss. However, it should be noted that not all businesses possess goodwill value. In order to receive payment for loss of goodwill, a business must prove that it possessed goodwill at the original business location. A business cannot lose more goodwill than it possessed at the original business location. Although at this time staff does not believe that the Southbay Drugs will suffer a loss of goodwill and therefore is not entitled to receive that compensation, each business owner is allowed the opportunity to prove in a condemnation proceeding that the business has suffered a loss of goodwill.

Additionally, Southbay Drugs may have a right to a leasehold interest in the property. With the options to renew, the current lease is set to expire in 2018. The leasehold interest was evaluated by an appraiser hired by the Agency's counsel. The value of the remaining leasehold was provided to Southbay Drugs with the statutory offer required under the Redevelopment Law. The Agency, however, has appealed the Court's judgment in the unlawful detainer action. If the Agency is successful on appeal and Southbay Drugs is removed from the property for failure to pay rent, the Southbay Drugs will not be entitled to any compensation for leasehold interest as it will have terminated due to Southbay Drugs' failure to pay rent.

The Agency must adopt a Resolution of Necessity before an eminent domain proceeding can be commenced. Within six months of the adoption of the Resolution of Necessity, the Agency will commence eminent domain proceedings in the Superior Court of San Diego County. In that proceeding, the Court will determine the amount of compensation, if any, to which Southbay Drugs is entitled.

ENVIRONMENTAL IMPACT

This action is provided for and included in the Final Environmental Impact Report for the Redevelopment Plan for the Palm Avenue/Commercial Redevelopment Project certified by the City Council of the City of Imperial Beach on January 17, 1996, by adoption of Resolution No. 96-4569.

FISCAL IMPACT

Funds for this action are budgeted and available in the Fiscal Year 2010-2011 Budget. The eminent domain proceedings in the Superior Court of San Diego County will determine the amount of additional compensation, if any, Southbay Drugs is entitled to receive.

DEPARTMENT RECOMMENDATION

Staff recommends that the Redevelopment Agency adopt Resolution No. R-10-227.

EXECUTIVE DIRECTOR'S RECOMMENDATION

Approve Department recommendation.



Gary Brown, Executive Director

Attachments:

1. Exhibit A
2. Resolution No. R-10-227
3. Letter from Charles F. Campbell, Attorney for Southbay Drugs

"EXHIBIT A"
DESCRIPTION OF REQUIRED PROPERTY

Property Owner:	Imperial Beach Redevelopment Agency
Tenant:	Shawki Bachoua doing business as Southbay Drugs
Item:	Commercial Unit
Location & APN:	779 Palm Avenue, Imperial Beach, CA (portion of) APN 626-250-05
Description:	Leasehold interest, if any; furniture, fixtures and equipment located in the commercial unit.

R-10-227

RESOLUTION OF NECESSITY OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY PERTAINING TO THE ACQUISITION OF CERTAIN PROPERTY OR INTEREST IN PROPERTY, LEASEHOLD INTEREST IN PROPERTY, IF ANY, AND LOSS OF GOODWILL PURSUANT TO SECTION 1263.510 OF THE CODE OF CIVIL PROCEDURE, IF ANY, FOR USE BY THE AGENCY IN THE DEVELOPMENT OF 9TH & PALM REDEVELOPMENT PROJECT IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 1245.230 OF THE CODE OF CIVIL PROCEDURE OF THE STATE OF CALIFORNIA

WHEREAS, on February 7, 1996, by adoption of Ordinance No. 96-901, the Imperial Beach City Council (the "City Council") approved a Redevelopment Plan for the Palm Avenue/Commercial Redevelopment Project ("the Original Project Area"); and

WHEREAS, on January 17, 1996, by adoption of Resolution No. 96-4569, the City Council certified the Final Environmental Impact Report for the Redevelopment Plan for the Palm Avenue/Commercial Redevelopment Project pursuant to the California Environmental Quality Act; and

WHEREAS, on October 19, 1994, by adoption of Resolution No. 94-4427, the City Council approved and adopted the Imperial Beach General Plan/Local Coastal Plan Text (GPA 93-01) and Local Coastal Plan Amendment (LCPA 93-01); and

WHEREAS, on March 14, 2005, by adoption of Resolution No. 05-65, the Imperial Beach Redevelopment Agency approved and adopted the Five-Year Implementation Plan; and

WHEREAS, on October 6, 2004, by adoption of Resolution No. 04-47, the Imperial Beach Redevelopment Agency approved and adopted the Economic Development Plan; and

WHEREAS, the Original Project Area provides for redevelopment projects such as the 9th & Palm Redevelopment Project and the use of eminent domain in furtherance of redevelopment projects such as the 9th & Palm Redevelopment Project; and

WHEREAS, the Agency seeks to acquire the certain property or interest in property, leasehold interest in property, if any, and loss of goodwill pursuant to Code of Civil Procedure Section 1263.510, if any, involved in order to complete the development of the 9th and Palm Redevelopment Project; and

WHEREAS, the property which shall be acquired is more specifically described in Exhibit "A" attached hereto and by this reference incorporated herein (hereinafter "Subject Property") and is situated within the City of Imperial Beach; and

WHEREAS, the acquisition of the Subject Property for the 9th and Palm Redevelopment Project is authorized by Code of Civil Procedure Sections 1240.010 *et seq.* and Health and Safety Code Section 33391(b); and

WHEREAS, the offer required pursuant to Government Code Section 7267.2 to acquire the Subject Property was presented to the property owner and was based upon an appraisal of the leasehold interest, an appraisal of the furniture, fixtures and equipment, and estimated relocation benefits as allowed by law; and

WHEREAS, pursuant to Code of Civil Procedure Section 1245.235, notice has been duly given to each person whose name and address appears of record or on the last equalized County assessment roll as property owners of the Subject Property located in the County of San Diego, State of California, described herein, of the intention of the Board of Directors of the Imperial Beach Redevelopment Agency (the "Agency") to adopt a Resolution of Necessity and to direct the institution of eminent domain proceedings and informing them of their right to be heard of said matter; and

WHEREAS, the Agency finds and determines that notice of its intention to adopt this resolution of necessity was duly given as required by law, and on the date and at the time and place fixed for hearing, this Board did hear and consider all of the evidence presented; and

WHEREAS, on September 1, 2010, the Imperial Beach Redevelopment Agency considered the approval of a Resolution of Necessity for the acquisition by eminent domain of the Subject Property as stated herein and located at 779 Palm Avenue required for the 9th and Palm Redevelopment Project; and

WHEREAS, the proposed redevelopment of the Miracle Shopping Center in accordance with the 9th and Palm Redevelopment Project advances the Goals and Objectives of the Imperial Beach General Plan, the objectives of the Palm Avenue/Commercial Avenue Redevelopment Plan and the Five-Year Implementation Plan, and the strategies and mission of the Economic Development Plan to:

- pursue a public/private partnership to improve large commercial properties in the Palm Avenue commercial corridor that will stimulate further improvements in the area;
- facilitate redevelopment of the Palm and 9th Street Commercial Retail Properties; and
- strengthen the economic viability of Imperial Beach through expanding commercial retail activity, enhancing the character of the residential neighborhoods and improving the quality of life for the entire community; and

WHEREAS, the 9th and Palm Redevelopment Project includes approximately 45,300 square feet of four single-story retail structures and 271 parking spaces including the construction of sidewalks, curb and gutter, traffic signals and signage, and storm drains; and

WHEREAS, there is an urgent need to possess the Subject Property so that the Agency may complete a relocation plan and allow the Agency to initiate the redevelopment of the Miracle Shopping Center. Due to the decreasing revenue to the Agency and City of Imperial Beach and the high unemployment rate for the City of Imperial Beach, it is imperative that the Agency commence this project as soon as possible. The creation and development of local job opportunities and the preservation of the area's existing employment base will encourage investment by the private sector. The 9th & Palm Redevelopment Project will occupy and include work on all of the Subject Property. The Subject Property is necessary for the 9th & Palm Redevelopment Project because it is the intent of the Agency to demolish the existing structures to enable the creation of a commercial project that creates a gateway to the City of Imperial Beach. The construction of the 9th & Palm Redevelopment Project achieves greatest public good by strengthening the economic viability of the City of Imperial Beach through expanding commercial retail opportunities and enhancing the quality of life for the entire community.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Imperial Beach Redevelopment Agency hereby states:

1. That the public interest and necessity require the redevelopment of the Miracle Shopping Center through the 9th and Palm Redevelopment Project.

2. That 9th and Palm Redevelopment Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury inasmuch as it is necessary to locate the Project upon the Subject Property.
3. That the property sought to be acquired is necessary for the Project.
4. That this resolution is exempt from the provisions of Section 33679 of the California Health and Safety Code (Redevelopment Law).
5. That, pursuant to Government Code Section 7267.2, an offer to acquire the Subject Property was presented to the property owner and was based upon an appraisal of the leasehold interest, an appraisal of the furniture, fixtures and equipment, and estimated relocation benefits as allowed by law.
6. That the General Counsel for the Agency is hereby authorized and directed to bring an action in the Superior Court of the State of California, in and for the County of San Diego, in the name of the Imperial Beach Redevelopment Agency against all owners and claimants of the Subject Property for the purpose of condemning and acquiring property for the public use of the Imperial Beach Redevelopment Agency and to do all things necessary to prosecute said action to its final determination in accordance with the provisions of applicable law.
7. That General Counsel for the Agency is hereby authorized and directed to move the Court for an Order for Possession before a judgment is rendered in the proceedings.
8. That Finance Director for the City of Imperial Beach is hereby authorized and directed to draw from the Agency's funds in the amount of \$116,348.00 to be deposited with the State Treasurer as security for the Order for Possession.

PASSED, APPROVED, AND ADOPTED by the Imperial Beach Redevelopment Agency at its meeting held on the 1st day of September 2010 by the following roll call vote:

AYES: **BOARDMEMBERS:**
NOES: **BOARDMEMBERS:**
ABSENT: **BOARDMEMBERS:**

JAMES C. JANNEY
CHAIRPERSON

ATTEST:

JACQUELINE M. HALD, CMC
SECRETARY

I, City Clerk of the City of Imperial Beach and Secretary of the Imperial Beach Redevelopment Agency, do hereby certify the foregoing to be a true and correct copy of Resolution No. R-10-227 – RESOLUTION OF NECESSITY OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY PERTAINING TO THE ACQUISITION OF CERTAIN PROPERTY OR INTEREST IN

PROPERTY, LEASEHOLD INTEREST IN PROPERTY, IF ANY, AND LOSS OF GOODWILL PURSUANT TO SECTION 1263.510 OF THE CODE OF CIVIL PROCEDURE, IF ANY, FOR USE BY THE AGENCY IN THE DEVELOPMENT OF 9TH & PALM REDEVELOPMENT PROJECT IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 1245.230 OF THE CODE OF CIVIL PROCEDURE OF THE STATE OF CALIFORNIA.

CITY CLERK

DATE

**Charles F. Campbell
Corinne D. Clark
Christopher A. Harvey
Kevin A. Kachman**

POINT LOMA LAW
1322 Scott Street, Suite 103
San Diego, CA 92106
Tel. 619-226-1377
Fax. 619-226-1373



August 18, 2010

Jacqueline Hald
Clerk of Board of Directors
Imperial Beach Redevelopment Agency
825 Imperial Beach Blvd.
Imperial Beach, CA 91932

Re: Written request to appear and be heard in connection with intention to adopt resolution of necessity to acquire certain real property or interest in real property by eminent domain

This law firm represents Shawki Bachoua (pronounced "bah-chew-ah") dba Southbay Drugs ("Bachoua"), the commercial tenant at 799 Palm Avenue, Imperial Beach CA 91932. On August 3, 2010, the Imperial Beach Redevelopment Agency ("Agency") served notice by first class mail to Bachoua of the Board of Directors' intent to adopt a resolution of necessity to condemn his leasehold interest and improvements pertaining to realty (*i.e.*, fixtures, furniture and equipment) at its regularly scheduled hearing to take place on September 1, 2010 at 6:00 p.m. Bachoua respectfully requests to appear and to be heard at the hearing through his counsel.

If you have any questions or comments, please do not hesitate to advise.

Sincerely,

POINT LOMA LAW

By: Charles F. Campbell
Attorneys for Shawki Bachoua dba Southbay Drugs

cc. Randall R. Sjoblom, Esq.
McDougal, Love, Eckis Boehmer & Foley, APC

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CITY CLERK OFFICES



**STAFF REPORT
CITY OF IMPERIAL BEACH**

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: GARY R. BROWN, CITY MANAGER

MEETING DATE: SEPTEMBER 1, 2010

ORIGINATING DEPT.: FINANCE DEPARTMENT

SUBJECT: REDEVELOPMENT BOND FUNDING

BACKGROUND:

Last fiscal year the State of California authorized the diversion of \$3.2 million of Imperial Beach Redevelopment Agency funds. The State hit forced the stoppage of several approved redevelopment projects. This report is to confirm Council's priority projects after the State hit and before the issuance of a tax increment bond. A new tax increment bond is projected to produce \$14 million for redevelopment projects.

DISCUSSION:

The Governor signed the budget on July 28, 2009. The State bridged a projected \$26 billion budget gap in part by diverting local funds back to the State. The State hit wiped out cash balances in the Redevelopment Fund. The City Council addressed the State impact by stopping previously approved projects and allowed the redevelopment fund to borrow up to \$2 million from the General Fund. Table 1 lists the projects that were stopped.

Project Name	Code	Amount
Sand (SCOUP)	R09801	\$ 40,000
Marina Vista Master Plan	F05501	\$ 119,000
Bayside Master Plan	R05101	\$ 171,000
Eco-Route (Tourism Study))	S04101	\$ 51,000
Bayshore Bikeway Access	F05101	\$ 385,000
Sports Park Master Plan	P05401	\$ 166,000
Total Stopped Projects		\$ 932,000

Staff is in the process of preparing to issue a new tax increment redevelopment bond. Council will hear the report for a new tax increment bond in October. Staff is seeking the Council's priorities to size the bond and determine the mixture of taxable and tax exempt bond funding. This bond is projected to net approximately \$14 million. The first part of Table 2 contains a list of on-going or projects already approved by Council which have an estimated remaining cost of \$9,324,000, over half the available funds that will be available. The second part contains recommended projects and the third part contains a list of unfunded projects.

FISCAL IMPACT:

The estimated available funds to do priority projects total approximately \$18 million. This figure includes current cash balances (as of 6/30/2010), remaining existing bond proceeds (as of 6/30/2010) and an estimated \$14 million from a new bond issue. Debt service on the new bonds will be paid from redevelopment non-housing funds. It is estimated that debt service on the new bonds will be \$1.1 million. After debt service and Redevelopment Agency administrative costs, approximately \$300,000 annually will be available each year in the redevelopment non-housing fund to fund cash projects.

DEPARTMENT RECOMMENDATION:

Staff recommends that Council provide direction on the highest priority projects.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation.



Gary R. Brown, City Manager

ATTACHMENT 1 Table 2 Discussion of Redevelopment Projects

Table 2
Discussion of Redevelopment Projects
As of June 30, 2010

Funds Available	
Cash Available Non-Housing RDA	\$ (300,000)
Cash Available Non-Housing Bond	\$ 4,000,000
New Bond	\$ 14,000,000
Funds Available	\$ 17,700,000
Projects	
Ongoing /Previously Approved Projects	
Skate Park	\$ 160,000
Seacoast Inn Redevelopment	\$ 6,924,000
Façade Program	\$ 200,000
Elm Ave Underground	\$ 200,000
Streets Phase 3	\$ 1,550,000
Bayshore Bikeway Access	\$ 290,000
Total Ongoing	\$ 9,324,000
Other Recommended Projects	
Street Improvements	\$ 6,000,000
Redevelopment Property Acquisition	\$ 1,700,000
Bikeway Village Environmental	\$ 130,000
Eco-Bikeway - 7th to Seacoast Offset	\$ 200,000
Total Other Recommended	\$ 8,030,000
Total Recommended / Ongoing Appr.	\$ 17,354,000
Unallocated Balance	\$ 346,000
Other Projects:	
Library Expansion	\$ 1,500,000
Dirt Alley Improvements	\$ 2,600,000
Asphalt Alley Improvements	\$ 1,500,000
Marina Vista Master Plan	\$ 119,000
S/D Intercept @ 8th Calla	\$ 237,000
Eco-Route (Tourism Study)	\$ 51,000
Sports Park Master Plan	\$ 166,000
Bayside Master Plan	\$ 171,000
Additional Façade Program	\$ 200,000
Reg Beach Sand Project 2	\$ 153,000
Sand (SCOUP)	\$ 40,000
Palm Ave Com Corridor MP	\$ 196,000
Tennis Courts	\$ 200,000
Palm Avenue Corridor	\$ 5,000,000
City Facility Upgrades	\$ 2,000,000
Total Other Projects	\$ 8,533,000
Total All Projects	\$ 25,887,000



AGENDA ITEM NO. 6-2

**STAFF REPORT
CITY OF IMPERIAL BEACH**

TO: HONORABLE MAYOR AND CITY COUNCIL

**FROM: GARY BROWN, CITY MANAGER
JENNIFER LYON, CITY ATTORNEY**

MEETING DATE: SEPTEMBER 1, 2010

**SUBJECT: TIMELINE RELATED TO CONSIDERATION/ADOPTION
OF MEDICAL MARIJUANA REGULATIONS**

BACKGROUND:

In July of 2010, Council approved an interim ordinance to extend the moratorium on medical marijuana cooperatives and collectives in the City to August 18, 2011. Council also directed staff to bring back a timeline for Council consideration of permanent regulations related to medical marijuana facilities within the City.

CURRENT CONSIDERATION:

Below is the proposed timeline:

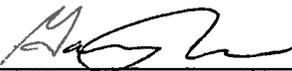
- **September 2010-January 2011-** Continue to monitor pending legal issues for their implications on cities' discretion and ability to regulate medical marijuana facilities.
- **January 2011-** Present to Council the main points that would be included in an ordinance and receive Council and community feedback.
- **February-April 2011-** Draft ordinance and submit to Council for first and second readings.
- **April 2011-** Submit ordinance to California Coastal Commission ("CCC") for approval.¹
- **August 2011**(or sooner if CCC approves quickly)- Proposed date for new regulations to take effect.

FISCAL IMPACT:

Drafting proposed regulations will require staff and legal services.

CITY MANAGER'S RECOMMENDATION:

Approve the proposed timeline and direct staff to proceed accordingly.



Gary Brown, City Manager

¹ Any amendments to the City's zoning ordinance will likely not take effect until the CCC approves them. A recent submittal of an LCP amendment by a city related to medical marijuana facilities shows that the process took about 3 months from submittal to approval by CCC.



**STAFF REPORT
CITY OF IMPERIAL BEACH**

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: City Manager

MEETING DATE: September 1, 2010
ORIGINATING DEPT: Gary Brown, City Manager

SUBJECT: LEAGUE CONFERENCE RESOLUTIONS

BACKGROUND:

Council's voting delegate to the League's Annual Business Meeting is Councilmember Bragg, and she is requesting Council's consideration and direction on the six resolutions put forth by the League.

The six resolutions are:

1. Amendments to the League's bylaws which will encourage diversity, expand the Board by 2 at-large seats and two more seats for large cities, and allow the League President to appoint a substitute member to the nominating committee from the same regional division, if available, or a near-by-region, if one from the same region isn't available. The resolution also addresses ethical and conflicts of interest for Board members.
2. A resolution to support the "Let's Move Campaign" and other actions to support health and fitness.
3. A resolution asking the Governor and the California Air Resources Board to delay deadlines related to AB32 and SB375, environmental laws to reduce the generation of greenhouse gases, and to update economic assumptions related to the laws, consider the impact of the laws on local government costs, and suggesting that targets for SB375 be set in a way to reflect economic conditions and scarce resources. The resolution also supports legislation to suspend or delay the implementation of SB375 until funding is available.
4. The resolution on Responsible Banking supports the provision of information from banks on their lending and investments in the community so cities can review activities of financial institutions in which they make deposits.
5. The resolution on Unfunded Mandates states the League will identify cases in which cities will need to increase revenues to carry-out the mandates, work with the state legislature and Congress to suspend or eliminate certain mandates until the economy improves, and support legislation to suspend, eliminate or modify the negative effects of state mandates on local agencies.
6. The sixth resolution urges all cities to provide more public education on the dangers of driving while texting.

ENVIRONMENTAL IMPACT:

No assessment is needed by the City, though it's obvious a delay in the implementing AB32 and SB375 inherently involves a weighing of economic and environmental factors.

FISCAL IMPACT:

The resolutions may have a positive input on local finances by increasing local investments by banks and reducing the effects of unfunded mandates. Healthier people could reduce medical costs, especially health insurance. Delay of actions related to SB375 and AB32 is a judgment call that favors economic savings in the near future. Reducing texting while driving will reduce accident expenses.

CITY MANAGER'S RECOMMENDATION:

Review and discuss the attached resolutions and provide direction on a City position on each resolution.



Gary Brown, City Manager

Attachments:

1. 2010 Annual Conference Resolution Packet

July 29, 2010

TO: Mayors, City Managers and City Clerks
League Board of Directors
General Resolutions Committee Members
Members, League Policy Committees to Which Resolutions Are Referred

RE: Annual Conference Resolutions Packet
Notice of League Annual Meeting

Enclosed please find the 2010 Annual Conference Resolutions Packet.

Annual Conference in San Diego. This year's League Annual Conference will be held September 15-17 at the San Diego Convention Center. The conference announcement has previously been sent to all cities and we hope that you and your colleagues will be able to join us. More information about the conference is available on the League's Web site at www.cacities.org/ac. We look forward to welcoming city officials to the conference.

Annual Business Meeting - Friday, September 17, 3:00 p.m. The League's Annual Business Meeting will be held at the San Diego Convention Center, Ballroom 20ABC.

Resolutions Packet. At the Annual Conference, the League will consider the six resolutions introduced by the deadline — Friday, July 16, 2010, 5 p.m., for submittals by regular mail, or Saturday, July 17, midnight, for submittals by e-mail or fax. These resolutions are included in this packet. We request that you distribute this packet to your city council.

We encourage each city council to consider the resolutions and to determine a city position so that your voting delegate can represent your city's position on each resolution. A copy of the resolutions packet is posted on the League's Web site for your convenience: www.cacities.org/resolutions.

This resolutions packet contains additional information related to consideration of the resolutions at the Annual Conference. This includes the date, time and location of the meetings at which resolutions will be considered.

Voting Delegates. Each city council is encouraged to designate a voting delegate and two alternates to represent their city at the Annual Business Meeting. A letter asking city councils to designate their voting delegate and two alternates has already been sent to each city. Copies of the letter, voting delegate form, and additional information are also available at: www.cacities.org/resolutions.

**Please Bring This Packet to the Annual Conference
September 15 - 17 — San Diego**

I.
INFORMATION AND PROCEDURES

RESOLUTIONS CONTAINED IN THIS PACKET: The League bylaws provide that resolutions shall be referred by the president to an appropriate policy committee for review and recommendation. Resolutions with committee recommendations shall then be considered by the General Resolutions Committee at the Annual Conference.

This year, six resolutions have been introduced for consideration by the Annual Conference and referred to the League policy committees. Please note that two resolutions have been referred to more than one policy committee for consideration.

POLICY COMMITTEES: Six policy committees will meet at the Annual Conference to consider and take action on resolutions referred to them. These are: Administrative Services; Community Services; Environmental Quality; Housing, Community & Economic Development; Revenue and Taxation; and Transportation, Communication & Public Works. These committees will meet on Wednesday, September 15, 2010 at the Hilton Bayfront Hotel, located next to the San Diego Convention Center. Please see page iii for the policy committee meeting schedule. The sponsors of the resolutions have been notified of the time and location of the meetings.

Two policy committees will not be meeting at the annual conference. These committees are: Employee Relations and Public Safety.

GENERAL RESOLUTIONS COMMITTEE: This committee will meet at 4:00 p.m. on Thursday, September 16, at the San Diego Convention Center, Ballroom 20D, to consider the reports of the six policy committees regarding the six resolutions. This committee includes one representative from each of the League's regional divisions, functional departments and standing policy committees, as well as other individuals appointed by the League president.

ANNUAL BUSINESS MEETING/GENERAL ASSEMBLY: This meeting will be held at 3:00 p.m. on Friday, September 17, at the San Diego Convention Center, Ballroom 20ABC.

PETITIONED RESOLUTIONS: For those issues that develop after the normal 60-day deadline, a resolution may be introduced at the Annual Conference with a petition signed by designated voting delegates of 10 percent of all member cities (48 valid signatures required) and presented to the Voting Delegates Desk at least 24 hours prior to the time set for convening the Annual Business Session of the General Assembly. This year, that deadline is 3:00 p.m., Thursday, September 16. If the petitioned resolution is substantially similar in substance to a resolution already under consideration, the petitioned resolution may be disqualified by the General Resolutions Committee.

Resolutions can be viewed on the League's Web site: www.cacities.org/resolutions.

Any questions concerning the resolutions procedures may be directed to Linda Welch Diamond at the League office: ldiamond@cacities.org or (916) 658-8224.

II. GUIDELINES FOR ANNUAL CONFERENCE RESOLUTIONS

Policy development is a vital and ongoing process within the League. The principal means for deciding policy on the important issues facing cities and the League is through the League's eight standing policy committees and the board of directors. The process allows for timely consideration of issues in a changing environment and assures city officials the opportunity to both initiate and influence policy decisions.

Annual conference resolutions constitute an additional way to develop League policy. Resolutions should adhere to the following criteria.

Guidelines for Annual Conference Resolutions

1. Only issues that have a direct bearing on municipal affairs should be considered or adopted at the Annual Conference.
2. The issue is not of a purely local or regional concern.
3. The recommended policy should not simply restate existing League policy.
4. The resolution should be directed at achieving one of the following objectives:
 - (a) Focus public or media attention on an issue of major importance to cities.
 - (b) Establish a new direction for League policy by establishing general principals around which more detailed policies may be developed by policy committees and the Board of Directors.
 - (c) Consider important issues not adequately addressed by the policy committees and Board of Directors.
 - (d) Amend the League bylaws (requires 2/3 vote at General Assembly).

**III.
LOCATION OF MEETINGS**



Policy Committee Meetings
Wednesday, September 15, 2010
Hilton Bayfront Hotel, San Diego
 1 Park Boulevard, San Diego - (619) 564-3333
(Located next to the San Diego Convention Center)

**POLICY COMMITTEES MEETING AT ANNUAL CONFERENCE TO
DISCUSS AN ANNUAL CONFERENCE RESOLUTION**

9:00 a.m. – 10:30 a.m.	11:00 a.m. – 12:30 p.m.
Administrative Services – Indigo D	Community Services – Indigo D
Environmental Quality – Indigo H	Housing, Comm. & Econ. Dev. – Indigo 202
Revenue and Taxation – Indigo 202	
Transp., Comm. & Public Works – Indigo 204	

Note: These policy committees will NOT meet at the Annual Conference:
 Employee Relations and Public Safety



General Resolutions Committee
Thursday, September 16, 2010, 4:00 p.m.
San Diego Convention Center, Ballroom 20D
 111 West Harbor Drive, San Diego, CA 92101 - (619) 525-5000



Annual Business Meeting and General Assembly
Friday, September 17, 2010, 3:00 p.m.
San Diego Convention Center, Ballroom 20ABC
 111 West Harbor Drive, San Diego, CA 92101 - (619) 525-5000

**IV.
KEY TO ACTIONS TAKEN ON RESOLUTIONS**

Resolutions have been grouped by policy committees to which they have been assigned. Please note that two resolutions have been assigned to more than one committee. These resolutions are noted by this sign (◆).

Number	Key Word Index	Reviewing Body Action		
		1	2	3

1 - Policy Committee Recommendation to General Resolutions Committee
2 - General Resolutions Committee
3 - General Assembly

ADMINISTRATIVE SERVICES POLICY COMMITTEE

		1	2	3
1	League Bylaws Amendment			

COMMUNITY SERVICES POLICY COMMITTEE

		1	2	3
2	Let's Move Campaign			

ENVIRONMENTAL QUALITY POLICY COMMITTEE

		1	2	3
◆3	AB32/ SB 375			

HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT POLICY COMMITTEE

		1	2	3
◆3	AB32/ SB 375			
◆4	Responsible Banking			

REVENUE AND TAXATION POLICY COMMITTEE

		1	2	3
◆3	AB32/ SB 375			
◆4	Responsible Banking			
5	Unfunded State Mandates			

TRANSPORTATION, COMMUNICATION & PUBLIC WORKS POLICY COMMITTEE

		1	2	3
◆3	AB32/ SB 375			
6	Enhancing Public Safety			

Please note: These committees will NOT meet at the annual conference: Employee Relations and Public Safety

Information pertaining to the Annual Conference Resolutions will also be posted on each committee's page on the League Web site: www.cacities.org. The entire Resolutions Packet will be posted at: www.cacities.org/resolutions.

RESOLUTIONS INITIATED BY PETITION AT THE ANNUAL CONFERENCE

		General Resolutions Committee Recommendation	General Assembly Action

KEY TO ACTIONS TAKEN ON RESOLUTIONS *(Continued)*

KEY TO REVIEWING BODIES

1. Policy Committee
2. General Resolutions Committee
3. General Assembly

Action Footnotes

- * Subject matter covered in another resolution
- ** Existing League policy
- *** Local authority presently exists

KEY TO ACTIONS TAKEN

- A - Approve
- D - Disapprove
- N - No Action
- R - Refer to appropriate policy committee for study
- a - Amend
- Aa - Approve as amended
- Aaa - Approve with additional amendment(s)
- Ra - Amend and refer as amended to appropriate policy committee for study
- Raa - Additional amendments and refer
- Da - Amend (for clarity or brevity) and Disapprove
- Na - Amend (for clarity or brevity) and take No Action
- W - Withdrawn by Sponsor

Procedural Note: Resolutions that are approved by the General Resolutions Committee, as well as all qualified petitioned resolutions, are reported to the floor of the General Assembly. In addition, League policy provides the following procedure for resolutions approved by League policy committees but *not* approved by the General Resolutions Committee:

Resolutions initially recommended for approval and adoption by all the League policy committees to which the resolution is assigned, but subsequently recommended for disapproval, referral or no action by the General Resolutions Committee, shall then be placed on a consent agenda for consideration by the General Assembly. The consent agenda shall include a brief description of the basis for the recommendations by both the policy committee(s) and General Resolutions Committee, as well as the recommended action by each. Any voting delegate may make a motion to pull a resolution from the consent agenda in order to request the opportunity to fully debate the resolution. If, upon a majority vote of the General Assembly, the request for debate is approved, the General Assembly shall have the opportunity to debate and subsequently vote on the resolution.

V.
2010 ANNUAL CONFERENCE RESOLUTIONS

RESOLUTION REFERRED TO ADMINISTRATIVE SERVICES POLICY COMMITTEE

1. **RESOLUTION RELATING TO LEAGUE BYLAWS AMENDMENTS**
(2/3 vote at General Assembly required to approve)

Source: League Board of Director
Referred to: Administrative Services Policy Committee
Recommendation to General Resolutions Committee:

WHEREAS, The League of California Cities is a nonprofit mutual benefit corporation under California law, and, as such, is governed by corporate bylaws; and

WHEREAS, the League's Board of Directors periodically reviews the League's bylaws for issues of clarity, practicality, compliance with current laws, and responsiveness to membership interests; and

WHEREAS, the League's Board of Directors convened a Bylaws Review Committee to make recommendations regarding various necessary amendments to ensure that the most qualified and committed city officials are selected to serve on the League's Board, policy committees and other leadership positions, representing a broad diversity of backgrounds, experience, abilities, geography and other factors, and that any barriers to their selection are removed; and

WHEREAS, the Board of Directors approved the Bylaws Review Committee's recommendations that identified amendments to the bylaws that: a) encourage all segments of League membership to pursue leadership positions within the League to advance the goal that the League Board of Directors reflects the diverse ethnic and social fabric of California; b) clarify the League Board's nomination procedures and expand Board membership by four positions; and c) provide guidance to avoid conflicts of interest for Board and policy committee members with the expectation that decisions should be in the best overall interests of cities statewide; and

WHEREAS, the League's Board offers amendments and additions to the following sections of the bylaws for the membership's consideration:

1. Article VII, Section 1; new subsection 1(b): Board Diversity Policy, Board of Directors
2. Article VII, Section 2 (c), (f): Composition, Board of Directors
3. Article VII, Section 5 (d): Nomination Process, Board of Directors
4. Article XIV, Section 1, new section: Conflicts of Interest
5. Article XIV, Section 4, new section: Ethical Considerations;

now, therefore, be it

RESOLVED, by the General Assembly of the League of California Cities assembled during the Annual Conference in San Diego, September 17, 2010, that the League make the specified changes to the League bylaws by amending the above-referenced sections as indicated on Attachment A.

[Please see ATTACHMENT A, following background information, for text of proposed bylaws amendments.]

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Background Information on Resolution No. 1

Source: League Board of Directors

Title: Resolution Relating to League Bylaws Amendments

Background:

At its February, 2010 Board meeting the League Board authorized the President to appoint a Bylaws Review Committee, consisting of a cross-section of current Board members, to review the provisions of League bylaws. This included policies related to governing the nomination and election of League Board members and officers with the goal of ensuring the most qualified and committed city officials are selected, representing a broad diversity of backgrounds, experience, abilities, geography and other factors, and that any barriers to their selection are removed. The Committee, chaired by First Vice President Jim Ridenour, completed its work in four face-to-face meetings (April 2, April 29, June 17 and July 9) and submitted its recommendations to the board. The Board approved the Committee's report and recommends the adoption of the following five amendments to the League bylaws:

- **Amendment to Article VII, Section 1. Board of Directors.** The Committee reviewed a variety of recommendations from previous task forces to encourage greater diversity on the board of directors. It concluded that the best way to encourage greater diversity on the board of directors is to adopt a clear and unequivocal policy statement that the various subunits of the League should encourage and support all members to pursue leadership within the League with the ultimate goal of serving on the board of directors. The League board recommends this proposal for approval.
- **Amendment to Article VII, Section 2. Composition of Board of Directors.** The Committee examined the current composition of the board of directors and is proposing to expand the board by two at-large positions and two large city positions to meet particular needs. Currently, the bylaws provide for approximately 50 directors, including 16 from regional divisions, 11 from functional departments of the League (e.g., city attorneys, city managers, etc.), 10 at-large directors, the mayors of the 8 largest cities (ranging from Los Angeles with 4,065,585 population to Oakland with 425,068 population, and the directors on the National League of Cities Board of Directors that are from California (approximately 2 – 4 members). All must be from dues paying cities.

The Committee concluded that due to the overwhelming interest in the at-large positions (4 – 5 times the applications as available seats each year) additional opportunities to serve on the League board should be provided by increasing the available at-large seats from 10 to 12. The Committee also concluded that large city representation should be adjusted to reflect the existence and political value provided through the coalition of the state's "Big Ten" Mayors, by increasing big city mayoral representation on the board from 8 to 10. The current make-up of the Board allows for only the mayors of the eight largest cities. This excludes two important cities that participate regularly in the coalition of the ten (10) largest cities in the state--Santa Ana (355,662) and Anaheim (348,467)--with which the League works closely. The League board recommends this proposal for approval.

- **Amendment to Article VII, Section 5. Nomination Process.** The Committee examined problems associated with the current process for the President selecting division representatives to serve on the Board Nominating Committee. Each year the President selects representatives from half (8) of the regional divisions, but the bylaws exclude those board members who are candidates for an officer or at-large position from serving. The Committee concluded that a problem can arise when the President is unable to appoint another board representative from a division if one or all of its representatives are candidates for officer or at-large positions. The proposed change would allow the League President to appoint a substitute nominating committee member from the same regional division, if available. If one is not available, the President shall appoint a substitute from a nearby regional division. The League board recommends this proposal for approval.

- **Amendment to Article XIV, Section 1 (new section). Conflicts of Interest.** The Board of Directors recently adopted a policy designed to reduce potential conflicts of interest by Board members and policy committee members involved in the adoption of League policy and asked the Committee to consider whether it should be proposed to be added to the League bylaws. The Committee recommends that this step be taken. The proposed new language is a general statement that Board members and policy committee members are expected to make decisions in the best overall interests of cities statewide, as opposed to narrow parochial, personal, or financial interests. The League board recommends this proposal for approval.
- **Amendment to Article XIV, Section 4 (new section). Ethical Considerations.** As part of the guidance to avoid conflicts of interest by Board members and policy committee members, language related to ethical considerations is recommended to clarify that the items described under Article XIV as prohibited transactions represent the floor and not the ceiling for standards of ethical conduct. The additional guidance recommends abstention from decisions where personal conflict may exist. The League board recommends this proposal for approval.

[NOTE: Please see ATTACHMENT A (page 9) for text of proposed bylaws amendments.]

ATTACHMENT A
Amendments to League Bylaws Proposed by Resolution 1

(Proposed changes indicated by **bold Italics and underlining**)
Please review in conjunction with summary provided in background information of Resolution 1

Article VII: Board of Directors

Section 1: Role and Powers; Board Diversity Policy

(a) Subject to the provisions and limitations of the California Nonprofit Corporation Law, any other applicable laws, and the provisions of these bylaws, the League's activities and affairs are exercised by or under the direction of the League's control and direction of the League. The League Board may delegate the management of the League's affairs to any person or group, including a committee, provided the League Board retains ultimate responsibility for the actions of such person or group.

(b) The goal of the League is to ensure that the Board of Directors reflects the diverse ethnic and social fabric of California. As such, each Division, Department, Caucus, and Policy Committee should encourage and support members of every race, ethnicity, gender, age, sexual orientation and heritage to seek leadership positions within the League, with the ultimate goal of achieving membership on the Board of Directors.

Article VII: Board of Directors

Section 2: Composition.

The League's Board is composed of the following:

- (a) A President, First Vice-President and Second Vice-President/Treasurer, who each serve a term of one year;
- (b) The Immediate Past President who serves for a term of one year, immediately succeeding his or her term as President;
- (c) **Twelve** ~~Ten~~ Directors-at-Large,
 - (i) Who serve staggered two-year terms, and
 - (ii) At least one of whom is a representative of a small city with a population of 10,000 or less.
- (d) One Director to be elected from each of the regional divisions and functional departments of the League, each of whom serves for a term of two years;
- (e) Members of the National League of Cities Board of Directors who hold an office in a Member City; and
- (f) ~~Eight~~ **Ten** Directors that may be designated by the mayors of each of the ~~eight~~ **ten** largest cities in California to serve two-year terms.

- (g) For purposes of this section, the population of each city is the most current population as determined by the California Department of Finance, Demographic Research Unit, or its successor agency or unit. If no successor agency or unit is named, the most current population used to determine these dues shall be used to determine future dues until such time as these bylaws are amended to designate a new source for determining city population.
- (h) Directors hold office until their successors are elected and qualified or, if they sit on the League Board by virtue of their membership on the National League of Cities Board of Directors, until their terms on the National League of Cities Board of Directors conclude.

Article VII: Board of Directors

Section 5: Nomination Process.

- (d) **Candidates for Positions Ineligible.** Candidates for officer and at-large positions on the League Board are not eligible to serve on the nominating committee. In the event a regional division representative on the nominating committee wishes to be a candidate for an officer or at-large position, the League President will appoint a substitute nominating committee member from the same regional division, if available. If one is not available, the President shall appoint a substitute from a nearby regional division.

Article XIV: Prohibited Transactions

Section 1: Conflicts of Interest

General Principle. Members of the League board as well as members of League policy committees, and members of any standing or ad hoc committees and task forces consisting of members of the League board or League policy committees, are expected to make decisions in the best overall interests of cities statewide, as opposed to narrow parochial, personal, or financial interests. This is analogous to city officials being expected to make decisions in the best overall interests of the community as opposed to narrow private or self-interests.

Section 2. Loans.

Except as permitted by California Nonprofit Corporation Law, the League may not make any loan of money or property to, or guarantee the obligation of, any director or officer. This prohibition does not prohibit the League from advancing funds to a League director or officer for expenses reasonably anticipated to be incurred in performance of their duties as an officer or director, so long as such individual would be entitled to be reimbursed for such expenses under League Board policies absent that advance.

Section 3: Self-Dealing and Common Directorship Transactions.

- (a) **Self-Dealing Transactions.** A self-dealing transaction is a transaction to which the League is a party and in which one or more of its directors has a material financial interest.

- (b) **Common Directorships.** “Common directorships” occur when the League enters into a transaction with an organization in which one of the League directors also serves on the organization’s board.
- (c) **Pre-Transaction Approval.** To approve a transaction involving either self-dealing or a common directorship, the League Board shall determine, before the transaction, that,
 - (i) The League is entering into the transaction for its own benefit;
 - (ii) The transaction is fair and reasonable to the League at the time; and
 - (iii) After reasonable investigation, the League Board determines that it could not have obtained a more advantageous arrangement with reasonable effort under the circumstances.

Such determinations shall be made by the League Board in good faith, with knowledge of the material facts concerning the transaction and the director’s interest in the transaction, without counting the vote of the interested director or directors.

- (d) **Post-Transaction Approval.** When it is not reasonably practicable to obtain Board approval before entering into such transactions, a Board committee may approve such transaction in a manner consistent with the requirements in the preceding paragraph, provided that, at its next meeting, the full Board determines in good faith that the League Board committee’s approval of the transaction was consistent with such requirements and that it was not reasonably practical to obtain advance approval by the full Board, and ratifies the transaction by a majority of the directors then in office without the vote of any interested director.¹

Section 4: Ethical Considerations.

These restrictions, of course, represent the floor not the ceiling for ethical conduct as a League board member or policy committee member. If a board member or policy committee member believes that there are circumstances under which the League’s members might reasonably question the board member’s or policy committee member’s ability to act solely in the best interests in the League and its member cities, the prudent course is to abstain. As an example, typically, League board members have abstained from participating in decisions on legislation that would affect organizations for which they work. Another example is legislation that would uniquely benefit a board member’s city. Policy committee members should also consider abstaining in similar circumstances.

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¹ See Cal. Corp. Code § 7233 (specifying under what circumstances a self-dealing transaction is void or voidable).

RESOLUTION REFERRED TO COMMUNITY SERVICES POLICY COMMITTEE

2. RESOLUTION RELATING TO THE NATIONAL LET'S MOVE CAMPAIGN

Source: League Board of Directors
Referred to: Community Services Policy Committee
Recommendation to General Resolutions Committee:

WHEREAS, the League supports policies that focus on health and wellness, continuing education, and healthier lifestyles in all communities; and

WHEREAS, many cities, counties, and schools have adopted policies, programs, and ordinances that promote healthy lifestyles by making their communities walkable, promoting youth and senior activities, eliminating the sale of junk food in city, county, or school facilities, providing incentives for stores that sell fresh produce to locate in depressed neighborhoods, and providing exercise opportunities for their residents; and

WHEREAS, city officials believe there are important, long-term community benefits to be gained by encouraging healthy lifestyles, including a decrease in the rate of childhood obesity and its negative health-related impacts; and

WHEREAS, cities and other community partners can work together to understand the relationship between obesity, land-use policies, redevelopment, and community planning; and

WHEREAS, cities and other community partners can work together to ensure that there are safe places for their residents to be active such as in parks, ball fields, pools, gyms, and recreation centers; and

WHEREAS, access to healthy foods has a direct impact on the overall health of our community and planning for fresh food, open space, sidewalks, and parks should be a priority; and

WHEREAS, the League has partnered with the Healthy Eating Active Living (HEAL) Cities Campaign to provide training and technical assistance to help city officials adopt policies that improve their communities' physical activity and retail food environments; and

WHEREAS, the League wants to partner with and support the *Let's Move!* Campaign headed by the First Lady of the United States, the President's Task Force on Childhood Obesity and the Secretary of Health and Human Services, in an effort to solve the challenge of childhood obesity within a generation; now, therefore, be it

RESOLVED, by the General Assembly of the League of California Cities, assembled during the Annual Conference in San Diego, September 17, 2010, that the League encourages the existing 480 California cities to adopt preventative measures to fight obesity as set forth by the First Lady of the United States of America in the *Let's Move* campaign; and, be it further

RESOLVED, that California cities be encouraged to sign-up with the United States Department of Health and Human Services – Region IX office as a *Let's Move!* City; and, be it further

RESOLVED, that California cities are encouraged to: (1) help parents make healthy family choices; (2) create healthy schools; (3) provide access to healthy and affordable foods; and (4) promote physical activity.

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Background Information on Resolution No. 2

Source: League Board of Directors

Title: Resolution Relating to the National Let's Move Campaign

Background:

According to the United States Department of Health and Human Services, Region 9:

In February, First Lady Michelle Obama launched the Let's Move! campaign to solve the childhood obesity epidemic within a generation. First Lady Obama is expanding the effort to include a call to action for mayors and other elected officials to join her Let's Move! Campaign ("Let's Move Cities and Towns") in an effort to leverage cities and communities unique ability to solve obesity locally and adopt long-term, sustainable, regional approaches to fight childhood obesity.

On February 2, 2010, President Barack Obama established the Task Force on Childhood Obesity, which includes senior administration officials. The Task Force developed an interagency plan after incorporating input from more than 2,500 public comments in 90 days. The plan details a coordinated strategy, identifies key benchmarks, and outlines an action plan to end the problem of childhood obesity within a generation.

League adopts resolution in 2004: This resolution related to "encouraging healthier lifestyles for children, adults, and seniors in cities throughout California." This resolution directed the League to encourage cities to embrace policies that facilitate activities that promote healthier lifestyles, including healthy diet and nutrition, and adopt city design and planning principles that enable citizens to undertake exercise with the goal of achieving a more active and healthy community.

League adopts resolution in 2006: This resolution related to "encouraging health and wellness in cities." This resolution directed that the League in cooperation with related League committees, departments, and the CCS Partnership, work together to develop a clearinghouse of information that cities can use to promote wellness policies and healthier cities. It also directed the League to develop a toolkit on the League's Website for cities to visit in order to share, find and develop successful models of health and wellness to use in their respective communities. It also established that health and wellness programs become a topic of the Helen Putnam Awards Program beginning in 2007.

Previous Legislation: SCR 31 was introduced by Senator Alex Padilla in 2007, which established Healthy Communities Awareness Month. This Senate Concurrent Resolution recognized the importance of health and wellness in communities and declared the month of May as Healthy Communities Awareness Month. This was a League sponsored resolution.

League Partners with the Healthy Eating Active Living (HEAL) Cities Campaign: The HEAL Cities Campaign provides training and technical assistance to help city officials adopt policies that improve their communities' physical activity and retail food environments. The HEAL Cities Campaign, funded by Kaiser Permanente and the Vitamin Cases Consumer Settlement Fund, is a partnership of the League of California Cities, the California Center for Public Health Advocacy, and the Cities Counties and Schools Partnership. At its core the HEAL Cities Campaign believes that supporting healthy choices is essential to address the obesity epidemic among California's children and adults, which they purport currently costs the state nearly \$50 billion annually in healthcare and lost productivity. Forty cities have adopted resolutions and adopted specific action steps and a timeline in one of the several key campaign areas (e.g., language in general plan, zoning ordinances governing street design or community gardens, joint use of recreational facilities, and employee wellness). The HEAL campaign goals are:

- To provide city officials information about the statewide obesity epidemic and demonstrate how the community food environment, physical activity environment, children’s out-of-school environment(s), and soda consumption perpetuate the epidemics; and,
- To inform city officials about the role they can play locally to fight the obesity and inactivity epidemics through policy adoption, and to recommend those policies that would improve the physical activity and food environments of their cities and make their community healthier.

Existing League policy on Healthy Cities: The League encourages cities to embrace policies that facilitate activities that promote healthier lifestyles, including healthy diet and nutrition, and to adopt city design and planning principles that enable citizens to undertake exercise with the goal of achieving a more active and healthy community.

Institute for Local Government (ILG) On Healthy Neighborhoods: ILG heads the *Healthy Neighborhoods Project*, which provides support and resources local officials can use to protect and improve community health by integrating health considerations into their planning, land use and other decisions. The resources the ILG Website offers are geared to strengthen the efforts of local officials, staff, planning and development professionals, and community residents in creating healthier communities.

According to the Healthy Neighborhoods Project, healthy neighborhoods provide:

(1) Places where walking and bicycling are safe and convenient and where residents of all ages and abilities have the opportunity to be physically active; (2) Nutritious, fresh, culturally appropriate food – grown locally whenever possible – is affordable and accessible, promoting health and boosting the local economy; (3) A place where residents aren’t exposed to environmental hazards or pollutants that endanger their present or future health or well-being. ILG’s Healthy Neighborhoods’ Website provides current, relevant resources to aid in adapting general policies and strategies to reverse the negative trends related to physical inactivity, unhealthy eating, and environmental hazards.

National League of Cities (NLC) Commends First Lady Michelle Obama for Including Cities and Towns in Let’s Move Campaign: In a press release dated June 11, 2010, NLC commends First Lady Michelle Obama for her newest initiative to combat childhood obesity, *Let’s Move Cities and Towns*. The release continued that “NLC looks forward to working with the First Lady in encouraging local leaders to be proactive in their approach against childhood obesity.”

Through its Institute for Youth, Education and Families, NLC works to combat childhood obesity by raising awareness among municipal leaders and providing them with tools and resources to make changes in their communities. Most recently, NLC and the Foundation for the Mid South, with support from Leadership for Healthy Communities, a national program of the Robert Wood Johnson Foundation, launched the Municipal Leadership for Healthy Southern Cities project. This initiative will help local officials in Arkansas, Louisiana and Mississippi advance policies to promote healthy eating and active living in order to reduce childhood obesity. NLC also recently collaborated with the American Association of School Administrators on a report, *Community Wellness: Comprehensive City-School Strategies to Reduce Childhood Obesity*. For more information on this NLC initiative visit www.nlc.org/iyef.

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RESOLUTION REFERRED TO ENVIRONMENTAL QUALITY POLICY COMMITTEE

◆3. RESOLUTION OPPOSING THE BOARD OF DIRECTORS' DECISION TO DEFER ACTION ON AB 32 AND SB 375 AND TO ADOPT THE BOARD-APPOINTED TASK FORCE RECOMMENDATIONS

Source: Desert/Mountain Division

Referred to: Environmental Quality Policy Committee; Housing, Community & Economic Development Policy Committee; Revenue and Taxation Policy Committee; and Transportation, Communication & Public Works Policy Committee

Recommendations to General Resolutions Committee:

- ◆ Environmental Quality Policy Committee:
- ◆ Housing, Community and Economic Development Policy Committee:
- ◆ Revenue and Taxation Policy Committee:
- ◆ Transportation, Communication & Public Works Policy Committee:

WHEREAS, the Desert/Mountain Division of the League of California Cities has broad concerns about the economy; and

WHEREAS, these concerns extend both to the ability of cities to deliver vital public services and the viability of businesses which are critical to the State's economic recovery; and

WHEREAS, the Desert/Mountain Division of the League of California Cities is concerned that cities lack the resources to implement existing State mandates imposed at either the regional or local level; and

WHEREAS, the League of California Cities Board of Directors appointed a Task Force to craft a recommendation regarding AB 32 and SB 375, based upon the recommendations developed by four policy committees; and

WHEREAS, the Task Force recommended that the League of California Cities Board of Directors request specific actions by Governor Schwarzenegger and the California Air Resources Board to delay certain deadlines and take other actions with respect to AB 32 and SB 375; and

WHEREAS, the League of California Cities Board of Directors rejected the specific recommendations of the Task Force and four policy committees by deferring action on AB 32 and SB 375; and

WHEREAS, the Desert/Mountain Division of the League of California Cities wishes to file an official protest of the Board of Directors' decision to defer action on a position regarding AB 32 and SB 375; now, therefore, be it

RESOLVED, by the General Assembly of the League of California Cities, assembled during the Annual Conference in San Diego, September 17, 2010, that the League of California Cities finds, determines and orders the adoption of the consolidated recommendations of four policy committees and the Board appointed Task Force, as follows:

1. Request that the Governor exercise his authority to delay individual AB 32 implementation deadlines.

2. Request that the California Air Resources Board take the following three actions:
 - Revisit and update economic and growth assumptions used to estimate 2020 business-as-usual emissions and recalculate AB 32 goal;
 - Consider local government costs in all future studies relating to AB 32 and SB 375; and
 - Request that the SB 375 targets be set in a way to reflect the economy and scarce local resources.
3. Support (but not sponsor) any legislation that would suspend or delay implementation of SB 375 until there is funding and resources in place to implement individual mandates and requirements associated with the bill; and, be it further,

RESOLVED, that the specific recommendations developed by the four policy committees and Task Force be considered by the General Assembly at the Annual Conference unless the Board of Directors reverses its deferred action stance on AB 32 and SB 375 and adopts the Task Force recommendations.

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Background Information on Resolution No. 3

Source: Desert/Mountain Division

Title: Resolution Opposing the Board of Directors Decision to Defer Action on AB 32 and SB 375 and to Adopt the Board-Appointed Task Force Recommendations

Background:

The Desert/Mountain Division adopted a Resolution formally opposing the Board of Directors decision to defer action on the Task Force's recommendations regarding AB 32 and SB 375. We took this action out of concern of the impact these regulations will have on our economy and our ability to serve our constituents, and do not want to be complicit by remaining silent on this issue.

The recommended revisions to the League's current positions on AB 32 and SB 375 were crafted by a Board-appointed Task Force after study of the issue by four League policy committees. The changes recommended specific actions by Governor Arnold Schwarzenegger and the California Air Resources Board to delay certain deadlines and take other actions with respect to AB 32 and to suspend or delay the implementation of SB 375 until state funding is provided for the implementation of its mandates.

The Desert/Mountain Division believes that the Board's decision to defer action on the specific recommendations developed by the four policy committees and Board-appointed Task Force does not represent the majority of the member cities. This Resolution is being presented for consideration by the General Assembly at the Annual Conference to allow the entire membership to weigh in on the decision of whether or not to adopt the Task Force recommendations regarding AB 32 and SB 375.

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**RESOLUTION REFERRED TO HOUSING, COMMUNITY & ECONOMIC DEVELOPMENT
POLICY COMMITTEE**

**◆3. RESOLUTION OPPOSING THE BOARD OF DIRECTORS DECISION TO DEFER
ACTION ON AB 32 AND SB 375 AND TO ADOPT THE BOARD-APPOINTED TASK
FORCE RECOMMENDATIONS**

Resolution #3 also referred to these policy committees: Environmental Quality; Revenue and Taxation; and Transportation, Communication & Public Works. **Please see Environmental Quality Policy Committee** section for the resolution and background information.

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◆4. RESOLUTION RELATING TO RESPONSIBLE BANKING

Source: Richard Alarcón, Council Member, Los Angeles and
Karen Avilla, City Treasurer, Carson

Referred to: Housing, Community & Economic Development Policy Committee; and
Revenue and Taxation Policy Committee

Recommendation to General Resolutions Committee:

- ◆ Housing, Community and Economic Development Policy Committee:
- ◆ Revenue and Taxation Policy Committee:

WHEREAS, cities strive to spend taxpayer dollars wisely on services; and

WHEREAS, cities invest taxpayer dollars with a range of institutions that provide financial service contracts each year; and

WHEREAS, it is important to ensure that taxpayer dollars are invested in institutions that are not just fiscally sound, but are committed to investing back into our communities, generating positive investment and lending in our cities; and

WHEREAS, cities can help support the nation's economic recovery by supporting financial institutions that in turn re-invest in our local communities; and

WHEREAS, the national Community Reinvestment Act, passed by the U.S. Congress in 1977, pioneered the use of transparent, responsible banking, by starting a federal rating system to measure banks' local lending and investment activity in the communities they take deposits from, providing accountability to the communities that institutions serve; and

WHEREAS, three decades have passed since the original passage of the Community Reinvestment Act (CRA), and due in part to the dramatic changes in the U.S. banking system since this time, CRA does not provide the level of detail needed for local municipalities to determine our financial partners' lending activity and investment within a single city alone; and

WHEREAS, on March 20, 2002, the City of Philadelphia signed into law a requirement that all banks authorized to receive deposits from the City submit an annual statement of community reinvestment goals within Philadelphia, including but not limited to a summary of the home loans, small business loans, and other lending and investment activity within Philadelphia, which independent studies

have confirmed has resulted in increased access to credit among Philadelphia's minority and low- and moderate-income communities; and

WHEREAS, the City of Cleveland enacted into law a similar Community Reinvestment Depository Ordinance in 1991, and since that time has negotiated over \$10 billion in lending commitments and investments through designated Community Reinvestment Initiative agreements with designated depository banks, with an independent study by the Brookings Institution confirming that compared to comparable midwestern cities Cleveland's CRA Ordinance has resulted in "more bang for the community development buck;" and

WHEREAS, on March 5, 2010, the Los Angeles City Council unanimously passed a Responsible Banking Initiative that requires financial institutions with which the City contracts to provide an annual "report card" detailing investment and lending activity within Los Angeles, to allow the City to reward institutions that re-invest in Los Angeles by adding extra points to these institutions' applications during the City's RFP process for financial service providers; and

WHEREAS, many municipalities could benefit from increased transparency about which of the financial institutions their city taxpayer dollars are invested in are in turn re-investing in their city's homes, businesses, and non-profits, which will allow cities to hold banks to a higher standard of re-investment by offering increased city business to those that are generating higher levels of investment, lending, and community service activity within their city; now, therefore, be it

RESOLVED, by the General Assembly of the League of California Cities, assembled during the Annual Conference in San Diego, September 17, 2010, that the League of California Cities strongly encourages municipalities to require transparent, responsible banking from the financial institutions receiving city funds; and, be it further

RESOLVED, that the League of California Cities serve as a clearinghouse of information on the responsible banking initiatives of municipalities across the country, such as those of Philadelphia, Cleveland, Los Angeles and Carson, California; in order to help California cities interested in taking steps to increase transparent, responsible banking in their own communities.

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Background Information on Resolution No. 4

Source: Richard Alarcón, Council Member, Los Angeles and Karen Avilla, City Treasurer, Carson

Title: Resolution Relating to Responsible Banking

Background:

As a Councilmember from the City of Los Angeles and a Treasurer from the City of Carson, we know that stewards of public funds must strive to ensure that taxpayer dollars are invested in businesses and institutions that are not just fiscally sound, but committed to investing back into our communities.

On Friday, March 5, 2010, the Los Angeles City Council unanimously passed a Responsible Banking Initiative that Councilmember Alarcón introduced last year, which will require financial institutions with which the City of Los Angeles does business to provide an annual "report card" detailing the institution's investment and lending activity within the City.

The purpose of the report card is to determine which institutions the City does business with are in turn reinvesting in the City, by extending credit to residents and businesses, and investing capital in

communities and development projects. The report card will allow policy makers to reward institutions with above average rates of impact in the City, while decreasing business with those institutions that do not recycle dollars back into the local economy.

This effort could be likened to a local version of the federal Community Reinvestment Act, by allowing local policymakers to review the community reinvestment activity of the financial institutions with which the City invests. It builds on the work of existing law in the cities of Philadelphia and Cleveland. Both the City of Philadelphia, in 2002, and the City of Cleveland, in 1991, passed laws requiring annual statements of community reinvestment goals from the institutions that manage their City deposits.

The City of Cleveland reports that, from 1991 through 2008, Cleveland has negotiated over 10 billion dollars in lending commitments and investments with designated depository banks as a result of their responsible banking law. In a 2003 report, the independent Brookings Institution compared three Midwestern cities and praised the City of Cleveland for achieving “more bang for their community development buck” through the use of their Community Reinvestment and other innovative City laws.

We owe it to the current and future residents of our Cities to ensure that taxpayer dollars are invested in responsible banking institutions that are creating opportunities for investment and lending in our communities. That’s why we urge the League of California Cities to encourage municipalities to require transparent, responsible banking from financial service providers. With the strength of our collective wallets combined, Cities will be sending a powerful message to banks: invest in us, and we will invest in you.

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RESOLUTIONS REFERRED TO REVENUE AND TAXATION POLICY COMMITTEE

◆3. RESOLUTION OPPOSING THE BOARD OF DIRECTORS DECISION TO DEFER ACTION ON AB 32 AND SB 375 AND TO ADOPT THE BOARD-APPOINTED TASK FORCE RECOMMENDATIONS

Resolution #3 also referred to these policy committees: Environmental Quality; Housing, Community & Economic Development; and Transportation, Communication & Public Works. **Please see Environmental Quality Policy Committee** section for the resolution and background information.

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◆4. RESOLUTION RELATING TO RESPONSIBLE BANKING

Resolution #4 also referred to the Housing, Community & Economic Development Policy Committee. **Please see the Housing, Community & Economic Development Policy Committee** section for the resolution and background information.

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- Continued, Revenue and Taxation Resolutions -

5. RESOLUTION RELATING TO UNFUNDED STATE MANDATES

Source: City of Santa Clarita
Referred to: Revenue and Taxation Policy Committee
Recommendation to General Resolutions Committee:

WHEREAS, unfunded mandates imposed upon local governments, including cities, counties and special districts, by the State of California place a tremendous financial burden upon local governments; and

WHEREAS, some of the mandates placed upon local governments are the result of actions by Boards and Commissions not directly accountable to the electorate; and

WHEREAS, the State of California and many local governments within the state are under financial duress due to the continuing national economic crisis, and

WHEREAS, approximately twelve percent of Californians, are currently unemployed and struggling to pay for basic life necessities, well above the national average; and

WHEREAS, mandates enacted by the State of California may result in the need for local agencies to increase fees or taxes to satisfy the requirements of the mandate; and

WHEREAS, as cited in a 2005 report on state mandates published by the League of California Cities, the original intent of Property Tax Relief Act of 1972, which established the concept of state reimbursement of local agencies for state mandated activities, was to limit the ability of local agencies to levy taxes; and

WHEREAS, in 1979 the voters of the State of California approved Proposition 4 adding Article XIII B to the California Constitution, requiring the state to provide a subvention of funds to local governments for costs associated with state mandated programs, under specified conditions, and through subsequent legislation creating the Commission on state mandates; and

WHEREAS, in 2004, the voters of the State of California adopted Proposition 1A expanding the constitutional protections for local governments regarding state mandates; and

WHEREAS, the State of California has struggled to balance its budget for the past several years and has chosen to borrow funds from local governments, thus reducing traditional revenues to local governments, forcing additional local program and service reductions and cutbacks; and

WHEREAS, various federal and state laws and regulations may result in the imposition of state mandates on local governments; and

WHEREAS, an example of state imposed mandates are the establishment of Total Maximum Daily Loads (TMDL) for such things as bacteria, chloride, metals, and toxicity, and

WHEREAS, in order to meet the obligations imposed by Regional Water Quality Control Boards throughout California, local agencies may need to implement or increase fees and taxes to pay for new programs or facilities, in order to avoid penalties for non-compliance; and

WHEREAS, there appears to be no correlation between the imposition of state mandates, taxpayer funded resources to pay for the costs of state mandates, California's high unemployment rate, and the fiscal conditions of the State of California and local governments; now, therefore be it

RESOLVED, by the General Assembly of the League of California Cities, assembled during the Annual Conference in San Diego, September 17, 2010, that:

1. The League of California Cities work with its member cities and other local government partners to identify situations in which local governments must increase fees or taxes to meet state mandated requirements; and
2. The League of California Cities petition the Governor of the State of California and Legislature of the State of California to suspend or eliminate certain state mandates until improvement of the national and California economy results in substantially lower statewide unemployment and fiscal solvency of the State of California and local governments; and
3. The League of California Cities work with Members of Congress and the government of the United States to suspend or eliminate certain federal mandates, passed along to the states for implementation, until the improvement of the national economy results in substantially lower national unemployment and fiscal solvency of the United States, the State of California and local governments; and
4. That the League of California Cities will support legislation to suspend, eliminate, or otherwise modify the negative impacts of state mandates on local agencies, particularly in which a new local tax or fee or tax or fee increase is necessary to implement the mandate.

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Background Information on Resolution No. 5

Source: City of Santa Clarita

Title: Resolution Relating to State Unfunded Mandates

Background:

Reaching back at least forty years, local governments, including cities, counties and special districts, have struggled with mandates placed upon them by the State of California. Under California law, whenever the Legislature, Governor, or a state agency enacts a new law, executive order, regulation, or rule that requires a local government to implement a new program or provide a higher level of service to an existing program, the state shall reimburse the local agency for the increased cost.

Over the past two decades, the California Legislature has made a practice of borrowing, transferring, shifting, or otherwise conveying from local governments to the State of California, as part of the state budget balancing process, what have historically been considered local revenues. The failure of the State of California, for the most part, to repay these funds to local governments has led to ballot measures restricting the ability of the state to use local revenues to balance its continual budget deficit.

Against this backdrop, state regulatory agencies continue to impose requirements upon local governments, which may result in the need to increase local fees or taxes. Failure to implement the regulatory requirements may result in the imposition of substantial financial penalties, which must be paid for by the local government and ultimately, taxpayers or rate payers within the jurisdiction.

At a time when California's unemployment rate is in excess of 12%, which is well above the national unemployment rate, and California businesses are struggling to stay afloat in the worst national recession since the great depression of the 1930s, the question of regulatory relief must be considered.

For example, many communities throughout the State of California are facing establishment of Total Maximum Daily Load (TMDL) requirements for such things as bacteria, chloride, metals, and toxicity. While the environmental or other goals that are sought to be achieved are laudable, regulatory requirements must be sensitive to the overlaying statewide and national economic climate and the ability of local governments to pay for new programs and enhancements. In the Santa Clarita area, the Los Angeles Regional Water Quality Control Board, through imposition of a Chloride TMDL mandate and its required implementation, is causing local sanitation district ratepayers to pay a 50% fee increase over four years for increased operational and new facility expenses and committing to long term additional increases. Failure to approve the increase will likely invite substantial fines, totaling in the millions of dollars collectively for the ratepayers.

In a time of economic uncertainty and high unemployment, is it appropriate to require California taxpayers to pay for new regulatory requirements or is it reasonable to suspend or eliminate certain state mandates until such time as unemployment levels return to more traditional levels and national, state and local governments return to financial stability?

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RESOLUTIONS REFERRED TO TRANSPORTATION, COMMUNICATION & PUBLIC WORKS POLICY COMMITTEE

◆3. RESOLUTION OPPOSING THE BOARD OF DIRECTORS DECISION TO DEFER ACTION ON AB 32 AND SB 375 AND TO ADOPT THE BOARD-APPOINTED TASK FORCE RECOMMENDATIONS

Resolution #3 also referred to these policy committees: Environmental Quality; Housing, Community & Economic Development; and Revenue and Taxation. **Please see Environmental Quality Policy Committee** section for the resolution and background information.

6. RESOLUTION RELATED TO ENHANCING PUBLIC SAFETY WHILE DRIVING A MOTOR VEHICLE

Source: City of Elk Grove
Referred to: Transportation, Communication & Public Works Policy Committee
Recommendation to General Resolutions Committee:

WHEREAS, cities throughout the State of California hold the health and safety of their residents as a paramount concern; and

WHEREAS, the use of text messages has grown exponentially in recent years; and

WHEREAS, any time a driver attempts to send an electronic text message while driving, his or her attention is diverted from the road; and

WHEREAS, a recent Virginia Tech study showed sending electronic text messages while driving makes an accident 23 times more likely; and

WHEREAS, a study conducted by The Transport Research Laboratory in the United Kingdom showed that sending text messages while driving is riskier than driving under the influence of alcohol or drugs; and

WHEREAS, Senate Bill 28 and California Vehicle Code Section 23123.5 ban writing, sending, or reading electronic text messages while operating a motor vehicle in the state of California; and

WHEREAS, the League supports this type of traffic safety enhancement as demonstrated through their support of motorcycle helmets, child restraints, seat belt and speed limit laws; now, therefore, be it

RESOLVED, by the General Assembly of the League of California Cities, assembled during the Annual Conference in San Diego, September 17, 2010, that the League encourages cities to promote safe driving across California and the education of the general public about the dangers of texting while driving.

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Background Information on Resolution No. 6

Source: City of Elk Grove

Title: Resolution Relating to Enhancing Public Safety While Driving a Motor Vehicle

Background:

On September 24, 2008, the Governor of California, Arnold Schwarzenegger, signed Senate Bill 28 (“SB 28”) into law. SB 28 is codified in section 23123.5 of the California Vehicle Code and prohibits any person from driving a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication. SB 28 complements an existing law which Governor Schwarzenegger signed in 2006 requiring motorists to use hands-free devices while talking on a mobile phone when driving a motor vehicle.

Many studies recognize that the distraction that occurs while using electronic devices while operating a motor vehicle is very dangerous:

- It is estimated that 28% of crashes — 1.6 million crashes per year — can be attributed to cell phone talking and texting while driving. (Source: National Safety Council)
- Drivers who use hand-held devices are four times as likely to get into crashes serious enough to injure themselves. (Source: Insurance Institute for Highway Safety)
- Using a cell phone while driving delays a driver's reactions as much as having a blood alcohol concentration at the legal limit of .08 percent. (Source: University of Utah)

Because the health and safety of the residents of Elk Grove is paramount to the members of the City Council; on May 12, 2010, the Elk Grove City Council unanimously adopted a resolution promoting awareness of the dangers of texting while driving. The City is embarking on an aggressive, yet economical, public outreach campaign to educate its residents about the dangers of texting while driving, which includes: educational links on the City’s Web site, a flyer in the city’s utility billing insert which reaches every household, free promotional items for residents specifically geared toward this topic, and a spotlight feature in the City’s bimonthly newsletter.

Other cities in California are encouraged to enhance public safety in their community by educating residents about the dangers of texting while driving a motor vehicle. Educational outreach will benefit

drivers, passengers, by-standards, bicyclists, walkers and runners. Local governments have the ability to implement cost-effective educational tools to communicate with residents about this important public safety issue.

All local government officials and employees in California want to protect their families, themselves, and others. Please put down your phone when you are driving or use a hands-free device and do not text. It's safe and it's the law.

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[NOTE: No resolutions were assigned to the following policy committees: Employee Relations and Public Safety.]

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**STAFF REPORT
CITY OF IMPERIAL BEACH**

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GARY BROWN, CITY MANAGER

MEETING DATE: SEPTEMBER 1, 2010

**ORIGINATING DEPT.: COMMUNITY DEVELOPMENT DEPARTMENT
GREG WADE, COMMUNITY DEVELOPMENT DIRECTOR** *GW*

SUBJECT: ARMY CORPS OF ENGINEERS SAN DIEGO HARBOR MAINTENANCE DREDGING PROJECT AND ADOPTION OF RESOLUTION NO. 2010-6931 AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF AGREEMENT (MOA) BETWEEN THE ARMY CORPS OF ENGINEERS AND THE CITY OF IMPERIAL BEACH

BACKGROUND:

On January 14, 2009, City staff received a phone call from the Los Angeles District of the Army Corps of Engineers advising us of an impending San Diego Harbor Maintenance Dredge Project. Included as part of the project was the proposal to dredge approximately 300,000 cubic yards of beach-compatible sand from the San Diego Harbor Entrance Channel and deposit it in the nearshore just south of the Imperial Beach pier. Subsequently, staff requested that the Army Corps attend the February 4th City Council meeting so that the project could be presented to the City Council. On February 4, 2009, the City Council received a presentation of and supported implementation of the proposed project. On October 7, 2009, the City Council received an update on the proposed and impending project. At that meeting, staff advised the City Council that the item would return to them on Wednesday, October 21, 2009, to provide an update on the project and the outcome of various project meetings scheduled since October 7th.

On Monday, October 12, 2009, the project was presented to the Tidelands Advisory Committee (TAC). At that meeting, the TAC provided general support for the project. The TAC also raised the following issues or concerns:

- 1) A long-term approach is needed that addresses more permanent solutions for our beach erosion problem.
- 2) A more collaborative effort should be pursued for such projects with all agencies including the EPA.

- 3) If we are going to be pursuing and taking advantage of opportunistic projects in the near term, more lead time is needed to allow for important public/community, TAC and City Council input.
- 4) For any such project the quality and suitability of the material should be scrutinized and, for this project, a debris management plan should be implemented.
- 5) Given the quality of the sediment proposed to be dredged for this project, every effort should be made to place as much of the material in the nearshore (within the depth of closure) to maximize the potential benefits for beach renourishment.

On October 21, 2009, the project was again presented to the City Council. At that time, staff reported that the project was on hold due to air quality permitting delays along with issues related to the dredge being considered for the project and its inability to appropriately place the sand within the nearshore off Imperial Beach. However, the City Council did support the project if and when it were to proceed subject to implementation of an adequate debris management plan and provided the material was placed close enough to shore to have positive beach renourishment benefits.

DISCUSSION:

Since that time, the project has been modified so that the Army Corps will be bidding out the contract as opposed to using the Corps' own dredges. It is now expected that either a hopper dredge equipped to place the material in the nearshore or a clamshell dredge will be used. From a cost perspective, it is likely that the latter (a clamshell dredge) will be used. Due to changes in the proposed project, a Draft Supplemental Environmental Assessment (SEA) was prepared and distributed for public review.

As previously reported, there is approximately 300,000 cubic yards of beach-quality sediment that could be dredged from the approach and entrance channel to San Diego Harbor. While the Army Corps has estimated the cost for dredging all of this material at approximately \$4.5 million, they currently have only \$1.5 million budgeted for this project. As such, over the past several months, the Army Corps has sought additional non-federal funding in order to carry out as much of the project as possible. The Army Corps approached both the City of Imperial Beach and the Port of San Diego seeking any possible assistance. Through these discussions, the idea of using some of the \$1.8 million previously budgeted in the Port's Capital Development Program (CDP) for the Army Corps Imperial Beach – Silver Strand Shoreline Project (the large federal shoreline protection and beach renourishment project) for this harbor maintenance dredge project was raised. City staff was responsive to this idea with the understanding that the Army Corps would then establish a long-term arrangement with the City of Imperial Beach that would provide for all beach-compatible sand dredged from the San Diego Harbor Entrance Channel during routine maintenance to be placed in the nearshore off Imperial Beach.

At a City Council Workshop on May 11, 2010, City staff advised the Council of this idea. Staff further advised the Council that it intended to request that the Port maintain the \$1.8 million in their CDP with the idea of reallocating the funds to support both the Harbor Entrance Channel Dredge Project as well as SANDAG's Regional Beach Sand Project (RBSP) II. Consequently, a letter was sent from the City Manager to the Port outlining this request. In response to that request, the Port ultimately budgeted only \$1 million for both projects with up to \$300,000 to be used toward the Army Corps Harbor Entrance Channel Dredge Project, with the stipulation that these funds only be used to pay for the incremental cost associated with transporting the sand down to Imperial Beach as opposed to Coronado.

In order to provide these funds, the Army Corps requested a Letter of Intent (LOI) from the City

of Imperial Beach to enter into a Memorandum of Agreement (MOA) for participation in the project. At their meeting on Wednesday, July 7, 2010, the City Council authorized issuance of the LOI which was sent on July 8, 2010. In the letter, the City also restated its understanding that the Army Corps intended to place all future beach-compatible sediment dredged from the approach and entrance channels within the nearshore off Imperial Beach. A letter of thanks was received from Colonel Toy dated July 14, 2010. However, that letter stated that, "... if the opportunity permits, the Corps looks forward to working with the City of Imperial Beach on establishing a similar type of agreement to pay for the incremental cost of placing sand in the nearshore at Imperial Beach." It was not the intent of the City, however, that it would pay for any such future projects. Both letters are attached to this staff report (see Attachments 1 and 2).

Also at their meeting on July 7, 2010, the City Council supported the use of up to \$300,000 of Port District funds for the San Diego Harbor Maintenance Dredging Project, supported the idea of approaching the State Department of Boating and Waterways about the possibility of re-scoping the \$4.2 million of Public Beach Restoration funds to the San Diego Association of Governments (SANDAG) Regional Beach Sand Project II, and supported the use of approximately \$700,000 of Port District funds towards the local share of the State Department of Boating and Waterways funds.

Additionally, the Port has indicated that it will also require a Memorandum of Understanding (MOU) between the Port and the City for the use of these Port funds. The MOU is also scheduled for City Council consideration at this meeting and, if approved, will then go to the Board of Port Commissioners for their approval in September.

Supplemental Environmental Assessment

For the original project, an Environmental Assessment was prepared to assess any environmental impacts associated with the project. Changes to the project description since last fall include an increased dredging duration and additional dredging equipment. Again, while approximately 300,000 cubic yards of beach compatible material is available, the Army Corps expects to dredge approximately 100,000 cubic yards with the available funds and place the material in the nearshore off Imperial Beach. Dredging is now expected to occur over a maximum of 100 days between September 15, 2010, and April 1, 2011 using either a clamshell or hopper dredge. The dredged material would be dredged from the Approach and Entrance Channels and discharged in the nearshore waters off Imperial Beach south of the Imperial Beach Pier. The material would be discharged in water depths between -15 and -28 feet mean lower low water (MLLW), within an area defined by approximate dimensions of 1,700 feet long by 1,000 feet wide, encompassing approximately 27 acres (see Attachments 3 and 4).

As mentioned above, these changes necessitated the preparation of a Supplemental Environmental Assessment (SEA). Other aspects of the project discussed in the Final Environmental Assessment for the original project will remain the same, including the dredging of beach compatible material only, the receiver site location at Imperial Beach, and the environmental commitments. Updated environmental commitments, based upon the updated project description, will be followed to avoid and minimize impacts to environmental resources.

Environmental Commitments outlined in the SEA are as follows:

- a. Prior to construction, the Corps will provide a 14-day notification of planned activities to appropriate agencies and post information bulletins of scheduled work time and areas at appropriate offices. Equipment will be appropriately marked and lighted.

- b. It is estimated that construction may take a maximum of approximately 100 days. Dredging and discharge will be performed between September 15, 2010 and to April 1, 2011, in order to avoid impacts to the California least tern.
- c. The Corps shall regularly inspect the hopper dredge, if used, for the presence of green sea turtle during dredging operations. If any turtle remains are discovered within the dredge, dredging activity will cease and NOAA/NMFS will be contacted immediately.
- d. Any sensitive marine vegetation found in the dredge area or discharge area, including eelgrass or kelp, would be avoided.
- e. The Corps shall obtain all applicable air permits and comply with federal, state, and local air and noise regulations.
- f. The Corps shall keep construction activities under surveillance, management, and control to avoid pollution of surface and ground waters, and to minimize interference with, disturbance to, and damage of fish and wildlife.
- g. The Corps' Contractor will monitor turbidity at the dredge and beach discharge site. This monitoring will ensure that turbidity levels will not impact foraging of the tern and the pelican. A monitoring report would be submitted to the United States Fish & Wildlife Service (USFWS) and Regional Water Quality Control Board (RWQCB).
- h. All minimization measures identified in the 401 Water Quality Control request letter and application will be followed during dredging and discharge activities, as per correspondence with RWQCB on March 2, 2009. All commitments identified in the Final EA and this Draft SEA would be followed to minimize impacts to water quality.
- i. All dredging and fill activities will remain within the boundaries specified in the plans. There will be no dumping of fill or material outside of the project area or within any adjacent aquatic community.
- j. The Corps shall mark the dredge and all associated equipment in accordance with U.S. Coast Guard regulations. The Corps must contact the U.S. Coast Guard two weeks prior to the commencement of dredging. The following information shall be provided: the size and type of equipment to be used; names and radio call signs for all working vessels; telephone number for on-site contact with the project engineer; the schedule for completing the project; and any hazards to navigation.
- k. The Corps shall move equipment upon request by the U.S. Coast Guard and harbor patrol law enforcement and rescue vessels.
- l. Beach disposal will be limited to the nearshore waters at Imperial Beach to minimize impacts to the plover.
- m. Any permits required by the City of San Diego and the City of Imperial Beach to dredge and dispose during nighttime hours and meet noise ordinances would be obtained by the Corps.
- n. Only areas that contain beach compatible sediment, as determined by sediment sampling completed in October 2008 and approved by the EPA, will be dredged. Any non-compatible material will be left in place.

- o. A Debris Management Plan would be developed prior to construction, in coordination with EPA and City of Imperial Beach, to minimize discharge of debris in nearshore waters.
- p. Prior to construction, the Corps will comply with Section 106 of the National Historic Preservation Act and its implementing regulations at 36 CFR 800, as amended.
- q. Pursuant to 36 C.F.R. § 800.13, in the event of any discoveries during dredging of either human remains, archeological deposits, or any other type of historic property, the dredging supervisor shall notify the Corps of Engineers' Archeology Staff within 24 hours (Mr. Steve Dibble at 213-452-3849, Ms. Amy Holmes at 213-452-3855, or Mr. John Killeen at 213- 452-3861). The dredging supervisor shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The dredging shall not resume in the area surrounding, i.e., immediately adjacent to, the potential cultural resources until the Corps of Engineers re-authorizes dredging, per 36 C.F.R. § 800.13.

Of particular note above, is the requirement to prepare a Debris Management Plan in coordination with the City of Imperial Beach and the Environmental Protection Agency (EPA). This was a specific concern of the City and a condition under which the TAC recommended approval and the City Council approved the original project. City staff has continued to work with the Army Corps and the EPA to ensure that this condition is adequately addressed and that an appropriate Debris Management Plan is implemented to minimize to the greatest extent practicable the deposition of any debris or materials that could be harmful to the beach-going public. The bid specifications for the project include the following language:

1.5.5 Debris Management Plan

As part of the Environmental Protection Plan, the Contractor shall prepare a Debris Management Plan identifying methods to minimize discharge of debris at the nearshore placement site. The Debris Management Plan shall include, but is not limited to, features such as visual monitoring for debris during dredge and disposal operations, use of grates during dredging operations, and post-disposal surveys.

According to the Army Corps, the language is open ended to allow for the contractor to create a plan that best suits their capabilities and equipment, which can reduce costs and provide a more effective and efficient setup. The contractor will be required to submit their plan to the Army Corps for review and approval. The City would also require that the Debris Management Plan be provided to the City for its review and approval before construction begins.

The proposed project has been reviewed and determined to be in compliance with all applicable laws and regulations, including:

- a. National Environmental Policy Act ER -200-2
- b. Clean Water Act
- c. Endangered Species Act
- d. Coastal Zone Management Act
- e. Clean Air Act
- f. National Historic Preservation Act

- g. Magnuson-Stevens Fishery Management and Conservation Act
- h. Fish and Wildlife Coordination Act

The draft SEA concluded that the San Diego Harbor Maintenance Dredging Project has been designed and scheduled to avoid and minimize possible impacts to the environment. The draft SEA, and additional coordination with the appropriate resource agencies, indicates that the proposed action would not have a significant impact upon the existing environment or the quality of the human environment.

Memorandum of Agreement (MOA)

In order for the Army Corps to receive funding from outside sources, a Memorandum of Agreement (MOA) must be executed between the City of Imperial Beach and the Department of the Army for the City's participation in this project. The Army Corps previously stated that drafting of the MOA could not commence until receipt of the LOI from the City. The LOI was mailed and sent via email to the Army Corps on July 8, 2010, the day after authorization by the City Council. At the time of the drafting of this staff report, however, a draft MOA had not been provided to the City for review.

Memorandum of Understanding (MOU)

Because the Port of San Diego has allocated funds of up to \$300,000 to contribute to this project, a Memorandum of Understanding (MOU) must also be executed in order for the Port to provide the funds for the project to the City of Imperial Beach. Based upon estimates by the Army Corps, the City will provide \$150,000 of City funds to the Army Corps of Engineers in advance of the bid opening for the project. In compliance with the terms of both the MOU and the MOA, the Port will then reimburse the City for this expenditure upon completion of the project. The proposed MOU is also scheduled for City Council consideration on this agenda.

Tidelands Advisory Committee Recommendation

On Monday, July 12, 2010, staff presented the proposed San Diego Harbor Maintenance Dredging Project to the Tidelands Advisory Committee (TAC) along with the other beach renourishment and funding projects and issues presented to the City Council on July 7, 2010. At the TAC meeting, staff recommended that the City Council:

1. Support the San Diego Harbor Maintenance Dredging Project subject to the conditions described in this staff report including the environmental commitments, preparation and implementation of a detailed Debris Management Plan for the project including during- and post-project debris monitoring and a plan for removal of any debris found; and
2. Support the use of up to \$300,000 of Port of San Diego funds for the incremental cost of transporting the dredged sediment to the nearshore off Imperial Beach subject to implementation of the detailed Debris Management Plan.

The TAC recommended the above two actions unanimously.

3. Support the idea of approaching the State Department of Boating and Waterways about the possibility of re-scoping the \$4.2 million of Public Beach Restoration funds to the San Diego Association of Governments (SANDAG) Regional Beach Sand Project II; and

4. Support the use of approximately \$700,000 of Port District funds towards the local share of the State Department of Boating and Waterways funds.

The TAC recommended the above two actions by a vote of 4 to 1.

The TAC also stressed the importance of the Army Corps providing as much detail on the Debris Management Plan as possible including:

- Dimensions of the grate for screening of the sediment must be specified and must be the smallest size practicable
- Details on the multi-beam sonar for post-construction debris monitoring must be provided including frequency and timing of sonar surveys and information on the size and type of debris that the sonar would be expected to detect
- A plan for retrieval and disposal of any debris captured or identified during dredging and after deposition of the sediment
- A specific plan for identification, retrieval and disposal of any ordnance encountered or discovered during the project

Finally, the TAC also reiterated its previous desire for the City to pursue a long-term approach to coastal erosion and sediment management including the idea beach renourishment in combination with sediment retention.

In response to the above requested details of the Debris Management Plan, the Army Corps offered the following responses:

- The typical dragarm inlet grates and scow grate openings average 12"x12", but can vary in size depending on the equipment.
- The multi-beam sonar cannot distinguish the physical makeup of objects on the ocean floor, but can provide high resolution bathymetry of the area being surveyed. The Army Corps will perform a pre-dredge and post-dredge survey of the disposal area along with an independent, third party pay survey and any interim surveys that the contractor chooses to conduct.
- For visual monitoring of the shoreline, the Army Corps requested whether or not Imperial Beach lifeguards could provide this monitoring. Another option suggested by City staff would be to have SANDAG staff currently conducting routine monitoring of the shoreline as part of the Regional Beach Sand Project I also conduct this post-project visual monitoring. City staff has discussed this possibility with SANDAG staff and they are receptive to this idea.
- With regard to monitoring the shoreline for any ordnance that may be encountered, while there is already a plan in place for such an occurrence, the Army Corps has also included the following language in their bid specifications:

1.6 Munitions and Explosives

In the event any munitions are encountered, the Contractor shall immediately notify the Contracting Officer and the San Diego County Bomb Squad, (858) 565-5030. The Contractor may anticipate work stoppage or

delays due to response times and techniques for the San Diego County Bomb Squad (SDCBS). Only certified Unexploded Ordnance (UXO) personnel shall be authorized to handle possible UXO or munitions. The qualifications of UXO personnel are listed in EP 1110-1-18, chapter 20. The Contractor shall provide transportation for the SDCBS from the shore to the dredge.

As part of the Site Safety & Health Plan (see SECTION 01200), the Contractor shall include procedures to be followed in case a munition or suspect munition is encountered.

City staff would also request that the Army Corps direct the contractor to contact the City of Imperial Beach Public Safety Director and the Lifeguard Captain in the event any munitions are discovered.

ENVIRONMENTAL IMPACTS:

A Final Environmental Assessment (EA) was prepared and a draft Supplemental Environmental Assessment (SEA) has been prepared and circulated for review for the San Diego Harbor Maintenance Dredge Project. The EA and the SEA concluded that the San Diego Harbor Maintenance Dredging Project has been designed and scheduled to avoid and minimize possible impacts to the environment. The SEA, and additional coordination with the appropriate resource agencies, indicates that the proposed action would not have a significant impact upon the existing environment or the quality of the human environment.

FISCAL IMPACT:

The City of Imperial Beach will be required to provide \$150,000 up front to the Army Corps, with reimbursement by the Port upon project completion. It is anticipated that these funds will come from the General Fund.

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council:

1. Support the San Diego Harbor Maintenance Dredging Project subject to the conditions described in this staff report including the environmental commitments, the preparation and implementation of a detailed Debris Management Plan for the project including during- and post-project debris monitoring and a plan for removal of any debris found; and
2. Approve and adopt Resolution No. 2010-6931 authorizing the Mayor to enter into a Memorandum of Agreement (MOA) between the Department of the Army and the City of Imperial Beach subject to the conditions described herein and as summarized in recommendation No. 1 above.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation.



Gary Brown, City Manager

Attachments:

1. Letter of Intent to the Army Corps of Engineers, Colonel Toy
2. Letter of Thanks for Colonel Toy
3. Dredge Area
4. Nearshore Deposition Area
5. Draft Memorandum of Agreement (MOA)
6. Resolution No. 2010-6931



City of Imperial Beach, California

www.cityofib.com

OFFICE OF THE MAYOR

July 8, 2010

Colonel Mark Toy, USA
Commander
Los Angeles District
U.S. Army Corps of Engineers
P.O. Box 532711
Los Angeles, CA 90053-2325

SUBJECT: LETTER OF INTENT TO ENTER INTO A MEMORANDUM OF AGREEMENT BETWEEN THE DEPARTMENT OF THE ARMY AND THE CITY OF IMPERIAL BEACH FOR THE SAN DIEGO HARBOR MAINTENANCE DREDGING PROJECT

Dear Colonel Toy:

On Wednesday, July 7, 2010, the City Council of the City of Imperial Beach authorized the issuance of this Letter of Intent (LOI) to enter into a Memorandum of Agreement (MOA) with the Army Corps of Engineers for participation in the above-referenced project. Specifically, the City of Imperial Beach has received authorization from the Port of San Diego to expend up to \$300,000 of Port funds towards the incremental cost of transporting beach-quality sand dredged from the San Diego Harbor Entrance Channel to a nearshore deposit site off Imperial Beach. As has been discussed and agreed to between the Army Corps of Engineers and City of Imperial Beach, the placement of this material will be subject to the implementation of an appropriate debris management plan. It is our further understanding that the Army Corps' intent is to place all future beach-compatible sediment dredged from the San Diego Harbor Entrance Channel within the nearshore off Imperial Beach.

The MOA is currently scheduled to be considered by the City's Tidelands Advisory Committee (TAC) on Monday, July 12, 2010, and by the City Council of the City of Imperial Beach at their regular meeting on Wednesday, July 21, 2010. It is City staff's intention to recommend that the City Council authorize the City Manager to enter into the MOA subject to specific conditions including the implementation of the aforementioned debris management plan.

The City of Imperial Beach thanks you for your efforts to provide the City with this much-needed beach renourishment opportunity and looks forward to working with you in the future on other such projects.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Janney', with a long horizontal stroke extending to the right.

James C. Janney
Mayor



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

LOS ANGELES DISTRICT CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

ATTACHMENT 2

July 14, 2010

REC'D
2010 JUL 21 A 10:08

CITY MANAGER/PERSONNEL
CITY CLERK OFFICES

Office of the
District Commander

Honorable Jim Janney
City of Imperial Beach
825 Imperial Beach Blvd.
Imperial Beach, California 91932

Dear Mayor Janney:

Thank you for your letter of intent to contribute funds to the San Diego Harbor maintenance dredging project. My staff is currently working on a memorandum of agreement that will allow the U.S. Army Corps of Engineers to accept funds from the City of Imperial Beach.

For future maintenance dredging projects in San Diego Harbor, if the opportunity permits, the Corps looks forward to working with the City of Imperial Beach on establishing a similar type of agreement to pay for the incremental cost of placing sand in the nearshore at Imperial Beach.

Should you have any questions please contact feel free to contact me at (213) 452-3961, or your staff can contact Mr. Scott John, Project Manager, at (213) 452-3388, Scott.M.John@usace.army.mil.

Sincerely,

R. Mark Toy, P.E.
Colonel, US Army
Commander and District Engineer



Item No. 6.4

Attachment 5

To be provided at or prior to the City Council meeting.



**STAFF REPORT
CITY OF IMPERIAL BEACH**

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GARY BROWN, CITY MANAGER

MEETING DATE: SEPTEMBER 1, 2010

ORIGINATING DEPT.: COMMUNITY DEVELOPMENT DEPARTMENT
GREG WADE, COMMUNITY DEVELOPMENT DIRECTOR *aw*

SUBJECT: ADOPTION OF RESOLUTION NO. 2010-6932 AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE SAN DIEGO UNIFIED PORT DISTRICT AND THE CITY OF IMPERIAL BEACH FOR PARTICIPATION IN THE ARMY CORPS OF ENGINEERS SAN DIEGO HARBOR MAINTENANCE DREDGING PROJECT

BACKGROUND:

Scheduled on this same City Council agenda is the Army Corps of Engineers San Diego Harbor Maintenance Dredging Project (the "Project") and the Memorandum of Agreement (MOA) between the City and the Army Corps outlining the City's participation in the Project. Since the San Diego Unified Port District (the "Port") is providing the funds for the City's participation in this project, an MOU is also required to allow for the transfer of funds to the City for participation in the project.

DISCUSSION:

As previously reported, there is approximately 300,000 cubic yards of beach-quality sediment that could be dredged from the approach and entrance channel to San Diego Harbor. While the Army Corps has estimated the cost for dredging all of this material at approximately \$4.5 million, they currently have only \$1.5 million budgeted for this project. As such, over the past several months, the Army Corps has sought additional non-federal funding in order to carry out as much of the project as possible. The Army Corps approached both the City of Imperial Beach and the Port of San Diego seeking any possible assistance. Through these discussions, the idea of using some of the \$1.8 million previously budgeted in the Port's Capital Development Program (CDP) for the Army Corps Imperial Beach – Silver Strand Shoreline Project (the large federal shoreline protection and beach renourishment project) for this harbor maintenance dredge project was raised. City staff was responsive to this idea with the understanding that the Army Corps would then establish a long-term arrangement with the City of Imperial Beach that would

provide for all beach-compatible sand dredged from the San Diego Harbor Entrance Channel during routine maintenance to be placed in the nearshore off Imperial Beach.

At a City Council Workshop on May 11, 2010, City staff advised the Council of this idea. Staff further advised the Council that it intended to request that the Port maintain the \$1.8 million in their CDP with the idea of reallocating the funds to support both the Harbor Entrance Channel Dredge Project as well as SANDAG's Regional Beach Sand Project (RBSP) II. Consequently, a letter was sent from the City Manager to the Port outlining this request.

In agreeing to provide funds for this project, however, the Port stipulated that the funds could only be used for the incremental costs associated with transporting the material to Imperial Beach nearshore deposit site instead of the Coronado nearshore deposit site. This is due primarily to the fact Port tenants already pay a harbor dredge maintenance fee intended to provide for routine dredging. To support the City of Imperial Beach, however, the Port is willing to pay for the additional costs of ensuring that the sand will be placed off Imperial Beach where it is most needed.

DISCUSSION:

A Draft Memorandum of Understanding (MOU) is attached to this staff report. The MOU provides for the following:

- The City of Imperial Beach will pay the upfront costs to transport the sand to ACOE pursuant to the MOA, but as specified in this MOU, the District will reimburse the City of Imperial Beach in the exact amount that the City of Imperial Beach is required to pay the ACOE to complete the work, up to a maximum of \$300,000.00.
- The City of Imperial Beach shall act as overall Program Manager for implementation of the ACOE sand replenishment project.
- The District shall obtain and provide to the City of Imperial Beach the necessary funding to offset the project costs for a not to exceed amount of Three-hundred Thousand Dollars (\$300,000) solely for the incremental costs to transport sand from offshore Coronado to offshore Imperial Beach as actually charged by the ACOE (hereinafter referred to as "Incremental Costs").
- As a prerequisite to payment for services, City of Imperial Beach shall invoice the District for the Incremental Costs of transporting sand based on actual quantities and as actually charged by the ACOE as reimbursable expenses authorized by this MOU, accompanied by such records and receipts as required.
- Within thirty (30) days of receipt of invoice, the District will submit complete payment to City of Imperial Beach for the Incremental Costs in the same amount as charged by the ACOE.
- In case of any unforeseen circumstances or a dispute relating to this MOU, City of Imperial Beach and District will meet in good faith to resolve issues.
- This MOU shall commence effective on the date set forth above (September 8, 2010) and shall continue until completion of Project located at Imperial Beach, or until termination of the project by the Army Corps of Engineers.

A key element of this agreement is that the City will be required to provide funds to the Army Corps up front and then be reimbursed for those costs once the Army Corps has completed the

work. The Army Corps has determined that the up-front amount the City will be required to provide will be \$150,000.

Memorandum of Agreement (MOA)

In order for the Army Corps to receive funding from outside sources, a Memorandum of Agreement (MOA) must be executed between the City of Imperial Beach and the Department of the Army for the City's participation in this project. The MOA is also on this Council agenda for consideration by the City Council.

ENVIRONMENTAL IMPACTS:

A Final Environmental Assessment (EA) was prepared and a draft Supplemental Environmental Assessment (SEA) has been prepared and circulated for review for the San Diego Harbor Maintenance Dredge Project. The EA and the SEA concluded that the San Diego Harbor Maintenance Dredging Project has been designed and scheduled to avoid and minimize possible impacts to the environment. The SEA, and additional coordination with the appropriate resource agencies, indicates that the proposed action would not have a significant impact upon the existing environment or the quality of the human environment.

FISCAL IMPACT:

The City of Imperial Beach will be required to provide \$150,000 up front to the Army Corps, with reimbursement by the Port upon project completion. It is anticipated that these funds will come from the General Fund.

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council approve and authorize the City Manager to enter into a Memorandum of Understanding (MOU) between the San Diego Unified Port District (the Port) and the City of Imperial Beach to be reimbursed by the Port up to \$300,000 for participation in the Army Corps of Engineers' San Diego Harbor Maintenance Dredging Project.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation.



Gary Brown, City Manager

Attachments:

1. Draft Memorandum of Understanding (MOU)
2. Resolution No. 2010-6932

**MEMORANDUM OF UNDERSTANDING
BETWEEN SAN DIEGO UNIFIED PORT DISTRICT
AND THE CITY OF IMPERIAL BEACH FOR SAND REPLENISHMENT FUNDING
FOR THE ARMY CORPS OF ENGINEERS SAND REPLENISHMENT PROJECT**

This Memorandum of Understanding (MOU) specifies the relationship between the San Diego Unified Port District (District) and City of Imperial Beach for the Sand Replenishment Project by the Army Corps of Engineers (ACOE) in Imperial Beach.

WHEREAS, the City of Imperial Beach and the U.S. Army Corps of Engineers have a Memorandum of Agreement (MoA) for sand replenishment of the Imperial Beach Shoreline; and

WHEREAS, the San Diego Unified Port District (District) in the FY 2009-2013 Capital Development Program, Imperial Beach Sand Replenishment (36A), allocated funding for sand replenishment; and

WHEREAS, the District approved funding not to exceed \$300,000 solely for the incremental costs of transporting dredged sand from offshore Coronado to offshore Imperial Beach; and

WHEREAS, the City of Imperial Beach will pay the upfront costs to transport the sand to ACOE pursuant to the MOA, but as specified in this MOU, the District will reimburse the City of Imperial Beach in the exact amount that the City of Imperial Beach is required to pay the ACOE to complete the work, up to a maximum of \$300,000.00.

NOW THEREFORE, the parties hereto agree to enter into this MOU effective as of this 8th day of September, 2010:

1. City of Imperial Beach shall act as overall Program Manager for implementation of the ACOE sand replenishment project.
2. The District shall obtain and provide to the City of Imperial Beach the necessary funding to offset the project costs for a not to exceed amount of Three-hundred Thousand Dollars (\$300,000) solely for the incremental costs to transport sand from offshore Coronado to offshore Imperial Beach as actually charged by the ACOE (hereinafter referred to as "Incremental Costs").
3. As a prerequisite to payment for services, City of Imperial Beach shall invoice the District for the Incremental Costs of transporting sand based on actual quantities and as actually charged by the ACOE as reimbursable expenses authorized by this MOU, accompanied by such records and receipts as required.

4. Within thirty (30) days of receipt of invoice, the District will submit complete payment to City of Imperial Beach for the Incremental Costs in the same amount as charged by the ACOE.
5. In case of any unforeseen circumstances or a dispute relating to this MOU, City of Imperial Beach and District will meet in good faith to resolve issues.
6. This MOU shall commence effective on the date set forth above and shall continue until completion of Project located at Imperial Beach, or until termination of the project by the Army Corps of Engineers.

GARY R. BROWN
City Manager
City of Imperial Beach

Stephen Kirkpatrick
Chief Engineer
San Diego Unified Port District



STAFF REPORT
CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: GARY BROWN, CITY MANAGER
MEETING DATE: SEPTEMBER 1, 2010
ORIGINATING DEPT.: PUBLIC WORKS *HAB*
SUBJECT: RESOLUTION AWARDING A CONTRACT FOR CERTAIN
PUBLIC WORKS CONTRACT - PUBLIC WORKS ROOF
REPAIR CIP (P05-10A)

BACKGROUND: In April 2010, during the annual Public Works Facility Material Inspection, the Public Works Facility maintenance building roof was evaluated as deteriorated and in need of significant repairs. Several areas in the metal roof were showing severe rust and some areas were rusted through. The Grounds and Facilities Supervisor contacted several roof repair companies to provide a recommended repair procedure and estimated cost. Informal repair quotes were received in the \$19,000 range. However since this is a Public Works Contract work, all work exceeding \$5,000 must be awarded through a formal bid process.

In June 2010 the Public Works Roof Repair bid package was advertised for bids. The bid opening was set for July 8, 2010 at 2:30 p.m. Due to the bid costs received being double the engineer's estimate, City Council rejected all bids on July 21, 2010, as recommended by staff.

Staff subsequently revised the bid specifications and readvertised for bids on July 29, 2010 with the scheduled bid opening on Thursday, August 19, 2010.

DISCUSSION: Bids were opened and evaluated in an advertised public meeting, at 2:00 p.m., August 19, 2010. The lowest responsive and qualified bidder for the "Public Works Roof Repair CIP (P05-10A)" project was from Commercial Industrial Roofing, for \$17,550 (Seventeen Thousand Five Hundred Fifty Dollars).

The three contractors who submitted proposals are listed below along with their proposal amounts:

- | | |
|---------------------------------|----------|
| o Commercial Industrial Roofing | \$17,550 |
| o Anemos Enterprises | \$27,300 |
| o Cook Coatings, Inc. | \$42,840 |

The engineer's estimate was \$10,000

ENVIRONMENTAL DETERMINATION:

This project was evaluated for CEQA requirements and is determined to be Categorical Exempt per section 15301 - Existing Facilities – Class 1.d.

FISCAL IMPACT:

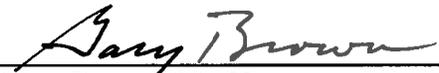
Staff recommends the use of the Facilities Maintenance / Replacement (504) Fund (set aside for emergent maintenance projects not included in the adopted Capital Improvement Program of projects) for payment for this project. There is approximately \$200,000 remaining in this fund. Authorization to expend the \$17,550 from the 504 Account will leave \$182,450 in the 504 Account for future emergent needs.

DEPARTMENT RECOMMENDATION:

1. Receive this report.
2. Adopt the attached resolution
3. Authorize the City Manager to approve a purchase order for the amount of the bid price using the 504 Account.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation.



Gary Brown, City Manager

Attachments:

1. Resolution No. 2010-6929

RESOLUTION NO. 2010-6929

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, AWARDED A CONTRACT FOR CERTAIN PUBLIC WORKS CONTRACT - PUBLIC WORKS ROOF REPAIR CIP (P05-10A)

WHEREAS, in April 2010, during the annual Public Works Facility Material Inspection, the Public Works Facility maintenance building roof was evaluated as deteriorated and in need of significant repairs; and

WHEREAS, on July 29, 2010 the Public Works Roof Repair bid package was prepared and was advertised for bids; and

WHEREAS, bids were opened and evaluated in an advertised public meeting, at 2:00 p.m., August 19, 2010; and

WHEREAS, the lowest responsive and qualified bidder for the "Public Works Roof Repair CIP (P05-10A)" project was from Commercial Industrial Roofing, for \$17,550 (Seventeen Thousand Five Hundred Fifty Dollars); and

WHEREAS, the engineer's estimate was \$10,000; and

WHEREAS, staff recommends the use of the Facilities Maintenance / Replacement (504) Fund (set aside for emergent maintenance projects not included in the adopted Capital Improvement Program of projects) for the payment for this work; and

WHEREAS, there is approximately \$200,000 remaining in the 504 Account; and

WHEREAS, authorization to expend the \$17,550 from the 504 Account will leave \$182,450 in the 504 Account for future emergent needs.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial Beach as follows:

1. The above recitals are true and correct.
2. The legislative body hereby rejects all proposals for bids except that identified as the lowest responsible bid. The bid of the lowest, responsible qualified bidder will be on file with the transcript of these proceedings and open for public inspection in the City Clerk Department on file as Contract No. _____.
3. The contractor shall not commence construction or order equipment until he has received a Notice to Proceed.
4. The works of improvement shall be constructed in the manner and form and in compliance with the requirements as set forth in the plans and specifications for the project.
5. The City Manager is authorized to sign a purchase order with the lowest responsible qualified bidder using the Facilities Maintenance / Replacement (504) Fund.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its meeting held on the 1st day of September 2010, by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

JAMES C. JANNEY, MAYOR

ATTEST:

**JACQUELINE M. HALD, CMC
CITY CLERK**



**STAFF REPORT
CITY OF IMPERIAL BEACH**

TO: HONORABLE MAYOR AND CITY COUNCIL/CHAIR AND MEMBERS OF THE REDEVELOPMENT AGENCY

FROM: GARY BROWN, CITY MANAGER/EXECUTIVE DIRECTOR

MEETING DATE: SEPTEMBER 1, 2010 – TIME SPECIFIC FOR 7:00 PM

ORIGINATING DEPT.: COMMUNITY DEVELOPMENT DEPARTMENT
GREG WADE, DIRECTOR *GW*

SUBJECT: COMMERCIAL ZONING REVIEW – COMMERCIAL ZONING RECOMMENDATIONS DOCUMENT

BACKGROUND:

On Wednesday, August 18, 2010, the City Council received a staff report and presentation providing on an additional prototype for a small-lot development scenario on Old Palm Avenue. Staff also advised the City Council that the summary document being prepared for the Commercial Zoning Review Recommendations was not yet complete. Staff advised that City Council that it hoped to have the document complete by the City Council meeting on September 1, 2010.

DISCUSSION:

During discussion of the final prototype, the City Council directed staff to move forward with a recommendation and consideration of a required 10-foot setback from residentially-zoned property in the CMU-2 (Seacoast Commercial) Zone. The City Council also discussed the possibility of this requirement only being applied along Old Palm Avenue in this zone and, perhaps, even only on the north side Old Palm Avenue. Staff is also considering requiring the setback only from property that is zoned R-1-6000 (single family) residential. Staff intends to provide these options during the community outreach effort that will follow.

At the time of the writing of this staff report, the summary document of the Commercial Zoning Review Recommendations had not yet been completed. As soon as it has been completed, it will be forwarded to the City Council. If, however, it is not available for distribution with the agenda packet, staff will recommend continuing this item to September 22, 2010.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This discussion of the recommended zoning amendments is not, in itself, subject to CEQA.

FISCAL IMPACT:

None with this item.

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council review the materials presented by staff and provide direction and input on the Commercial Zoning Review Recommendations document.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation.



Gary Brown, City Manager

Attachments: None.



AGENDA ITEM NO. 6.8

**STAFF REPORT
IMPERIAL BEACH REDEVELOPMENT AGENCY**

TO: CHAIR AND MEMBERS OF THE REDEVELOPMENT AGENCY

FROM: GARY BROWN, EXECUTIVE DIRECTOR

MEETING DATE: SEPTEMBER 1, 2010

ORIGINATING DEPT.: FINANCE DEPARTMENT

**SUBJECT: RESOLUTIONS DECLARING INTENTION TO REIMBURSE
EXPENDITURES FROM NEW BOND PROCEEDS AND
RESOLUTION TO SELECT BOND TEAM**

BACKGROUND

The Redevelopment Agency is in the process of securing a new tax increment bond. This bond issue would provide funding for several of the Board's priorities. Two resolutions are attached. The first resolution allows us to be reimbursed from bond proceeds for projects that are in process. In general, new bond proceeds can be used for new expenditures, not for reimbursement of prior expenses. In the event that costs are incurred before the bond is issued in October 2010, a resolution is needed to state the Board's intention to be reimbursed.

The second resolution establishes the professional consultants who will work with the Redevelopment Agency to issue the new bonds. The professional consultants include bond counsel, disclosure counsel, bond underwriter, independent fiscal consultant and the Agency's financial consultant.

DISCUSSION

The Redevelopment Agency is in the process of securing a new tax increment bond. On the September 1, 2010 agenda is a report discussing potential projects that the Board may choose to fund through a new bond issue. A "resolution of intention to be reimbursed" is needed to recover costs incurred on any of these projects prior to issuing the new bonds. This resolution allows us flexibility in the event funding is required before October, 2010 or the issuance of bonds is delayed for any reason.

In addition, this report recommends the selection of a bond team that includes bond counsel, disclosure counsel, bond underwriter, independent fiscal consultant and the Agency's financial

consultant. Staff is recommending the following consulting team to issue tax increment bonds due to the extensive experience in municipal financing:

Bond Underwriter	Piper Jaffray & Co.	Places bonds into the bond market and provides the Agency with the bond proceeds
Bond Counsel / Disclosure Counsel	Jones Hall, A Professional Law Corporation	Provides a legal opinion that the Agency has met all legal requirements necessary for issuance of the proposed bonds. Provides advice on Agency's obligations to disclose.
Agency's Financial Consultant	Public Financial Management	Advises the Redevelopment Agency on financial aspects of the bond issue.
Fiscal Consultant	Fraser & Associates	Provides in-depth analysis of the tax increment income stream

FISCAL IMPACT

All of the bond team, with the exception of the fiscal consultant, are paid from bond proceeds and only if the bonds are sold. The bond underwriter's fee will be determined by the final amount of the bonds issued and the bond rating the Redevelopment Agency receives. Their rate is approximately 1% of the gross bond proceeds. If the gross proceeds amount of the bonds issued total \$18.1 million, the bond underwriter fee would be \$163,170. The bond counsel / disclosure counsel, the fiscal consultant, and the Agency's financial consultant fees will total approximately \$150,000. Bond proceeds as well as final costs will be presented to the Board for approval in October.

DEPARTMENT RECOMMENDATION

Staff recommends that the Redevelopment Agency approve the two attached resolutions declaring our intention to reimburse capital expenditures from debt proceeds and to select the consultants of our bond financing team.

EXECUTIVE DIRECTOR'S RECOMMENDATION:

Approve Agency recommendation.



Gary Brown, Executive Director

Attachments:

1. Resolution R-10-226
2. Resolution R-10-225

RESOLUTION NO. R-10-226

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE IMPERIAL BEACH REDEVELOPMENT AGENCY
DECLARING INTENTION TO REIMBURSE
EXPENDITURES FROM
THE PROCEEDS OF CERTAIN OBLIGATIONS
AND DIRECTING CERTAIN ACTIONS**

WHEREAS, the Imperial Beach Redevelopment Agency (the "Agency") proposes to undertake the project referenced below, to issue, or cause the issuance of, debt for such project and to use a portion of the proceeds of such debt to reimburse expenditures made for the project prior to the issuance of the debt;

WHEREAS, United States Income Tax Regulations section 1.150-2 provides generally that proceeds of tax-exempt debt are not deemed to be expended when such proceeds are used for reimbursement of expenditures made prior to the date of issuance of such debt unless certain procedures are followed, one of which is a requirement that (with certain exceptions), prior to the payment of any such expenditure, the issuer declare an intention to reimburse such expenditure; and

WHEREAS, it is in the public interest and for the public benefit that the Agency declare its official intent to reimburse the expenditures referenced herein;

NOW, THEREFORE, IT IS ORDERED AS FOLLOWS:

1. The Agency intends to issue, or cause the issuance of, obligations (the "Obligations") for the purpose of financing the costs of acquisition of various redevelopment projects for and of benefit to its Palm Avenue/Commercial Redevelopment Project, including but not limited to a proposed hotel development, street/alley and adjacent improvements, library and airport improvements, improvements to the Palm Avenue Corridor improvements, airport and other improvements and incidental expenses related thereto (the "Project").

2. The Agency hereby declares that it reasonably expects (i) to pay certain costs of the Project prior to the date of issuance of the Obligations and (ii) to use a portion of the proceeds of the Obligations for reimbursement of expenditures for the Project that are paid before the date of issuance of the Obligations.

3. The maximum principal amount of the Obligations is \$25,000,000.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Board of Directors held this 1st day of September, 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JAMES C. JANNEY, CHAIRPERSON

ATTEST:

SECRETARY

RESOLUTION NO. R-10-225

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE IMPERIAL
BEACH REDEVELOPMENT AGENCY APPOINTING PROFESSIONAL
CONSULTANTS IN CONNECTION WITH PROPOSED TAX
ALLOCATION BONDS**

WHEREAS, The Imperial Beach Redevelopment Agency has determined it is in the best interest of the Agency to issue tax allocation bonds payable from tax increment attributable to property within the Agency's Palm Avenue/Commercial Redevelopment Project Area;

WHEREAS, in connection with proceedings for the issuance of the Bonds, the Agency requires the advice and assistance of a financial consultant, fiscal consultant, bond counsel, disclosure counsel and bond underwriter;

WHEREAS, the Agency has determined that certain business entities named herein are qualified by training and experience to perform the services of financial consultant, fiscal consultant, bond counsel, disclosure counsel and bond underwriter, and such entities have expressed a willingness to provide such respective services in connection with the Bonds; and

WHEREAS, the public interest, economy and general welfare will be served by utilizing these professional services;

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY DOES HEREBY RESOLVE, ORDER AND DETERMINE:

Section 1. Financing Consultants. In connection with the issuance of the Bonds, the following professionals are hereby appointed: (i) Public Financial Management, as Financial Consultant; (ii) Piper Jaffray & Co., as Underwriter; (iii) Fraser & Associates, as Fiscal Consultant; and (iv) Jones Hall, A Professional Law Corporation, as Bond Counsel and Disclosure Counsel.

Section 2. Official Actions. The Executive Director, the Treasurer, the Secretary of the Board or any other duly appointed officer of the Agency authorized by resolution of the Board of Directors to act as a representative of the Agency hereunder (each, an "Authorized Officer") are hereby authorized and directed, for and in the name and on behalf of the Agency, to do any and all things and take any and all actions, including execution and delivery of services or fee agreements with the professionals named herein, on terms which the Authorized Officer deems appropriate, which such Authorized Officer, or any of them, may deem necessary or advisable in order to consummate the providing of the services referred to herein in connection with the issuance and sale of the Bonds. The authorization of any Authorized Officer of the Agency to execute such agreements or to take any action, such execution or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer shall be absent or unavailable.

Section 3. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

ADOPTED, SIGNED AND APPROVED this 1st day of September, 2010.

THE BOARD OF DIRECTORS OF THE IMPERIAL
BEACH REDEVELOPMENT AGENCY

By; _____
JAMES C. JANNEY, CHAIRPERSON

ATTEST:

By; _____
Secretary of the Board of Directors of the
Imperial Beach Redevelopment Agency



STAFF REPORT CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: GARY BROWN, CITY MANAGER

MEETING DATE: SEPTEMBER 1, 2010
ORIGINATING DEPT.: COMMUNITY DEVELOPMENT DEPARTMENT
GREG WADE, DIRECTOR *GW*
DAVID GARCIAS, CODE COMPLIANCE OFFICER *DG*

SUBJECT: WEED ABATEMENT – ABATEMENT COSTS REPORT
AND ADOPTION OF RESOLUTION NO.'S 2010-6933,
2010-6936 AND 2010-6937

BACKGROUND:

On July 7, 2010, the City Council Adopted Resolution No. 2010-6912 finding that the weeds growing upon and in front of the three listed properties constituted a public nuisance and authorizing staff to proceed with weed and rubbish abatement at the non-compliant properties.

On July 8, 2010, staff mailed a Notice to Destroy Weeds and Remove Rubbish, Refuse, and Dirt to the three listed property owners and a copy of the Notice was also posted on each of the three properties in compliance with chapter 8.40 of the Imperial Beach Municipal Code.

On July 12, 2010, copies of the Notice and Resolution No. 2010-6912 were mailed to the property owners. Staff completed a Declaration of Service certified by the City Clerk of the City of Imperial Beach for each of the properties.

On July 21, 2010, the City Council held a public hearing, pursuant to California Government Code section 39560, to hear and consider any objections to the City Council's declaration of the above properties as public nuisances requiring weed and rubbish abatement. The City Council conducted the public hearing, and a representative of only one property was present at the hearing. The owner's representative for 1174 Florida Street, Gerry Miranda, advised the City Council that the property at 1174 Florida Street was now owned by Chase Bank and that the bank would abate the violations.

At the conclusion of the hearing, the City Council adopted Resolution No. 2010-6918 allowing for the abatement of the three listed properties, authorizing staff to proceed with and perform the necessary abatement of the nuisance and further authorizing staff to sign any agreements or take any other steps necessary to remove the weeds, rubbish, refuse, and dirt from the listed properties.

DISCUSSION:

On July 22, 2010, staff contacted Gerry Miranda, the representative for the owner of 1174 Florida Streets, and gave him a deadline to abate the violations of the Imperial Beach Municipal Code by Monday, July 26, 2010. However, the owner failed to abate the violations by the deadline.

On July 23, 2010, staff met with a contractor, obtained estimates for the costs to abate the violations on the three listed properties, and directed the contractor to proceed with abatement of the following properties:

Listed Weed Abatement Properties:

1. 336-338 Daisy Avenue
2. 1019 Iris Avenue
3. 1174 Florida Street

On July 24, 2010, the contractor entered the two properties at 336/338 Daisy Ave and 1019 Iris Avenue and abated the violations.

On July 26, 2010, staff inspected the two properties at 336/338 Daisy Ave and 1019 Iris Avenue and observed the violations were abated by the contractor.

On July 27, 2010, staff inspected 1174 Florida Street, and observed the violations were not abated. Staff contacted the contractor and scheduled the abatement of the property.

On July 28, 2010, staff met with the contractor at 1174 Florida Street and gave the contractor direction for the abatement. The contractor entered the property and abated 90% of the violations. The contractor notified staff at the end of the day that 10% of the vacant lot needed to be finished the next day because the contractor was having difficulties with a dog located in the neighboring yard.

On July 29, 2010, staff met with the occupants of the property neighboring 1174 Florida Street and communicated to them that their dogs should be kept inside so as not to interfere with the contractors abatement of the final 10% of the vacant lot. The contractor contacted staff and communicated that the final 10% of the vacant lot was abated.

On August 2, 2010, staff inspected the property at 1174 Florida Street and observed the violations were abated by the contractor.

In August 2010, staff received a telephone call from the representative of the new owner of 336/338 Daisy Avenue. The representative requested staff send the abatement bill to his office as soon as possible so they could pay the entire assessment on the property and avoid a lien.

By the time of the September 1, 2010, City Council Meeting staff may have additional information to provide.

FISCAL ANALYSIS:

Pursuant to Imperial Beach Municipal Code Section 1.16.240, each property shall be assessed a \$500.00 administrative fee to cover the costs incurred by the City to enforce Chapter 1.16 of the Municipal Code.

	<i>Abatement Costs</i>	<i>Administrative Fee</i>	Total
1. <u>336/338 Daisy Avenue</u>	<u>\$ 250.00</u>	<u>\$ 500.00</u>	<u>\$ 750.00</u>
2. <u>1019 Iris Avenue</u>	<u>\$ 375.00</u>	<u>\$ 500.00</u>	<u>\$ 875.00</u>
3. <u>1174 Florida Street</u>	<u>\$ 250.00</u>	<u>\$ 500.00</u>	<u>\$ 750.00</u>

DEPARTMENT RECOMMENDATION:

Staff Recommends the Mayor and City Council:

1. Receive the report.
2. Entertain any objections or protests.
3. Consider a motion to:
 - a. Adopt Resolution No. 2010-6933, assessing Seven Hundred Fifty dollars (\$750.00) in abatement costs and administrative fees against the property located at 336/338 Daisy Avenue.
 - b. Adopt Resolution No. 2010-6936, assessing Eight Hundred Seventy-Five dollars (\$875.00) in abatement costs and administrative fees against the property located at 1019 Iris Avenue.
 - c. Adopt Resolution No. 2010-6937, assessing Seven Hundred Fifty dollars (\$750.00) in abatement costs and administrative fees against the property located at 1174 Florida Street.

The above amounts must be remitted to the City within 30 days of adoption of this Resolution and would constitute an assessment against the respective lots or parcels of land to which they relate, and upon recordation in the office of the county recorder of notice of lien, shall be collected at the same time and in the same manner as ordinary municipal taxes, and would be subject to the same penalties and the same procedures and sale in case of delinquency as provided for ordinary municipal taxes.

CITY MANAGER'S RECOMMENDATION:

Approve Department recommendation.



Gary Brown, City Manager

Attachments:

1. Exhibit "A", Weed Abatement Cost Report
2. Resolution #2010-6933 - draft
3. Resolution #2010-6936 - draft
4. Resolution #2010-6937 - draft
5. Invoice #0490, dated July 30, 2010
6. Invoice #0491, dated July 30, 2010
7. Invoice #0492, dated July 30, 2010
8. E-mail to Gerry Miranda, dated July 22, 2010
9. Resolution #2010-6912, adopted July 7, 2010
10. Resolution #2010-6918, adopted July 21, 2010
11. Table "A" Attachment to Resolution #2010-6912

ABATEMENT COSTS REPORT – WEED ABATEMENT

California Government Code (Sect. 39560) has been adopted into the Imperial Beach Municipal Code (Chapter 8.40 – Weed & Rubbish Abatement)

California Government Code Section **39574**. The superintendent shall keep an account of the cost of abatement in front of or on each separate parcel of land where the work is done by him. He shall submit to the legislative body for confirmation an itemized written report showing such cost.

California Government Code Section **39575**. A copy of the report shall be posted for at least three days prior to its submission to the legislative body on or near the chamber door of the legislative body, with a notice of the time of submission.

California Government Code Section **39576**. At the time fixed for receiving and considering the report, the legislative body shall hear it with any objections of the property owners liable to be assessed for the abatement. It may modify the report if it is deemed necessary. The legislative body shall then confirm the report by motion or resolution.

On July 21, 2010, the City Council for the City of Imperial Beach adopted Resolution No. **2010-6918** allowing for the abatement of the three below listed properties, and authorizing staff to proceed with and perform the necessary abatement of the weed and rubbish nuisances and authorized staff to sign any agreements or take any other steps necessary to remove the weeds, rubbish, refuse, and dirt from the listed properties.

Abatement Contractor:

Mireles Landscaping: Cut down and removed all of the overgrown weeds, rubbish, and unsightly vegetation from the below listed properties.

Weed Abatement Costs:

1. 336-338 Daisy Avenue: \$ 250.00 Invoice #0490, abatement occurred on July 24, 2010
2. 1019 Iris Avenue \$ 375.00 Invoice #0491, abatement occurred on July 24, 2010
3. 1174 Florida Street \$ 250.00 Invoice #0492, abatement occurred on July 28 and 29, 2010

IBMC 1.16.240. Administrative Fee

Any person who is responsible for a public nuisance may be charged an administrative fee to cover the costs incurred by the City in enforcing this chapter. The amount of the fee is set by the City Council. The fee will be included in the cost report submitted to the City Council under Section 1.16.200 and may be included in any lien assessed under Section 1.16.220.

	<i>Administrative Fee</i>
1. <u>336/338 Daisy Avenue</u>	<u>\$ 500.00</u>
2. <u>1019 Iris Avenue</u>	<u>\$ 500.00</u>
3. <u>1174 Florida Street</u>	<u>\$ 500.00</u>

	<i>Abatement Costs</i>	<i>Administrative Fee</i>	<i>Total</i>
4. <u>336/338 Daisy Avenue</u>	<u>\$ 250.00</u>	<u>\$ 500.00</u>	<u>\$ 750.00</u>
5. <u>1019 Iris Avenue</u>	<u>\$ 375.00</u>	<u>\$ 500.00</u>	<u>\$ 875.00</u>
6. <u>1174 Florida Street</u>	<u>\$ 250.00</u>	<u>\$ 500.00</u>	<u>\$ 750.00</u>

The City of Imperial Beach City Council will consider this matter at its hearing on **September 1, 2010**, 6:00 PM at 825 Imperial Beach Boulevard, at which time the City Council must hear and rule on the cost report and any objections or protests. The City Council may make revisions, corrections, or modifications to the report as it deems just, including deducting any amounts already paid by the property owner. The City Council must confirm the report, either as submitted or as revised. The decision of the City Council on all protests and objections is final and conclusive.

RESOLUTION NO. 2010-6933**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, FINDING AND CONFIRMING ABATEMENT COSTS FOR THE ABATEMENT OF WEEDS & RUBBISH, REGARDING THE PROPERTY LOCATED AT 336/338 DAISY AVENUE IS APPROPRIATE AND ASSESSING COSTS OF ABATEMENT**

WHEREAS, on July 21, 2010, the City Council voted and approved Resolution No. 2010-6918 authorizing staff to proceed with and perform the necessary abatement of the nuisance at 336-338 Daisy Avenue and further authorizing staff to sign any agreements or take any other steps necessary to remove the weeds, rubbish, refuse, and dirt from the property; and

WHEREAS, on July 24, 2010, the City's weed abatement contractor entered the property and removed all of the the weeds, rubbish, refuse, and dirt at 336-338 Daisy Avenue, Imperial Beach, CA, abating the violations of the Imperial Beach Municipal Code; and

WHEREAS, on August 26, 2010, staff posted a copy of the cost report for five days upon the abated premises at 336-338 Daisy Avenue, together with a notice of the time when the report will be heard by the City Council for confirmation. A copy of the cost report was also mailed via regular and certified mail.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial Beach as follows:

SECTION 1: The cost of abatement is approved as follows: See Exhibit A.

SECTION 2: The Seven Hundred Fifty dollars (\$750.00) in abatement costs and administrative fees are hereby assessed against the property located at 336/338 Daisy Avenue. The total amount of **\$750.00** shall be remitted to the City within 30 days of adoption of this Resolution and constitutes an assessment against the respective lot or parcel of land to which it relates, and upon recordation in the office of the county recorder of notice of lien, shall be collected at the same time and in the same manner as ordinary municipal taxes, and is subject to the same penalties and the same procedures and sale in case of delinquency as provided for ordinary municipal taxes.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its meeting held on the 1st day of September 2010, by the following roll call vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
DISQUALIFIED:	COUNCILMEMBERS:

JAMES C. JANNEY, MAYOR

ATTEST:

Jacqueline M. Hald

JACQUELINE M. HALD, CMC
CITY CLERK

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and correct copy of Resolution No. 2010-6933 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, FINDING AND CONFIRMING ABATEMENT COSTS FOR THE ABATEMENT OF WEEDS & RUBBISH, REGARDING THE PROPERTY LOCATED AT 336/338 DAISY AVENUE IS APPROPRIATE AND ASSESSING COSTS OF ABATEMENT

CITY CLERK

DATE

RESOLUTION NO. 2010-6936

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, FINDING AND CONFIRMING ABATEMENT COSTS FOR THE ABATEMENT OF WEEDS & RUBBISH, REGARDING THE PROPERTY LOCATED AT 1019 IRIS AVENUE IS APPROPRIATE AND ASSESSING THE COSTS OF ABATEMENT

WHEREAS, on July 21, 2010, the City Council voted and approved Resolution No. 2010-6918 authorizing staff to proceed with and perform the necessary abatement of the nuisance at 1019 Iris Avenue and further authorizing staff to sign any agreements or take any other steps necessary to remove the weeds, rubbish, refuse, and dirt from the property; and

WHEREAS, on July 24, 2010, the City's weed abatement contractor entered the property and removed all of the weeds, rubbish, refuse, and dirt at 1019 Iris Avenue, Imperial Beach, CA, abating the violations of the Imperial Beach Municipal Code; and

WHEREAS, on August 26, 2010, staff posted a copy of the cost report for five days upon the abated premises at 1019 Iris Avenue, together with a notice of the time when the report will be heard by the City Council for confirmation. A copy of the cost report was also mailed via regular and certified mail.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial Beach as follows:

SECTION 1: The cost of abatement is approved as follows: See Exhibit A.

SECTION 2: The Eight Hundred Seventy-Five dollars (\$875.00) in abatement costs and administrative fees are hereby assessed against the property located at 1019 Iris Avenue. The total amount of **\$875.00** shall be remitted to the City within 30 days of adoption of this Resolution. This amount constitutes an assessment against the respective lot or parcel of land to which it relates, and upon recordation in the office of the county recorder of notice of lien, shall be collected at the same time and in the same manner as ordinary municipal taxes, and is subject to the same penalties and the same procedures and sale in case of delinquency as provided for ordinary municipal taxes.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its meeting held on the 1st day of September 2010, by the following roll call vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
DISQUALIFIED:	COUNCILMEMBERS:

JAMES C. JANNEY, MAYOR

ATTEST:

Jacqueline M. Hald

JACQUELINE M. HALD, CMC
CITY CLERK

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and correct copy of Resolution No. 2010-6636 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, FINDING AND CONFIRMING ABATEMENT COSTS FOR THE ABATEMENT OF WEEDS & RUBBISH, REGARDING THE PROPERTY LOCATED AT 1019 IRIS AVENUE IS APPROPRIATE AND ASSESSING THE COSTS OF ABATEMENT

CITY CLERK

DATE

RESOLUTION NO. 2010-6937**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, FINDING AND CONFIRMING ABATEMENT COSTS FOR THE ABATEMENT OF WEEDS & RUBBISH, REGARDING THE PROPERTY LOCATED AT 1174 FLORIDA STREET IS APPROPRIATE AND ASSESSING THE COSTS OF ABATEMENT**

WHEREAS, on July 21, 2010, the City Council voted and approved Resolution No. 2010-6918 authorizing staff to proceed with and perform the necessary abatement of the nuisance at 1174 Florida Street and further authorizing staff to sign any agreements or take any other steps necessary to remove the weeds, rubbish, refuse, and dirt from the property; and

WHEREAS, on July 24, 2010, the City's weed abatement contractor entered the property and removed all of the weeds, rubbish, refuse, and dirt at 1174 Florida Street, Imperial Beach, CA, abating the violations of the Imperial Beach Municipal Code; and

WHEREAS, on August 26, 2010, staff posted a copy of the cost report for five days upon the abated premises at 1174 Florida Street, together with a notice of the time when the report will be heard by the City Council for confirmation. A copy of the cost report was also mailed via regular and certified mail.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial Beach as follows:

SECTION 1: The cost of abatement is approved as follows: See Exhibit A.

SECTION 2: The Seven Hundred Fifty dollars (\$750.00) in abatement costs and administrative fees are hereby assessed against the property located at 1174 Florida Street. The total amount of **\$750.00** shall be remitted to the City within 30 days of adoption of this Resolution. This amount constitutes an assessment against the respective lot or parcel of land to which it relates, and upon recordation in the office of the county recorder of notice of lien, shall be collected at the same time and in the same manner as ordinary municipal taxes, and is subject to the same penalties and the same procedures and sale in case of delinquency as provided for ordinary municipal taxes.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its meeting held on the 1st day of September 2010, by the following roll call vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
DISQUALIFIED:	COUNCILMEMBERS:

JAMES C. JANNEY, MAYOR

ATTEST:

Jacqueline M. Hald

JACQUELINE M. HALD, CMC
CITY CLERK

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and correct copy of Resolution No. 2010-6637 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, FINDING AND CONFIRMING ABATEMENT COSTS FOR THE ABATEMENT OF WEEDS & RUBBISH, REGARDING THE PROPERTY LOCATED AT 1174 FLORIDA STREET IS APPROPRIATE AND ASSESSING THE COSTS OF ABATEMENT

CITY CLERK

DATE

Vendor 2107

Case # 10-171

PO # 110228

Mircles Landscaping
 1475 gull cove # 225
 San diego ca 92154

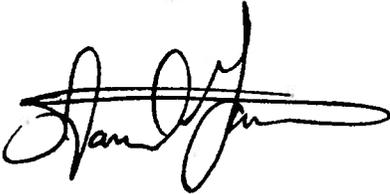
Invoice # 0490
 July 30 2010

Voice: (619) 227 7712
 E-mail: mirlandscaping@hotmail.com

Property: 336 / 338 Daisy Ave
 Weed Abatement

To: David Garcias(city of imperial beach) 336/338 Daisy av Imperial Beach ca 91932

Acct # 245-1240-513-20-06
 Proj # H03-103

Area	Work Description	Balance
General	1.- Clean up service a) remove and prune down weed's b) all heavy trash out c) let all clean and trash to Miramar landfill.  CITY OF IMPERIAL BEACH CODE COMPLIANCE DIVISION	
	Total	\$ 250.00

Vendor 2107

Case 10-048

PO # 110228

Mireles Landscaping
 1475 gull cove # 225
 San diego ca 92154

Invoice # 0491
 July 30 2010

Voice: (619) 227 77 12
 f mail mirelandscaping@hotmail.com

Property: 1019 Iris Ave
 Weed Abatement

To: David Garcias(city of imperial beach) 1019 cross with 10 th Imperial Beach ca 91932

Acct # 245-1240-513-20-06
 Proj # H03-103

Area	Work Description	Balance
General	1.- Clean up service a) remove and prune down weed's b) all heavy trash out c) let all clean and trash to Miramar landfill.	
	Total	\$ 375.00


**CITY OF IMPERIAL BEACH
 CODE COMPLIANCE DIVISION**

Vendor 2107

Case #10-068

Mircles Landscaping
1475 gull cove # 225
San diego ca 92154

PO# 110228

Invoice # 0492
July 30 2010

Voice: (619) 227 77 12
E-mail: mirlandscaping@hotmail.com

Property: 1174 Florida St.
Weed Abatement

To: David Garcias(city of imperial beach)
1174 florida st (lot)
Imperial Beach ca 91932

Acct # 245-1240-513-20-06
Proj # H03-103

Area	Work Description	Balance
General	1.- Clean up service a) remove and prune down weed's b) all heavy trash out c) let all clean and trash to Miramar landfill.	
 CITY OF IMPERIAL BEACH CODE COMPLIANCE DIVISION		
Total		\$ 250.00

11-102

David Garcias

From: David Garcias
Sent: Thursday, July 22, 2010 12:30 PM
To: 'Gerry Miranda'
Subject: 1174 Florida St (APN# 633-011-11-00), Imperial Beach, CA

Importance: High

Gerry,

We need to have the overgrown weeds and dead vegetation cut down and removed from the vacant lot at **1174 Florida St, APN. 633-011-11-00**, no later than **Monday, July 26, 2010**. If these overgrown weeds and dead vegetation are not cut down and removed by Monday, the City is planning to abate the violations with our own contractor, and all costs relating to the abatement including staff time, and including an administrative fee of \$500 will be charged to the property owner and assessed against the property.

Further, Please send me the direct mailing address for the property owner, Chase Bank. We will include copies of all paperwork to both you and the property owner.



David Garcias
Code Compliance Officer
City of Imperial Beach
Community Development Dept.
825 Imperial Beach Blvd.
Imperial Beach, CA 91932
Phone: (619) 628-1359 - Fax: (619) 424-4093
dgarcias@cityofib.org - www.cityofib.com

_____ Information from ESET NOD32 Antivirus, version of virus signature database 4755 (20100108)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

RESOLUTION NO. 2010-6912

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, FINDING AND DECLARING THAT WEEDS, BRUSH, RUBBISH AND REFUSE UPON OR IN FRONT OF SPECIFIED PROPERTIES IN THE CITY ARE A SEASONAL AND RECURRENT PUBLIC NUISANCE, AND DECLARING ITS INTENTION TO PROVIDE FOR THE ABATEMENT THEREOF AND SCHEDULE A WEED AND RUBBISH ABATEMENT PUBLIC HEARING TO HEAR OBJECTIONS ON JULY 21, 2010

WHEREAS, among other responsibilities, the Code Compliance division handles complaints and conducts inspections regarding the existence of weeds, rubbish, refuse, and unsightly materials on residential and commercial properties. Abatement notices are sent to parcel owners within the City deemed by Code Compliance staff to be a public nuisance and dangerous to the public health and safety; and

WHEREAS, the California Government Code (Sect. 39560) has been adopted into the Imperial Beach Municipal Code (Chapter 8.40 – Weed & Rubbish Abatement) and sets out the following procedure for the abatement of weeds and rubbish; and

WHEREAS,

1. Staff shall identify and present to City Council those properties which constitute a public nuisance as defined in the California Government Code requiring weed and rubbish abatement. City Council may declare by resolution those properties that are a public nuisance requiring abatement. A date shall be set for a public hearing before the City Council to consider the abatement of the nuisance violations.
2. After passage of a resolution declaring a nuisance, staff shall cause notices to be conspicuously posted on or in front of the property on which the nuisance exists. Staff shall both post and mail a notice to the property owner. The notices shall be posted at least five days prior to the date of the public hearing before the City Council.
3. City Council shall conduct a public hearing to hear and consider all objections to the proposed removal of weeds, rubbish, refuse, and dirt. At the conclusion of the hearing, the City Council shall by motion or resolution allow or overrule any objections. If after the public hearing the City Council determines that public nuisances exist, the City Council shall direct staff to proceed with and perform the necessary abatement. City Council shall order staff to abate the nuisance by having the weeds, rubbish, refuse, and dirt removed.
4. Staff shall keep an account of the cost of abatement on each separate parcel of land where the work is conducted, and shall submit it to the City Council at completion of all abatement for their consideration.
5. The City Council shall hear the abatement cost report and any objections of the property owners liable to be assessed for the abatement costs. The City

Council may modify the report if it is deemed necessary. The City Council shall then confirm the report by motion or resolution to assess the individual properties. The total amounts would constitute a special assessment against the lot or parcel of land to which it relates, and the cost would be placed as a lien on the property for the amount of the assessment. Assessments shall be billed to the property owners and remitted to the City within thirty (30) days of adoption of the resolution. If the costs are not paid, staff shall record a notice of lien in the office of the county recorder, and the assessment shall be collected at the same time and in the same manner as ordinary municipal taxes are collected and, in case of delinquency, subject to the same penalties and procedures as provided for ordinary municipal taxes. All laws of the state applicable to the levy, collection, and enforcement of municipal assessments would apply. The assessment would also be a personal obligation of the property owner; and

WHEREAS, the following properties have been inspected by staff and identified with the below list of violations of the Imperial Beach Municipal Code. The properties were issued Notices of Violations, and Administrative Citations assessing fines. To date, staff has not heard from property owners, and the violations on the properties have not been abated

- IBMC 1.16.010.G. Overgrown vegetation.
- IBMC 1.16.010.H. Dead or hazardous vegetation.
- IBMC 1.16.010.U. "Visual blight", unsightly vegetation.
- IBMC 8.50.050.P. All premises on which there are any "weeds," rubbish or refuse found upon parkways, sidewalks, or private property within the city.

PROPERTIES:

1. 1174 Florida St (APN. 633-011-11); Owner: Barron, Manuel (details see Table "A")
 - a. February 24, 2009: Citizen Complaint received identifying above violations.
 - b. March 3, 2009: Notice of Violation issued to property owner to abate violations.
 - c. March 23, 2009: Staff inspected and observed the violations were abated.
 - d. June 1, 2009: Citizen Complaint received identifying above violations.
 - e. June 3, 2009: Notice of Violation issued to property owner to abate violations.
 - f. July 1, 2009: Staff inspected and observed the violations were abated.
 - g. February 23, 2010: Citizen Complaint received identifying above violations.

- h. March 1, 2010: Staff issued Admin. Citation to property owner to abate violations.
 - i. March 29, 2010: Inspection, staff observed a notice of default posted on the lot.
 - j. May 11, 2010: Citizen Complaint received identifying above violations.
 - k. June 7, 2010: Citizen Complaint received identifying above violations.
2. **1019 Iris Ave (APN. 632-323-06); Owner: Raczkowski, Richard (details see table "A")**
- a. February 9, 2010: Citizen Complaint received identifying above violations.
 - b. February 16, 2010: Notice of Violation issued to property owner to abate violations.
 - c. March 9, 2010: Admin. Citation issued to property owner to abate violations.
3. **336-338 Dalsy Ave (APN. 625-291-05); Owner: Stupeck, Mary K. (details see table "A")**
- a. April 26, 2010: Citizen Complaint received identifying above violations.
 - b. April 28, 2010: Notice of Violation issued to property owner to abate violations; and

WHEREAS, Staff is requesting City Council declare that weeds growing upon and in front of the above listed properties are a public nuisance and authorize staff to proceed with weed and rubbish abatement at the non-compliant properties; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial Beach as follows:

Section 1. The foregoing recitals are true and correct, and the City Council hereby concurs with the Finding and Declaring that the weeds, brush, rubbish, and refuse upon or in front of the specified property in the City area a seasonal and recurrent public nuisance, and declaring its intention to provide for the abatement thereof and schedule a weed and rubbish abatement public hearing to hear objections on July 21, 2010.

Section 2. The cost of abatement is approved as follows:
Any work performed by City shall be done at the expense of the owner and the expense of such abatement shall constitute a lien against the property and a personal obligation of the person(s) causing and creating the substandard and nuisance conditions.

Section 3. The City Manager may cause a copy or copies of this Resolution to be conspicuously posted, as the City Manager may deem necessary.

Section 4. The City Clerk is hereby directed to:

1. Mail a copy or copies of this Resolution, by first class mail, to the owner(s) of the above-described properties as shown in the last equalized assessment roll;
2. Inform the property owner, by copy of this Resolution, that the time within which judicial review of this decision must be sought is governed by §1094.6 of the California Code of Civil Procedure. The property owner's right to appeal this decision is governed by California Code of Civil Procedure §1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its meeting held on the 7th day of July 2010, by the following vote:

AYES:	COUNCILMEMBERS:	BRAGG, MCCOY, ROSE, KING, JANNEY
NOES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	NONE

James C. Janney

JAMES C. JANNEY, MAYOR

ATTEST:

Lisa Wolfson

LISA WOLFSON, CMC
DEPUTY CITY CLERK

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and correct copy of Resolution No. 2010-6912 – A Resolution of the City Council of the City of Imperial Beach, California, FINDING AND DECLARING THAT WEEDS, BRUSH, RUBBISH AND REFUSE UPON OR IN FRONT OF SPECIFIED PROPERTIES IN THE CITY ARE A SEASONAL AND RECURRENT PUBLIC NUISANCE, AND DECLARING ITS INTENTION TO PROVIDE FOR THE ABATEMENT THEREOF AND SCHEDULE A WEED AND RUBBISH ABATEMENT PUBLIC HEARING TO HEAR OBJECTIONS ON JULY 21, 2010.

Lisa D. Wolfson

 CITY CLERK

7/10/10

 DATE

RESOLUTION NO. 2010-6918

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, AFTER HEARING AND CONSIDERING ALL OBJECTIONS, OVERRULES ALL OBJECTIONS AND HEREBY AUTHORIZES THE CITY MANAGER TO PROCEED AND PERFORM THE NECESSARY ABATEMENT OF THE NUISANCE AND AUTHORIZES THE CITY MANAGER TO SIGN ANY AGREEMENTS OR TAKE ANY OTHER STEPS NECESSARY TO REMOVE THE WEEDS, RUBBISH, REFUSE, AND DIRT FROM THE LISTED PROPERTIES

WHEREAS, the California Government Code (Sect. 39560) has been adopted into the Imperial Beach Municipal Code (Chapter 8.40 – Weed & Rubbish Abatement) and sets out the following procedure for the abatement of weeds and rubbish; and

WHEREAS, Government Code section 39560 et. seq. and Chapter 8.40 of the Imperial Beach Municipal Code describe the following process for weed and rubbish abatement:

1. Staff shall present to City Council those properties which constitute a public nuisance requiring weed and rubbish abatement. City Council may declare by resolution those properties that are a public nuisance requiring abatement.
2. Staff shall cause notices to be conspicuously posted on or in front of the property on which the nuisance exists. Staff shall both post and mail a notice to the property owner.
3. City Council shall conduct a public hearing to hear and consider all objections. City Council may direct staff to proceed with and perform the necessary abatement.
4. Staff shall keep an account of the cost of abatement on each separate parcel of land where the work is conducted, and shall submit it to the City Council at completion of all abatement for their consideration.
5. The City Council shall hear the abatement cost report and any objections of the property owners liable to be assessed for the abatement costs. The City Council may modify the report if it is deemed necessary. The City Council shall then confirm the report by motion or resolution to assess the individual properties; and

WHEREAS, Step 1: Completed. Resolution No. 2010-6912 adopted on July 7, 2010; and

WHEREAS, on July 7, 2010, the City Council voted and approved adoption of Resolution No. 2010-6912 declaring that weeds growing on and in front of the properties listed below constituted a public nuisance and directed staff to proceed with abatement of the violations; and

WHEREAS, Properties:

1. 1174 Florida Street
2. 1019 Iris Avenue
3. 336-338 Daisy Avenue; and

WHEREAS, pursuant to California Government Code section 39560, a noticed public hearing is now required to hear and consider any objections to the City Council's declaration of the above properties as a public nuisances requiring weed and rubbish abatement; and

WHEREAS, on July 8, 2010, staff mailed to the three listed property owners a Notice to Destroy Weeds and Remove Rubbish, Refuse, and Dirt, and a copy of the Notice was also posted on each of the three properties in compliance with Chapter 8.40 of the Imperial Beach Municipal Code; and

WHEREAS, on July 12, 2010, copies of the Notice and Resolution No. 2010-6912 were mailed to the property owners. Staff completed a Declaration of Service certified by the City Clerk of the City of Imperial Beach for each of the properties; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial Beach as follows:

Section 1. The foregoing recitals are true and correct, and the City Council, after hearing and considering all objections, overrules all objections and hereby authorizes the City Manager to proceed and perform the necessary abatement of the nuisance and authorizes the City Manager to sign any agreements or take any other steps necessary to remove the weeds, rubbish, refuse, and dirt from the listed properties.

Section 2. The cost of abatement is approved as follows:
All costs approved in this paragraph will be subject to review by the City Council at a hearing pursuant to Chapter 8.40 of the Imperial Beach Municipal Code and Government Code section 39560 et. seq. after abatement efforts have been completed, before any lien may be imposed on the subject properties. Any work performed by City shall be done at the expense of the owner and the expense of such abatement shall constitute a lien against the property and a personal obligation of the person(s) causing and creating the substandard and nuisance conditions. Further, the City may assess \$500.00 in administrative costs per property for nuisance abatement proceedings pursuant to Imperial Beach Municipal Code Sections 1.16.240.

Section 3. The City Manager may cause a copy or copies of this Resolution to be conspicuously posted, as the City Manager may deem necessary.

Section 4. The City Clerk is hereby directed to:

1. Mail a copy or copies of this Resolution, by first class mail, to the owner(s) of the above-described properties as shown in the last equalized assessment roll;
2. Inform the property owner, by copy of this Resolution, that the time within which judicial review of this decision must be sought is governed by §1094.6 of the California Code of Civil Procedure. The property owner's right to appeal this decision is governed by California Code of Civil Procedure §1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

Section 5: Any finding in Resolution No. 2010-6912 finding violations to be seasonal and recurrent are hereby rescinded.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its meeting held on the 21st day of July 2010, by the following vote:

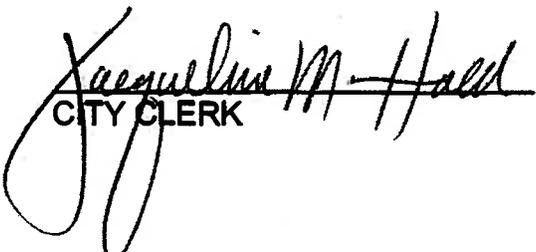
AYES:	COUNCILMEMBERS:	BRAGG, MCCOY, ROSE, KING, JANNEY
NOES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	NONE

James C. Janney
JAMES C. JANNEY, MAYOR

ATTEST:

Jacqueline M. Hald
JACQUELINE M. HALD, CMC
CITY CLERK

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and correct copy of Resolution No. 2010-6918 – A Resolution of the City Council of the City of Imperial Beach, California, AFTER HEARING AND CONSIDERING ALL OBJECTIONS, OVERRULES ALL OBJECTIONS AND HEREBY AUTHORIZES THE CITY MANAGER TO PROCEED AND PERFORM THE NECESSARY ABATEMENT OF THE NUISANCE AND AUTHORIZES THE CITY MANAGER TO SIGN ANY AGREEMENTS OR TAKE ANY OTHER STEPS NECESSARY TO REMOVE THE WEEDS, RUBBISH, REFUSE, AND DIRT FROM THE LISTED PROPERTIES.


CITY CLERK

7/22/10
DATE

Table A
(Attachment to Resolution No. 2010-6912)

Table "A"

APN	SITE ADDRESS	PROPERTY OWNER	MAILING ADDRESS	CITY	STATE	ZIP
633-011-11-00	Vacant Lot, 1174 Florida St	BARRON, MANUEL	1180 FLORIDA ST	IMPERIAL BEACH	CA	91932
632-323-06-00	1019 Iris Ave	RACZKOWSKI, RICHARD	PO BOX 22	DESCANSO	CA	91916
625-291-05-00	336-338 Daisy Ave	STUPECK, MARY K	7553 LA JOLLA BLVD	LA JOLLA	CA	92037