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**SAUSALITO CITY COUNCIL MEETING  
TUESDAY, JULY 10, 2007  
DRAFT / UNAPPROVED MINUTES**

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At 5:00 p.m., Mayor Kelly called to order the July 10, 2007 meeting of the City Council of the City of Sausalito in the Conference Room of the City Hall at 420 Litho Street. Mayor Kelly announced that the Council would be going into Closed Session to review Closed Session Items 1 through 5. Mayor Kelly asked for public comment on the Closed Session Items.

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**ROLL CALL**

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**PRESENT:** Councilmembers Albritton, Leone and Weiner; Vice Mayor Belser, Mayor Kelly

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**ABSENT:** None

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*Mayor Kelly noted that Councilmember Albritton had been delayed but would arrive shortly. Councilmember Albritton arrived at 5:10 p.m.*

**PUBLIC COMMENT ON CLOSED SESSION ITEMS**

Carolyn Ford, resident on Valley Street, asked for exemption from the three-minute limit for public speakers because she was representing more than 500 people.

Mayor Kelly said she could speak for five minutes.

Ms. Ford stated she was speaking about the Art Festival Foundation's contract and what she perceived as pressure the Art Festival was putting on the non-profit groups that fear losing the revenue they get from the Art Festival. She has spearheaded the circulation of a petition that reads: *"Since the Sausalito Art Festival's privately held company will not open their financial records to the City so that a fair value can be placed on the amenities the City provides, the undersigned Sausalito residents petition the Sausalito City Council to solicit bids from other companies in the business of running festivals. We further petition that the City take a percentage of the festival's profits, that current agreements with civic organizations regarding profit share for their booths be maintained and that the size and cost of the Friday evening gala reduced to return it to a community event as part of any new contract signed by the City."*

Ms. Ford estimated that 80 to 90 percent of the people asked to sign the petition did so; more than 500 people, both long term and newer residents, signed the petition. The signers were also asking that the Council not to make a decision on the contract until September when the Council and residents return from vacation and there could be further public discussion.

Councilmember Albritton arrived and took his place on the dais.

1 **John Anderson**, a long time resident and a relatively new member on the Art Festival  
2 Board, stated that the petition would seem to have some factual errors. The Sausalito Art  
3 Festival belongs to the Sausalito Chamber of Commerce, not the LLC. So the notion that  
4 the Art Festival should be put out to bid for new management was based on a false  
5 premise. Mr. Anderson explained the history of the creation of the LLC, which is owned  
6 approximately 80 percent by the Foundation and 20 percent by the Chamber. There is  
7 now pending a transaction between the Chamber and the Foundation whereby the  
8 Foundation is going to buy out the intellectual property from the Chamber over 13 years  
9 and pay the Chamber approximately \$100,000 a year. The Chamber is a local, nonprofit  
10 organization. When this transaction is completed, the LLC, which has become this sort of  
11 flashpoint, will be terminated. Mr. Anderson also noted that the Art Festival Board has  
12 four new members, including himself.

13  
14 **Jim Vargas**, resident in Sausalito for 31 years, stated that he was one of the people in the  
15 early '90s who asked, "Where does the money go?" He eventually found out where the  
16 money goes. This is a community fair that Sausalito should be very proud of. This has  
17 become a political football, and it could become an embarrassment for Sausalito. The  
18 money does go to non-profits. No one is skimming. This debate is about a power grab in  
19 town, and it was disgusting to him. If the Council plays around with this any more, the  
20 Festival and the income that comes to the City will suffer. The City is paid for the police  
21 and fire services it provides. The Sausalito Art Festival is not big oil come to town to drill  
22 in the park. A lot of people are going to be discouraged from participating if this political  
23 charade keeps going on.

24  
25 **Don Olsen**, President of the Rotary's low income housing corporation, stated that the  
26 success of the corporation and the construction of the low income units were largely a  
27 result of help from the Art Festival. Rotary runs and operates the parking concession and  
28 received over \$70,000 over the past two years. The Rotary has been able to develop 32  
29 units that count toward the City's requirement for affordable housing.

30  
31 **Carolyn Ford** said they were fully aware that the Chamber owns the trademark. They  
32 were suggesting the City throw its own festival that same weekend. The petitioners have  
33 no quarrel with the non-profits receiving revenues. The petitioners were only asking for  
34 two things: 1) that the Festival open its books; and 2) that the City get a percentage of  
35 the proceeds.

36  
37 The Council interrupted the Public Comment and moved to the Conference Room to  
38 interview applicants for boards and Commissions.

39  
40 The Council returned to the Council Chambers after the applicant interviews and  
41 continued to take public comment on the Closed Session Items before adjourning into  
42 Closed Session.

1 **CONTINUED PUBLIC COMMENT ON CLOSED SESSION ITEMS**

2  
3 **Robin Sweeny** noted that if the City were to lose the team that puts together the Festival  
4 now, it will lose decades of fine tuning that has gone on over the years. Farming it out to  
5 another entity is fraught with peril.

6  
7 **Mike Monsef** said the volunteers have volunteered; it's their choice. Regarding opening  
8 the books, he thought that it is a private business. He wanted to know the value of the  
9 property -- the Marinship Park -- which belongs to the taxpayers. He asked why that  
10 wasn't put up for bid. The company has a lease for this year, but he asked why they did  
11 not put it out for bid in order to see the value of the property. He thought that new blood  
12 was coming in, but that hadn't happened. If they didn't honor their contract, he wanted  
13 to know why. He was also concerned about the long lease, which he deemed  
14 unnecessary.

15  
16 **Paul Anderson** said this particular lease negotiation started five years and three months  
17 ago with the Finance Committee, and the lease in front of the Council today has been in  
18 the Council's hands for six months.

19  
20 **An unidentified speaker** said he knew one of the issues was the amount of sales tax  
21 money Sausalito thinks it should get and isn't getting. But the Art Festival doesn't have  
22 the obligation to collect that money. He would suggest the Council contact State Senator  
23 Carol Migden about the sales tax issue, which he was confident Senator Migden can  
24 resolve.

25  
26 **Carolyn Ford** restated that the petitioners had no quarrel with how the money is  
27 distributed, or how the Art Festival handles its numerous contributions to the town. But  
28 they might want to add that the City should perhaps consider a business license for the  
29 Art Festival.

30  
31 *(Inaudible comment from audience)*

32  
33 Ms. Ford continued. The concerns were that the City get a fair price and that the books be  
34 open and available to the public for standard corporate reports, audited reports that  
35 anyone expects to see from a corporation. She was not talking about line items.

36  
37 The Council adjourned into Closed Session to discuss Closed Session items 1 through 5.

38  
39 The Council reconvened in Council Chambers at 7:00 p.m. for the Business portion of the  
40 meeting.

41  
42 **ROLL CALL**

43  
44 **PRESENT:** Councilmembers Albritton, Leone and Weiner; Vice Mayor Belser,  
45 Mayor Kelly

46 **ABSENT:** None

1 **Dennis Scremin** led everyone present in the Pledge of Allegiance.

2  
3 **REPORT ON CLOSED SESSION ITEMS**

- 4  
5 1. **PUBLIC EMPLOYMENT pursuant to CGC § 54957**  
6 Title: City Manager  
7  
8 2. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR** pursuant to CGC  
9 § 54956.8  
10 Property: 18 Pearl Street  
11 Negotiating Parties: Dana and Kent Whitson  
12 City Negotiators: City Attorney  
13 Under Negotiation: Price and Terms  
14  
15 3. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR** pursuant to CGC  
16 § 54956.8  
17 Property: Marinship Park and Martin Luther King (MLK) Park  
18 Negotiating Parties: Sausalito Art Festival LLC  
19 City Negotiators: City Manager and City Attorney  
20 Under Negotiation: Price and Terms  
21  
22 4. **CONFERENCE WITH LABOR NEGOTIATOR** pursuant to CGC § 54957.6  
23 Agency Negotiator: City Manager  
24 Employee Organizations: SEIU 949, Sausalito Firefighters Association IAFF Local  
25 1775, and unrepresented Employees (Management and Confidential)  
26  
27 5. **CONFERENCE WITH LEGAL COUNSEL** – Existing litigation pursuant to  
28 subdivision (b) of CGC § 54956.9  
29 Name of Case: State Farm Insurance Co. vs. City of Sausalito  
30

31 Mayor Kelly reported the Council received reports and gave direction to staff on Closed  
32 Session Items 1 through 5. No votes were taken or decisions made on any item.

33  
34 Mayor Kelly asked if there was any public comment on the Closed Session items listed  
35 on the Agenda.

36  
37 **PUBLIC COMMENT ON CLOSED SESSION ITEMS**

38  
39 **Sally Calef**, President of the Sausalito Chamber of Commerce, said she was speaking on  
40 behalf of the 350 members of the Chamber and its Board of Directors. She gave some  
41 background on the Festival, which has been in existence since 1952. In 1980 the  
42 Chamber was asked by the City to take legal ownership and responsibility for producing  
43 the event. It eventually became a full time job for the Chamber, so it was decided by the  
44 Chamber and five past presidents of the Chamber to create a new entity to run the Art

1 Festival along with the Chamber. The LLC was created to produce and manage the event  
2 and to protect the Chamber from a tax liability. During these years the Marinship Park  
3 was built, and a scholarship fund was created by the Chamber. The Art Festival provides  
4 the Chamber with annual funds for its operation. The lease under discussion is for the  
5 Festival to continue to operate at its present location. The community is fortunate to have  
6 the number one festival in America in Sausalito. The Festival brings in many visitors and  
7 increases sales tax and TOT revenues, as well as provides revenues to local non-profits.  
8 More than 1,000 volunteers work at the Festival each year.

9  
10 **Yoshi Tome**, a long time resident and business owner in Sausalito and a long time  
11 member of the board of the Chamber of Commerce, asked the City to move forward with  
12 the lease and support the Art Festival, which has been of great value to the City and the  
13 community.

14  
15 **Carolyn Ford** said the City should be fairly compensated for the property and amenities  
16 the City provides for the Art Festival. She read into the record a petition that reads as  
17 follows: *“Since the Sausalito Art Festival’s privately held company will not open their*  
18 *financial records to the City so that a fair value can be placed on the amenities the City*  
19 *provides, the undersigned Sausalito residents petition the Sausalito City Council to solicit*  
20 *bids from other companies in the business of running festivals. We further petition that*  
21 *the City take a percentage of the festival’s profits, that current agreements with civic*  
22 *organizations regarding profit share for their booths be maintained and that the size and*  
23 *cost of the Friday evening gala reduced to return it to a community event as part of any*  
24 *new contract signed by the City.”*

25  
26 She estimated that 80 to 90 percent of the people asked to sign the petition did so and  
27 more than 500 people, both long term and newer residents, signed the petition. The  
28 signers were also asking that the Council not make a decision on the contract until  
29 September when the Council and residents return from vacation and when there can be  
30 further public discussion.

31  
32 **Tom Campagna**, Vice President of the Sausalito Chamber of Commerce, said he was  
33 speaking in support of agreement. He understood that the wheels of government move  
34 slowly. Two years ago the City asked if the Chamber and Foundation would accept the  
35 recommendation to work with a mediation firm, and the Chamber agreed. That mediation  
36 was conducted, and the Council has been considering the agreement for 16 months. He  
37 was asking on behalf of the Chamber that the City move forward.

38  
39 The president of the Lion’s Club said the Lion’s Club has had good relations with the Art  
40 Festival. The Art Festival is the largest revenue stream for the club, and all that money  
41 goes back into the community. He was asking that the City make a decision.

42  
43 **Public Comment closed.**

1 Mayor Kelly said the Council completed its review of a draft form of an agreement  
2 between the City of Sausalito and the Sausalito Art Foundation at that evening's Closed  
3 Session. That draft form will be polished and will be available in the Council meeting  
4 packets and on the web preceding the meeting on July 24, and a public hearing will be  
5 held on that document at the July 24 meeting. After receiving comments, the Council will  
6 go back into Closed Session with the document and complete the agreement with the  
7 Sausalito Art Foundation.

8  
9 **APPROVAL OF AGENDA**

10  
11 Mayor Kelly suggested moving Item 3, Approval of Minutes, to become Item 8-1. He  
12 noted that Item 6.F will not be heard that evening due to the absence of City Engineer  
13 Todd Teachout.

14  
15 **Councilmember Albritton moved, seconded by Vice Mayor Belser, for approval of**  
16 **the agenda as amended. The motion was unanimously approved without a roll call**  
17 **vote.**

18  
19 **1. SPECIAL PRESENTATION**

20  
21 **A. Introduction of City Employee: Lindsay Wyatt, Library Assistant – Continued**  
22 **to a future Council meeting**

23  
24 **B. Presentation by GGNRA on Fort Baker Transportation Plan**

25  
26 **Nancy Horner** of the Golden Gate Recreation Area previewed plans for Fort Baker and  
27 the Marin Headlands through a PowerPoint presentation. She noted that the  
28 Environmental Impact Statement (EIS) is available for public review at the City's  
29 Planning Department, and the Administration Office and Library also had copies of the  
30 plan available for public review. The plan is the Marin Headlands and Fort Baker  
31 Transportation, Infrastructure and Management Plan accompanied by a draft EIS that is  
32 out for review for 60 days. That review ends on August 13, 2007. The goals of the  
33 project are to provide and improve all modes of access, including bicycle and pedestrian  
34 access, to the Marin Headlands and Fort Baker in a way that minimizes environmental  
35 impacts. They are also improving drainage and erosion problems in the trail system.  
36 Some funds will be raised for transit opportunities through a parking fee. There are also  
37 plans to have "car-free" days at Fort Baker.

38  
39 Steve Ortega of the National Park Service noted they are at about the halfway point of the  
40 review period on the EIS, and there will be a public meeting on the next Wednesday to  
41 take comments and answer questions on the document. After the review period, a Final  
42 EIS will be prepared, and a record of decision will be prepared in the winter or spring of  
43 2008. He had placed copies of the EIS on the table at the front of the Chambers. The EIS  
44 was also on the Park Service website.

1 Ms. Horner said with regard to Fort Baker, they were starting a series of new construction  
2 projects on the waterfront preparing for reconstruction of parking lots, and parade ground  
3 reconstruction will begin in August. The construction of the retreat and conference center  
4 is underway and still on track for a May 2008 opening. The shuttle will be operating to  
5 downtown Sausalito when the retreat and conference center opens in May. They are also  
6 working on the Fort Baker Institute, which will be hosting environmentally themed  
7 meetings at the conference center. The underground electric system is in place.  
8 Historically compatible streetlights are in place in some locations.

9  
10 The Council thanked Ms. Horner for her time and cooperation.

11  
12 Councilmember Albritton asked if there were going to be improvements on the part of  
13 Alexander coming into Sausalito.

14  
15 Ms. Horner said it was not part of the Park Service plan.

16  
17 Councilmember Albritton asked if anyone from the National Park Service was  
18 communicating with the Veteran's Administration about plans for parking and transit for  
19 the planned Veteran's Administration building on Marinship Way.

20  
21 Ms. Horner said she didn't have that information.

## 22 23 2. PUBLIC COMMUNICATIONS

24  
25 **Bob Mitchell** stated he had delivered a letter to the Council regarding the Historical  
26 Society and urged the Council to put the matter on the agenda to require the Historical  
27 Society to open their meetings to the public.

28  
29 Vice Mayor Belser noted that Mr. Mitchell's letter raised some good points, and she  
30 would ask that the matter be agendized at a future meeting.

31  
32 **Vicki Nichols**, a member of the Historical Society Board, stated that she had not seen the  
33 letter. There has been some misrepresentation about how the Society's meetings are  
34 conducted. She agreed that a public hearing would be a good idea.

35  
36 **Julie Warren**, resident on Bridgeway, spoke on behalf of her father Fritz Warren and  
37 gave the Council a copy of a letter that authorized Ms. Warren to act on behalf of her  
38 father at the upcoming Historical Society meeting and stating that her father, Mr. Fritz  
39 Warren, is in favor of open Historical Society meetings.

## 40 41 3. APPROVAL OF MINUTES

42  
43 Review and approval of minutes of May 10, 2007 and May 15, 2007 was continued to the  
44 end of agenda.

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**4. CONSENT CALENDAR**

1. Approve response to Marin County 2006-2007 Grand Jury Report
2. Approval professional services agreement by and between the City of Sausalito and Folger Graphics for preparation of quarterly community magazine
3. Adopt City investment policy for fiscal year 2007-2008
4. Acknowledge actions taken at Planning Commission meeting of June 20, 2007
5. Consideration of recommendations of the hospitality business development committee for expenditures for fiscal year 2007 and fiscal year 2008
6. Approve encroachment agreement for the driveway, driveway retaining walls, minor landscaping and reconstruction of a portion of the existing access stairs, which are partially within the public right-of-way at 219 west street (APN 065-231-42)
7. Receive and file minutes of Parks and Recreation Commission meeting of May 16, 2007
8. Receive and file minutes of Library Board meeting on May 10, 2007
9. Receive and file minutes of Sausalito Waste and Recycling Commission meeting on June 7, 2007
10. Authorize community development director to sign public convenience and necessity letter as required by the department of alcoholic beverage control for a proposed new wine shop with wine tasting to be located at 300 Turney Street.

Mayor Kelly asked if any member of the public wanted to remove any item from the Consent Calendar.

City Manager Pro Tem Scott Paulin asked the Council to continue Consent Calendar Item 4.B-2.

Councilmember Leone asked to remove Items 4.B-5 and 4.B-6 for discussion. They became Items 6.E and 6.F.

**Councilmember Albritton moved, seconded by Vice Mayor Belser, to approve items Consent Calendar Items No. 1, 3, 4, 7, 8, 9 and 10. The motion was approved unanimously without a roll call vote.**

**5. PUBLIC HEARINGS**

- 1. Adopt resolution certifying a Mitigated Negative Declaration and Mitigation Monitoring Reporting Program and approving design review, conditional use permit, tree permit, condominium subdivision and encroachment agreement for construction of three new two family residential structures**



1           **and related improvements at 1751/1757 Bridgeway and 160 Filbert Avenue**  
2           **(APN 064-151-02).**

3  
4 Mayor Kelly said it appeared to him that the things the Council would be focusing on are  
5 the certification of the Mitigated Negative Declaration, the condominium subdivision and  
6 the Encroachment Agreement. There was a unanimous decision by the Planning  
7 Commission on design review.

8  
9           **Staff Report by Community Development Director Paul Kermoyan and Planning**  
10          **Consultant Lorraine Weiss**

11  
12 Ms. Weiss reported that this project was before the Planning Commission for the last  
13 time on April 25, 2007. The Commission reviewed the project and Mitigated Negative  
14 Declaration (MND). After hearing public testimony, the Commission voted to certify the  
15 MND and recommended it to the City Council.

16  
17 She stated that her focus would be on the following issues:

- 18           • Tentative map condominium subdivision;
- 19           • the project is being developed with six condominium units and one common area  
20           that requires a tentative map approved by the City Council
- 21           • Encroachment agreement for improvements along Bridgeway and Filbert

22  
23 In terms of the mitigated measures in the Initial Study and MND, the Commission made a  
24 couple of modifications, including those addressing potential slippage on adjacent  
25 properties due to construction of the proposed project. She corrected the staff report on  
26 page 3 and noted that Geo-10 is condition 35, not 34. Additionally, the Commission  
27 revised several conditions including 44, 45 and 60. In terms of the mitigation measures,  
28 the Initial Study determined that with mitigation measures this project would be reduced  
29 to less than significant impacts in the areas of aesthetics, air quality, biological resources,  
30 cultural resources, geology and soils, hazardous materials, hydrology and water quality,  
31 noise and traffic and transportation. Those measures are included in the Mitigation  
32 Monitoring Program provided that evening.

33  
34 The project does comply with the R-3 zoning development standards except for the  
35 tandem parking, which was proposed for all the parking spaces for the project. The  
36 parking necessitates a Conditional Use Permit (CUP), and the findings for a CUP are in  
37 the resolution. Staff has received one letter since the report was published. That letter was  
38 from Planning Commissioner Barry Petersen, and that letter was distributed to the  
39 Councilmembers on the dais.

40  
41 Staff was recommending that the City Council adopt the resolution certifying the MND  
42 and Mitigation Monitoring and Reporting Program, approve the design review permit, the  
43 conditional use permit, the tree permit, the condominium subdivision and Encroachment

1 Agreement to allow construction of three new two-family residential structures and  
2 related improvements at the 160 Filbert and 1751/1757 Bridgeway project site.

3  
4 **Presentation by Applicant Ignatius Tsang**

5  
6 Mr. Tsang stated he was an architect and part owner of the project. The project was  
7 reviewed initially in a study session. The zoning allows 12 units, and they proposed 10,  
8 but after the study session revised the project in cooperation with the neighbors and the  
9 Planning Commission to six units or only one more than existed. The footprints of the  
10 new buildings were pretty much the same as those of the existing buildings. They've kept  
11 the open space. They've done everything they can to satisfy the City's requests: Though  
12 only a six unit development, they would be putting in a bike lane on Bridgeway, a  
13 pedestrian refuge on Easterby and Bridgeway, and a sidewalk along Filbert Street. The  
14 encroachment was necessary to increase the safety of parking and access and egress.

15  
16 **Public Comment**

17  
18 **Priscilla McKinney**, resident at 161 Filbert Avenue, presented some photos she took the  
19 day before on the property that focus on the landscape design issue. There are four  
20 varieties of plum trees, five peach trees, four fig trees, including one large and mature  
21 tree, two pear trees and an apple tree. The photos demonstrate the historic and mature  
22 garden that is reminiscent of historic Sausalito. The trees are healthy and productive. The  
23 proposed development will destroy the garden and be replaced by "grass-crete." The  
24 Historic Landmarks Board (HLB) report states that this garden setting is one of the last of  
25 this type remaining in Sausalito. The plan will destroy more than 30 "protected" trees.  
26 She asked the Council to require Mr. Tsang to employ a landscaping plan that protects  
27 the garden and to maintain the historical living relics and provide conscientious  
28 development. She asked the Council to continue to examine an option for scaling down  
29 the development, limiting the development to the more level area of the site.

30  
31 **Rufus Thayer** stated that he has an interest in the property at 146 Filbert. He attended all  
32 the Planning Commission meetings and expressed his concerns. His remaining concerns  
33 were the geotechnical concerns related to the properties uphill from the project. He was  
34 concerned the mitigation measures that simply call for study and monitoring don't  
35 address what could happen to the uphill properties. The foundations of the uphill  
36 properties are sound, and he didn't see any possibility, as suggested by two of the  
37 Commissioners, that any subsidence could be the fault of the existing uphill houses. He  
38 wanted the measures to be strengthened to protect the uphill neighbors from subsidence.

39  
40 Councilmember Leone asked what specifically Mr. Thayer would like to have added to  
41 the conditions.

42  
43 Mr. Thayer said Geo 16 and 17 cover the issues, but the slope subsidence study should be  
44 done prior to the project start. Geo-10 would provide adequate ongoing monitoring. And  
45 there are certain notice provisions provided. He was okay with the conditions and

1 mitigation measures, but he just wanted to emphasize the point that the uphill homes  
2 aren't threatening subsidence, and that if there is any subsidence, it would be the fault of  
3 the proposed development.

4  
5 City Attorney Mary Wagner said staff was suggesting modifications which were listed on  
6 page 3 of the staff report.

7  
8 Ms. Weiss said additionally GEO 14 will require that there will be an evaluation of the  
9 effect of grading operations prior to the issuance of a grading permit. That modification  
10 was approved by the Planning Commission. The Commission modified that language to  
11 make it more encompassing of the neighbors' concerns.

12  
13 Mayor Kelly said this was a draft, and the modification would be incorporated into the  
14 final document.

15  
16 Councilmember Leone asked if Mr. Thayer has read these modified changes and if he  
17 was comfortable with them.

18  
19 Mr. Thayer said he had read them a number of times.

20  
21 **Diane Johnson**, resident at 161 Filbert Avenue, stated that this was an application for  
22 conversion of a unique property with gardens and historical buildings into a six-unit  
23 condominium. Despite the concerns expressed by the neighbors and the HLB, the  
24 Planning Commission approved the project. She urged the Council members to walk the  
25 property and get an idea of the relationship of the gardens to the proposed development.  
26 She felt the developer let the buildings deteriorate to justify the demolition. Presently  
27 there are no guidelines for preserving Sausalito, and they are losing the character of the  
28 community. This is counter to the Sausalito General Plan, whose goal is to preserve and  
29 protect. The original report called for the removal of 23 trees of which 18 were protected;  
30 now only 2 trees are to remain. She had photos showing fruit on the trees. The proposed  
31 development will result in a complete loss of the character of the property. There will be  
32 significant environmental impacts from the removal of trees and soil. She questioned  
33 whether the bng term monitoring will address the potential of landslides. She believed  
34 there could be underground springs that the development could disturb and lead to  
35 instability.

36  
37 **Vicki Nichols**, Chair of the HLB, stated she hadn't seen the HLB memos in the staff  
38 reports, and she would provide copies of those memos to the Council. The HLB looked at  
39 this as an historical site along with the three buildings which represent historical housing  
40 for workers from the time. The Carey Report says the architecture of these building could  
41 have local significance to Sausalito, and that the structures are not irreparably damaged  
42 and could be salvageable with some effort. The owners were told in 2005 that there was  
43 water damage occurring to the property. She requested that -- if not with this project --  
44 that in the future there is something that requires the property owners to maintain their  
45 properties and not let properties degrade into tear-downs. The Carey Report says more

1 than once that while the properties don't come up to state significance, it may have local  
2 significance. The situation reiterates the need for the City to have local historical  
3 guidelines in order to preserve that which is locally significant.

4  
5 Mayor Kelly said the Council has budgeted \$20,000 to get the Historic Guidelines  
6 written.

7  
8 Ms. Nichols presented copies of the HLB memos and Carey Report to the Council.

9  
10 Councilmember Leone asked why the City of Sausalito was being required to meet all  
11 four of the guidelines, which is a higher standard from the state, which is to just to meet  
12 one. Requiring the City to meet four of the levels of significance represents a significant  
13 policy shift on the part of the City Council.

14  
15 **Myralin Whitaker**, resident at 1745 Bridgeway adjacent to the subject property, stated  
16 she was happy to see this property developed. She has never seen any maintenance done  
17 to that property in the entire 23 years she's lived in her house.

18  
19 **Ron Albert**, resident on George Lane, stated that Mr. Tsang came to him through a  
20 mutual friend and asked for advice on this project. However, by the time he reviewed it,  
21 he didn't feel Mr. Tsang needed advice. Mr. Tsang has done everything he can to satisfy  
22 the City's requirements. It's been in process for two and a half years; it's not being  
23 rubberstamped. The process looks a lot different from the applicant's side. He agreed  
24 with Commissioner Petersen's letter, in which he highlighted the fact that this was a  
25 missed opportunity for increased density housing. The City has both a social mandate and  
26 a state mandate to increase affordable housing. This is right on the transit corridor of  
27 Bridgeway. It's entitled to 12 units and with an affordable housing bonus could go up to  
28 15 units. That being said, this is a very approvable project.

29  
30 He studied the HLB minutes and noted that the HLB highlighted not the individual  
31 buildings, but the relationship of the three buildings to each other, which relationship Mr.  
32 Tsang has substantially replicated. There is loss of garden area because two off-street  
33 parking spaces are being required for each building, which means the parking access had  
34 to go up through the garden area. Regarding the geo-tech issues, zoning regulations  
35 aren't made to address geotech issues; however, the project has more than 19 conditions  
36 that deal with geotech issues. Regarding the special conditions, i.e., creating the safety  
37 corridor three buildings away, Condition No. 63, he would suggest that needs another  
38 look.

39  
40 Mr. Tsang showed the Council the model to demonstrate that they were placing the  
41 buildings in the same footprint and preserving open space. Before he purchased the  
42 property two and a half years ago, he had a building inspector inspect these properties  
43 and was told that the buildings had serious structural and health problems. Those  
44 problems are spelled out clearly in the Hoyt report. He did not intentionally allow the

1 houses to deteriorate; they were already deteriorated. Regarding geo tech, the hillside is  
2 already slipping, and they have designed the project to increase stability and believe they  
3 have stabilized the hillside. That being said, putting all the burdens on him to stop all  
4 slippage problems on this hillside was not fair. They have done everything they can to  
5 respect the neighbors and their concerns.

6  
7 **Public Comment closed.**

8  
9 **Ex-Parte Communciations**

10  
11 Mayor Kelly noted that about a year earlier he had met with Mr. Tsang and his plan  
12 expeditor and reviewed the site on the bike lane issue. He did not look at the plans. He  
13 saw the model, but didn't spend anytime talking about the design or the project.

14  
15 **Council Discussion**

16  
17 Councilmember Leone made the following points:

- 18 • As he noted when he first heard about this project as a Planning Commissioner,  
19 this is a lost opportunity for affordable housing. This is the perfect site to build the  
20 kind of affordable housing the citizens have said they wanted and still have them  
21 be financially viable.
- 22  
23 • Regarding the condition of the homes, the independent building inspector hired by  
24 the City did not suggest that these buildings needed to be demolished and  
25 opinions have been offered that the buildings could have been restored.
- 26  
27 • It is a lost opportunity for the community in terms of retaining scale in the  
28 neighborhood and landscaping.

29  
30 City Attorney Mary Wagner clarified in response to Councilmember Leone's question  
31 that the entire project was before the City Council for recommendation.

32  
33 Councilmember Leone said given that, and with those ideas in mind, this was a chance  
34 for Sausalito to shoulder its responsibilities toward historical preservation and affordable  
35 housing in a package where the developer can make money doing it. This is where  
36 planning and looking toward the future could meet development.

37  
38 Councilmember Albritton asked if Councilmember Leone was speaking against the  
39 project. He asked whether he was suggesting the Council send them back to the drawing  
40 board.

41  
42 Councilmember Leone said he was not suggesting that, just that it be sent back with  
43 specific instructions. The lower Bridgeway building has the potential for being restored;  
44 at least one unit should be designated as affordable housing, even if that means waiving  
45 some of the development standards that would normally apply or adding a unit.

1 Councilmember Albritton asked if staff could comment on Councilmember Leone's  
2 comment that the City was changing its policy regarding historic determination and the  
3 number of criteria required to be satisfied.

4  
5 Mr. Kermoyan said staff can't comment on the history, but based on the current  
6 development standards, the City does have to fall back on state law as it pertains to  
7 historic preservation, and it is correct that all four of those findings have to be made in  
8 order to demolish the structure and deem it a significant impact. He couldn't comment on  
9 what's been done in the past.

10  
11 Mayor Kelly said he was struck by the two reports. He knows Alice Carey, and she is one  
12 of the hardest graders of historical sites around. So when he got a report from Alice  
13 Carey that says she really can't find that much significance, and even in the architectural  
14 historian's report at the end it says, "although the buildings themselves have little  
15 architectural distinction," he has a hard time making a correlation between those two  
16 things.

17  
18 Councilmember Leone noted one of the CEQA findings is related to the site, not just the  
19 buildings.

20  
21 Mayor Kelly said he understood, but usually historical site means it has some sort of  
22 significance in its historicity versus the fact that three buildings that have no significance  
23 are gathered together there. That was a tough one for him to find. So he looked at  
24 Carey's report and saw it as well considered, well drawn. The Commission went over  
25 this in considerable detail. He has utmost respect for the Commissioners, and it was a 4-0  
26 vote with Commissioner Bossio absent. He agreed that this was a particularly wonderful  
27 site for affordable housing. The City has a mandate to go out and look for places to put  
28 affordable housing, so he would like to have seen 12 units on this site, but the project has  
29 been reviewed carefully by the Commission. He would repeat that the Council needs to  
30 focus on the permits that the Council is being asked to approve.

31  
32 Vice Mayor Belser said she didn't disagree with Councilmember Leone on any of the  
33 philosophic views he expressed. It would be hard for her to say she'd like to see 12 units  
34 here, but she agreed with the philosophy behind it. This is one such place that you could  
35 probably do a gentler job of getting some affordable housing on it. This project points to  
36 a lot of things. It has been extensively reviewed, extraordinarily reviewed, especially  
37 with regard to the seismic and other protections that are built into the resolution. She was  
38 sensitive to the historical aspects, and this project points to the great need for the City to  
39 have its own guidelines as soon as possible. This is an especially sensitive site because it  
40 is very visible. Her opinion was that Mr. Tsang has done a sensitive job of the job he  
41 wanted to do and has given the City what it wanted. She wondered if the slide show given  
42 by the neighbor on the landscaping that evening had been seen by the Commission. If it  
43 has not, that was a serious error. The Commission should be privy to everything the  
44 Council has access to. The landscaping is a subject that could be looked at again, and  
45 maybe a little more could be preserved. She didn't know. Overall, she found the project

1 to be approvable on all of the critical things that are under the Council's purview. It  
2 points out things that need closer attention by the Council, the HLB and the Planning  
3 Department in the future, such as affordable housing.

4  
5 Councilmember Weiner said the site is quite a blight, and it's time to clean it up.

6  
7 Councilmember Albritton said for him it was an approvable project. The goals suggested  
8 by his colleagues are laudable. He would be willing to increase the density and provide  
9 an additional unit, even if it meant reorganizing the site plan to allow fruit trees to remain  
10 and to retain one of the buildings. The problem with the system was that it's pretty tough  
11 to be this far into the project and make changes. He certainly would allow an extra unit  
12 and cut the parking requirement so that they don't have driveways taking up the majority  
13 of what was a lush garden. Common sense indicates the City should be rethinking this.  
14 But the codes don't go that way, and the process doesn't go that way and you end up  
15 penalizing somebody who's trying to do the right thing because of the hoops they have to  
16 go through. He could approve the encroachments and make the findings with respect to  
17 the Mitigated Negative Declaration. He didn't think they can say there are any significant  
18 environmental impacts, although it would be nice to maintain the landscaping and the  
19 fruit trees. So if the applicant wanted to take the direction to add another unit and the City  
20 would be willing to reduce parking requirements if he'd be willing to redo the  
21 landscaping to preserve the fruit trees and preserve one of the buildings, Councilmember  
22 Albritton would be all for it. Although he would prefer those things, it was an approvable  
23 project as is.

24  
25 Councilmember Leone said his role in this was not to gum up the works for any  
26 applicant, but to push policy that the City needs to implement before somebody else does  
27 it for them. At some point the City needs to stand up and shoulder these responsibilities.  
28 To the applicant's credit, he did reduce the development from 10 units down to six to  
29 lessen impacts on the neighborhood. It was a good design. And he didn't mean to second  
30 guess the Planning Commission, but he couldn't say how many times his decisions on the  
31 Planning Commission were questioned by the Council. The Historical Guidelines do need  
32 to be revamped quickly. He's gotten money from the County to help do that. They also  
33 need to get a Housing Element with real tools that are factored into the zoning ordinance  
34 so they won't be a surprise to an applicant.

35  
36 As far as the conditions, he asked if there was a maintenance agreement relative to the  
37 right-of-way. He questioned whose responsibility that will be. He would suggest a  
38 condition that that be included in the condominium rules.

39  
40 Ms. Wagner suggested that requirement will be included in the Encroachment  
41 Agreement.

42  
43 Councilmember Leone said there was a request from the Water District to review the  
44 final landscaping plan. He would add to that requirement that the Water District sign off  
45 on the landscaping plan when they sign off on the water usage.

1  
2 Mr. Kermoyan said staff did discuss possibilities of affordable housing with the  
3 applicant. There was a decision on the part of the applicant to offer these at market rate,  
4 which brings them back to inclusionary housing, which is a tool that is used to provide  
5 affordable housing. His experience has been that developers don't volunteer to build  
6 affordable housing. However, if the City had the inclusionary housing tool in place, this  
7 project would have had affordable housing, or there would be some in lieu fee that would  
8 go toward development of affordable housing.  
9

10 Mayor Kelly noted that the various commissions and boards need the Council to step up  
11 and provide guidelines for the commissions and boards to follow.  
12

13 Councilmember Albritton noted the City has been working on its Housing Element for  
14 years. He has met with state officials regarding affordable housing and the Housing  
15 Element.  
16

17 **Mayor Kelly moved, seconded by Councilmember Albritton, that the Council adopt**  
18 **the resolution of approval for design review, conditional use permit, tree permit,**  
19 **condominium subdivision and encroachment agreement, and related improvements**  
20 **at 1751/1757 Bridgeway and 160 Filbert Avenue (APN 064-151-02), with changes to**  
21 **include the maintenance agreement and the changes included in the staff report.**  
22

23 AYES: Councilmembers: Albritton, Weiner, Vice Mayor Belser, Mayor Kelly

24 NOES: Councilmembers: Leone

25 ABSENT: Councilmembers: None

26 ABSTAIN: Councilmembers: None  
27

## 28 **6. BUSINESS ITEMS**

29

30 **A. Receive reports from two of the six Business Visioning subcommittees on the**  
31 **following areas of interest: (1) Bicycle and Pedestrian Facilities and (2) Buses, Boats**  
32 **and Piers**  
33

### 34 **Staff Report by Assistant to the City Manager Kevin Bryant**

35

36 Mr. Bryant noted that in the last six months the Business Visioning process has seen 40  
37 to 100 people participating in discussions on how to improve both the business and  
38 overall quality of life in Sausalito. Mr. Bryant said the reports are also available on the  
39 City's website under "Imagine Sausalito."  
40

### 41 **Presentation on Bicycle and Pedestrian Facilities subcommittee**

42

43 **Deirdre Callaway** reported via a PowerPoint presentation on the subcommittee's work.  
44 She also provided a pamphlet on the project.

- 45 • They started out looking at what is existing in terms of waterfront access for  
46 bicycles and pedestrians in Sausalito;



- 1 • they also looked at what's on the drawing table by various organizations as well  
2 as the City for developing the access;
- 3 • they also looked at the connections between stairways, steps and paths and plans  
4 related to the City's network of stairways, such as the Dorothy Gibson report on  
5 the stairs, steps and paths.
- 6 • They also took into considerations right of ways. They determined that this is part  
7 of another transportation system, and they should work with the other  
8 subcommittee on Buses, Boats and Piers.

9  
10 What was before the Council were four or five actual projects dealing with various types  
11 of multiuse paths and bikeways. The projects are listed on pages 6, 7 and 8 of the  
12 pamphlet. They are investigating funding from federal and state agencies and through  
13 Bay Area and local programs, including the City's Capital Improvement Program (CIP).

14  
15 Councilmember Leone asked what in her and the committee's vision were the easiest of  
16 these projects to tackle first.

17  
18 Ms. Calloway said there are some manageable linkages along the waterfront that won't  
19 involve property acquisition but will just require funding. They are proposing a  
20 pedestrian pathway from the ferry to the yacht harbor. That's pretty approachable. Also,  
21 some of the people on the committee felt there was a real deficit in maintenance of the  
22 existing system, particularly in the northern area of town, where there is a split path on  
23 private property. So that needs to be fixed, and she understands that's part of the CIP, but  
24 the funds haven't been worked out, and there may have to be some agreements made with  
25 the private property owners.

26  
27 Councilmember Albritton said the committee should be working with the City Engineer  
28 on the CIP plans for stairway paths, pedestrian paths, for which there are \$1.6 million  
29 federal non motorized transit funds; and there are specific non motorized transit monies  
30 in the county assigned to the greenway project. Those are funds which are ready to be  
31 used. The waterfront path received over 70 percent support in a poll done last year. Those  
32 are three very large mobility projects for bikes and pedestrians that an action committee  
33 can work with the engineering department to secure the funds to make these projects  
34 come to fruition.

35  
36 Ms. Callaway said there was a call for the Bicycle Task Force to be recreated. She asked  
37 what the subcommittee's relationship will be with the Task Force.

38  
39 Mayor Kelly said that was on the agenda later that evening.

#### 40 41 **Presentation by Buses, Boats and Piers subcommittee**

42  
43 **Bonnie McGregor**, resident on Bulkley Avenue, reported that this committee was  
44 addressing public transportation issues on land and water and the land based facilities for  
45 the water transportation aspects. She had provided Mr. Bryant a copy of the report. They

1 examined the current situation of the two modes of transportation mentioned. They want  
2 to bring the residents back downtown; they considered near term and long term  
3 enhancements.

4  
5 They developed four goals the details of which are on the report on the website. The  
6 goals are:

- 8 • Provide integrated public land transportation system including a combination of  
9 rail, street cars, large buses and small jitney type buses.
- 10  
11 • Provide integrated public water transportation system including enhanced ferry  
12 service and water taxis supported by a fixed pier and floating tie-up buoys,  
13 docking areas and mooring buoys for transient visitors
- 14  
15 • Enhance the waterfront facilities for the boating public that link to activities on  
16 land.
- 17  
18 • Promote Sausalito as a destination for boaters, using advertising in local and  
19 national boating and maritime publications and on buses. Create an image of the  
20 Sausalito seal with a tagline, "Welcome mariners."

21  
22 It's time to start forming action committees. Recommendations for implementations are:  
23

- 24 • The City Council should form a transportation task force with a clear mission and  
25 a deadline; the task force work will be assisted by the planning staff and have a  
26 budget to hire professional consultants. The task force should be composed of  
27 about 12 people consisting of residents, property owners and business owners,  
28 with equal numbers of each. The pedestrian and pathways committee should be  
29 integrated into the overall transportation task force.
- 30  
31 • The task force should develop and publish a final report outlining the  
32 recommendations for special programs, financing requirements and short and long  
33 term goals.
- 34  
35 • A four-month time frame to accomplish each segment of the initial objectives

36  
37 Councilmember Albritton thanked Ms. MacGregor for her report. He really liked the  
38 time frame.

39  
40 Councilmember Leone asked what was the most unified goal of the four goals the  
41 committee has formulated. Or, if she has some short-term goals, he suggested that she  
42 could talk about those.

43  
44 Ms. MacGregor said they need to bring the locals back downtown; short term, she would  
45 like to see four Sally Shuttles used to create a system that runs up and down Bridgeway.  
46 She understood that money is available to buy three more Sallys or similar vehicles. They  
47 could go up into the hills using a GPS system to bring residents down to the main arteries  
48 where they can get on a bus, street car or ferry. That would start getting some cars off the  
49 street. Parking does have to become more of a premium, but first they have to provide

1 alternatives, which would the role of Sally. The revenue from increased parking fees  
2 could help pay for some of the goals. There are various groups and organizations in town  
3 who would like to see Sally working, they need professional drivers and she's working  
4 on something to be approved by Mr. Bryant; Sally can be used to transport people to  
5 events at for example the Women's Club, which has no parking.

6  
7 Mayor Kelly asked for comment on the reports.

8  
9 **Public Comment**

10  
11 **Adam Krivatsy**, resident on Olima Street, stated that it was a positive thing that these  
12 goals all have overlapping recommendations, for example, access for pedestrians to the  
13 waterfront. The public pathway along the waterfront, enjoyment of the waterfront, and  
14 destination for residents and boaters, all would happen on Sausalito's waterfront. They  
15 are talking about improving business in the community and should think about the  
16 waterfront as the place to do that. When he talks to visitors to Sausalito, they say they  
17 want more places and destinations on the waterfront to sit down, have a cup of coffee,  
18 etc.; they also mention bathroom facilities. The City has to think of the three miles of  
19 waterfront as a place and these committees all point out opportunities on the waterfront.  
20 He would call the Council's attention to this opportunity especially in light of the fact  
21 that the City might have money for fixing the railings on the stairways, for planning the  
22 greenway, but very little funding has been identified for better access to the waterfront.  
23 So this would call for CIP appropriations as well as the will to accomplish these goals.  
24 Communities within Sausalito could sponsor different areas of the waterfront and in five  
25 to 10 years the waterfront could be a fantastic location where people love to hang out.

26  
27 **David Lay** lives in the harbor. He has attended meetings of the Piers Committee and the  
28 Marinship Committee. Both of those committees were interested in an idea he's been  
29 pushing for about 10 years, which is to bring in people who are yachting around the bay  
30 or around the world to Sausalito. Right now, the waterfront is not welcoming to boaters.  
31 There is barbed wire and gates. There's even a gate that keeps people from viewing the  
32 boats at the Wooden Boat center. There are too many gates that keep people coming to  
33 shore to do laundry or go to the cinema or to a restaurant. When he first sailed into  
34 Sausalito there were flags of 14 nations here, and now you don't see that at all now.  
35 Sausalito is so close to the racing area across the bay and Sausalito should develop dry  
36 boat storage for people instead of putting containers on the waterfront. Right now, all the  
37 money from these boats goes to Richmond. Sausalito needs the excitement and the  
38 money that boaters, racers and casual visitors from around the Bay bring. Sausalito  
39 should be the destination for boaters. He presented a report to the Council showing  
40 potential landings for these visiting boats. Everyone needs to work together to make  
41 Sausalito into something that is really unique, and something that someone from Japan  
42 and China and Russia and Italy would put on their itineraries as a place to stop, as well as  
43 visitors from throughout the Bay Area.

44  
45 **Public Comment closed**

1  
2 Councilmember Albritton noted Sausalito has a brilliant community and the Imagine  
3 Sausalito process has really captured the imagination of a lot of people and there is a lot  
4 of consensus on which the Council should act quickly. He'd like the Council to form the  
5 task force committee at the next Council meeting.

6  
7 Mayor Kelly said there is already a Business Visioning Committee, and he would  
8 propose they use that as sort of a "steering committee" and that that committee set up the  
9 various subcommittees, similar to the way the subcommittees were developed for the  
10 public safety buildings, as opposed to having the Council set up all the subcommittees.

11  
12 Councilmember Albritton said the Business Advisory Committee meets Thursday, and  
13 they should discuss that kind of recommendation. They intend to be true to the discussion  
14 held on June 9. It is important to get the committee operating to meet with the County to  
15 update the bike plan. So in two weeks, he'd like to see a committee established that takes  
16 into all these items, bikes, buses, piers, boats, etc.

17  
18 Councilmember Leone said the process has been very inclusionary and very public, and  
19 he wanted to keep that spirit going, rather than have the Business Advisory Committee  
20 appoint the subcommittee members.

21  
22 Mayor Kelly said he didn't mean appoint; he meant conduct the volunteers to each  
23 committee. If the Council were to be in charge of the committees, he feared it would fall  
24 apart. The Business Visioning Committee has been driving the process, and he'd like to  
25 keep that going, to help structure those committees.

26  
27 Councilmember Albritton said he was hearing a request from the Council for a  
28 recommendation from the Business Visioning Committee that will be reviewed by the  
29 Council.

30  
31 Mayor Kelly said that was what he meant.

32  
33 Councilmember Leone said he understood, but some of these issues are very tangentially  
34 related to business, and some of these issues should be dealt with on a larger scale by the  
35 public at large and not just through the Business Advisory Committee. There is an agenda  
36 item coming up at the next meeting where they can talk about how to structure this.

37  
38 Mr. Bryant said whatever the committee structure will be, these are all open meetings.  
39 You may have a formal committee but you may have an additional 10 or 20 people in the  
40 room working on it.

41  
42 *(The following items were moved up from Item 7 on the agenda)*

43  
44 **F. Council Decision on Council Representative to Newly Reconstituted Bicycle**  
45 **and Pedestrian Task Force**

1 There was Council consensus to appoint Councilmember Albritton as the Council  
2 representative to the Bicycle and Pedestrian Task Force. Councilmember Albritton will  
3 report back on the formation of the subcommittee that will meet with the County, and  
4 bring that report back to the Council at the July 24, 2007 City Council meeting.

5  
6 **G. City Council Appointments to Boards and Committees**

7  
8 Mayor Kelly asked for public comment on any of the appointments to be made, but there  
9 was no response.

10  
11 **Appointments to Arts Commission (2 unexpired terms through January 2008 and 1**  
12 **unexpired term through January 2010)**

13  
14 Mayor Kelly nominated Jeffrey Axelrod and Pippa Murray for the two unexpired terms  
15 through January 2008 and Joshua Goldstein for the unexpired term through January 2010.

16  
17 Councilmember Leone nominated Helene Turcotte (did not specify term)

18  
19 Mayor Kelly: Axelrod, Murray and Goldstein  
20 Vice Mayor Belser: Axelrod, Murray and Goldstein  
21 Councilmember Albritton: Axelrod, Murray and Goldstein  
22 Councilmember Leone: Axelrod, Murray and Turcotte  
23 Councilmember Weiner: Axelrod, Murray and Turcotte

24  
25 Axelrod and Murray were appointed to the terms to expire in 2008 and Goldstein to the  
26 term to expire in 2010.

27  
28 **Appointments to Board of Library Trustees (3 regular terms through July 2010)**

29  
30 Mayor Kelly nominated Betsy Stroman, Patricia DeLuca and Nancy Kaltreider to the  
31 three-year terms through July 2010.

32  
33 Councilmember Leone nominated Patricia Porter.

34  
35 Mayor Kelly: Stroman, DeLuca and Kaltreider  
36 Vice Mayor Belser: Stroman, DeLuca and Kaltreider  
37 Councilmember Albritton: Stroman, DeLuca and Kaltreider  
38 Councilmember Leone: Porter, DeLuca and Kaltreider  
39 Councilmember Weiner: Stroman, DeLuca and Kaltreider

40  
41 DeLuca, Stroman and Kaltreider were appointed to the three, three-year terms through  
42 July 2010.

1 **Appointments to Parks and Recreation Commission: 1 unexpired term through**  
2 **June 2008 and 2 regular terms through June 2010**

3  
4 Mayor Kelly nominated Jayne Reichert for the 1 unexpired term through June 2008 and  
5 John Lerner and Melissa Mooney (formerly alternate) for the 2 regular terms through  
6 June 2010.

7  
8 Vice Mayor Belser would nominated Todd Hurlbut.

9  
10 Mayor Kelly: Reichert, Lerner and Mooney  
11 Vice Mayor Belser: Lerner, Hurlburt and Mooney  
12 Councilmember Albritton: Lerner, Hurlburt and Mooney  
13 Councilmember Leone: Reichert, Hurlburt and Mooney  
14 Councilmember Weiner: Lerner, Hurlburt and Mooney

15  
16 Mooney and Lerner were appointed for the terms to expire 2010 and Hurlbut for the term  
17 through June 2008.

18  
19 **Appointments to Planning Commission: 2 expired terms through May 2010**

20  
21 Mayor Kelly nominated Janelle Kellman and Bill Keller.

22  
23 The nomination was approved by acclamation and Kellman and Keller.

24  
25 *(Return to published order of agenda)*

26  
27 **B. City Council discussion and direction on Rental Business License Discovery**  
28 **Process and Penalty Waiver**

29  
30 **Staff Report by Finance Director Louise Ho**

31  
32 The City engaged MuniServices to perform discovery audit services on business license  
33 compliance. As of May 31, 2007, the combined general and rental business license  
34 discovery generated \$179,822 (net of MuniServices's compensation) in additional  
35 revenue to the City. Rental property discovery represented \$46,089 (net). As of June 14,  
36 2007, the City received 43 waiver requests totaling \$5,164 related to business license  
37 taxes on rental property. Staff is seeking Council direction on processing these rental  
38 property discovery waiver requests. Ms. Ho reported that the rental business license  
39 collections have been on hold and the staff is asking for further direction from the  
40 Council.

41  
42 The Finance Committee discussed the matter on June 18, 2007 and recommended that  
43 staff place all rental business license discovery activity on hold and bring the issue back  
44 to the full City Council for consideration and direction. Staff was requesting City Council

1 direction on how to handle the waiver requests received and how to deal with taxpayers  
2 that choose not to comply. Staff recommends that the Council not grant any waiver of  
3 taxes owed but only consider the waiver of penalties. One option that is available to the  
4 City is an amnesty program. However, this approach would be in conflict with one of the  
5 high priority strategic planning goals adopted by the Council to enhance revenues for the  
6 City, without imposing new taxes. Ms. Ho noted that under the City's current contract  
7 with MuniServices in the event that the City elects to waive penalties, the City is required  
8 to pay MuniServices one half of the fee (12.5 percent) that MuniServices would have  
9 otherwise received. The collector does not have the ability to waive that portion of the  
10 penalty that the City is required to pay to MuniServices as such a waiver would result in a  
11 cost to the City.

12  
13 Mayor Kelly said given the small amount of money that's on the uncollected side, it was  
14 an easy decision for him.

15  
16 Councilmember Leone asked of the 570 letters, are those new accounts versus what the  
17 City's been billing for previously, or was that all total for all rental business licenses and  
18 discovery.

19  
20 Ms. Ho said the 570 is just from the discovery process.

21  
22 Councilmember Leone asked what the total number of accounts is for rental business  
23 licenses.

24  
25 Ms. Ho said she could get that information. Roughly, she would say over 1,000.

26  
27 Councilmember Leone said so about 1,200 are paid in full and current, whereas 300  
28 didn't respond and 42 were underpaid.

29  
30 Ms. Ho said that was right.

31  
32 Councilmember Leone asked what the dollar amount would be if the City did refund that  
33 87.5 percent of penalties and whether that would be just for this calendar year.

34  
35 Ms. Ho said it would be for the current year plus the preceding year, so it would be for all  
36 the penalties that have been collected during the four years.

37  
38 Mayor Kelly said it's about \$17,000.

39  
40 Ms. Ho said \$17,000 would be the penalty for the 87.5 percent because the penalty is  
41 about \$20,000. That's just from this discovery process that they collected from the 235  
42 accounts.

43

1 Councilmember Leone asked if the City makes refunds for this calendar year and if  
2 someone had paid these penalties in prior calendar years, would they have standing to ask  
3 for refunds for past calendar years.

4  
5 City Attorney Mary Wagner said some of that will depend on the direction from the  
6 Council as to why it believes a penalty waiver is justified. One approach is the blanket  
7 approach of refunding all penalties that have been paid or that would be due and owing  
8 for what has been discovered through this process. If the Council does that, it does raise  
9 the issue of other similarly situated people and staff would recommend the Council treat  
10 everybody the same. She doesn't know if anybody has been charged any penalties on any  
11 other residential rental property business license fees. The Council could also give staff  
12 direction on what constitutes good cause and then staff would apply that retroactively.  
13 The only cause staff has been presented with is, "I didn't know about it," and people for  
14 the most part have been willing to pay the taxes but not the penalties.

15  
16 Councilmember Leone asked when the rental discovery started. He asked if it was just  
17 this past year, so they don't have to go back give years and refund this money, or whether  
18 it was just this past calendar year.

19  
20 Ms. Wagner said her point was that she doesn't think there are a lot of people who would  
21 have paid any penalties in years past.

22  
23 Councilmember Albritton asked what the Finance Committee recommended.

24  
25 Mayor Kelly said they recommended to bring it back to the full Council for concurrence  
26 on the Finance Committee's discussion that the City needs to keep the policy the same  
27 for all people. So if they decide to refund the money they have to refund it all. The  
28 Committee thought since the preponderance of people had paid their tenant taxes and  
29 penalties that it would be something the City just wouldn't want to do.

30  
31 Councilmember Leone said credit might be an easier thing from both a cost and process  
32 oriented view; to give people a credit against next years' fees rather than refund them.

33  
34 Mayor Kelly asked why they should refund anything.

35  
36 Councilmember Leone said he was talking about the penalties that people have already  
37 paid. That's one of the options, to refund the penalties.

38  
39 Mayor Kelly said he was saying don't refund anything. The policy has been to collect all  
40 the money due the City; the City has collected close to 80 percent of the money. People  
41 paid their fees, they paid their penalties, if the Council waives penalties on the other 20  
42 percent, they then have to give back the other 80 percent that paid. If the City made any  
43 mistake on this thing it was the fact that they didn't get a really good shot at it with the  
44 collection company. That's where the mistake was made, if any mistake was made. As  
45 far as people owing the tax, it's a tax that's been on the books for a long time.



1  
2 Councilmember Leone said he was not talking about the tax; he was talking about the  
3 penalties.

4  
5 **Public Comment**

6  
7 **Peg Copple** lives on Spring Street and owns a real estate company in town. She thought  
8 Ms. Ho said of the 570 notices sent out, 300 did not respond, 230 paid and 42 wanted a  
9 waiver of the penalties and/or the tax.

10  
11 Councilmember Leone said that was of the newly discovered ones.

12  
13 Ms. Copple said that means they were supposed to pay. So that's not 80 percent of the  
14 newly discovered. She's been doing real estate in Sausalito for 20 years and she knew  
15 that you had to get a business license if you had three units or more. She had never heard  
16 of a tax rather than a business license on a residential dwelling unit until MuniServcies  
17 sent out these notices and irritated a whole bunch of people and then charged a penalty.  
18 So the company created a situation in doing that that caused a lot of anger and angst, and  
19 to some people the dollar amount is significant. To some people it wasn't the dollar  
20 amount, or that there should or shouldn't be a tax, it was that they'd never heard of this  
21 and all of a sudden this company from out of the blue sends out notices saying you owe  
22 this taxes and you haven't paid them and you have penalties for four years. That's what is  
23 really wrong and that's why it is important to consider waiving the penalties.

24  
25 If you are only going to have to refund or give credit for \$17,000 as opposed to collecting  
26 \$71,000 in taxes, you keep the taxes, you create a better feeling with the community, the  
27 community now knows to expect this every year. That approach would soothe a lot of the  
28 distress, and it won't cost the City that much. She would recommend the City do that. On  
29 the other hand, she cautioned the Council to remember that the City is supposed to be  
30 encouraging people to have second units, so looking at the big picture, going after the  
31 easy money is wrong. You need to have a big picture and big plan and say, yes, we want  
32 you to have second units, instead of we want you to tell us you have second units, but  
33 then we're going to tax you for it, so the City needs a better plan about second units.  
34 You're not going to get people to come forward and say they have a second unit when  
35 you're going to employ this kind of attack.

36  
37 Mayor Kelly asked how much in dollars in penalties did the City collect in the last ...

38  
39 Ms. Ho said this discovery was done for the first time for rental discovery; the penalty  
40 collected is \$20,300.

41  
42 Mayor Kelly asked if that money is in the bank and in the budget.

43  
44 Ms. Ho said the money is in the '07 budget, and if they need to refund it they will have to  
45 reduce the revenue by that much.

1  
2 Councilmember Albritton asked what -- if they collected all the penalties -- the total  
3 would be.

4  
5 Ms. Ho said they don't know because the other account did not come forward and report  
6 how many units they have, so they really don't know of the 300 that did not respond  
7 whether they have one unit or multiple units.

8  
9 Councilmember Leone asked how MuniServices does its discovery, whether it was by tax  
10 filings or tax roll incomes.

11  
12 Ms. Ho said they do it mostly relying on the tax rolls; by checking the mailing address,  
13 property addresses, signals that someone is not living at that residence.

14  
15 **Public Comment closed**

16  
17 **Council Discussion**

18  
19 Councilmember Leone said when he first bought his house he got a bill in the mail for the  
20 tax on his rental unit. The tax is not a problem, but the penalty adds some insult to injury.  
21 He would agree with staff's recommendation number 2, which would not compromise  
22 the fact that a tax is owed.

23  
24 Councilmember Albritton said he would like the Finance Committee to sharpen its  
25 pencils. They need to figure out some stratifications within these broad numbers. If  
26 someone has three units and hasn't been paying this tax, he should pay a penalty. If you  
27 have one unit, he thinks the City can create a stratification for them not paying a penalty.  
28 When the Finance Committee looked at this with regard to businesses, they came up with  
29 a methodology that would minimize the financial burden to the City but maximize the  
30 number of businesses that weren't burdened by an excessive penalty. They can do the  
31 same thing here by analyzing the people who are asking to have their penalty waived.

32  
33 The City can come up with a policy that's fair, and that policy would penalize people  
34 who have multiple units and should know better and would benefit those residents like  
35 the ones that spoke to the Council previously who may be on limited incomes. He would  
36 suggest a policy that considers waiving the penalty by 85 percent for anybody with a  
37 single unit. Or 87.5 percent for a single unit and that's it, unless they don't respond. He  
38 would design a letter to go out to those that don't respond saying you may be eligible for  
39 amnesty from your penalty if you respond immediately. He would look at the \$17,000 or  
40 \$20,000 and see if it's for multiple units or single units. It should be a consistent policy  
41 ongoing just as they've done with the businesses where they've said if they were new to  
42 town and they missed the license, then they got a break. And he thinks that the little guy  
43 is less likely to know about a tax than the big guy, and the big guys are where you're  
44 going to get the big money on penalties that you may not want to waive.

1 Ms. Wagner said staff has direction in amounts less than \$5,000 to waive penalties upon  
2 a showing of good cause. What the policy Councilmember Albritton was discussing and  
3 what was done previously is to provide a definition of what “good cause” is, which also  
4 gives the City the ability to treat similarly situated people the same, so that there is a  
5 distinction that’s being drawn and all people that fall within that distinction are being  
6 treated the same way.

7  
8 Councilmember Albritton said the waiver of penalty for single units is going to be a  
9 minor number.

10  
11 Mayor Kelly said he agreed with that approach, and he liked the idea of the letter going  
12 out saying your penalty will be waived if you come in and pay the tax.

13  
14 Councilmember Leone said it also makes it easier for staff to administer.

15  
16 Ms. Ho asked if the Council was saying the penalty will be waived for those properties  
17 that are one unit but if it’s more than one unit they have to pay the penalty.

18  
19 Councilmember Albritton said staff should consider that stratification and any other  
20 stratification the Finance Committee thinks is appropriate after figuring out where the  
21 dollars are in these penalties. It’s not clear if the majority of the penalty number is based  
22 on a few large apartment complexes. They may want to cut it off at two units. But the  
23 City should be able to maximize the number of people who don’t have to pay this penalty  
24 while minimizing the amount of dollars that you lose. And that is equivalent to the  
25 punishment meeting the crime. If someone has not paid the tax on a 15-unit complex for  
26 several years, they really should pay the penalty. He would send it back to the Finance  
27 Committee for refinements and then bring the policy back to the full Council.

28  
29 Ms. Ho has informed MuniServices to break out each account by the number of units, so  
30 they can easily identify the details. She will bring that information back to the Finance  
31 Committee for their recommendation and to the Council for approval.

32  
33 Councilmember Leone suggested staff also investigate giving credits rather than refunds.

34  
35 Ms. Ho said the direction from the Council that night was not going to satisfy everyone.  
36 She has been contacted by one individual who manages six or seven units and the  
37 direction that evening will not resolve the issues with the type of people who are still  
38 refusing to pay or come forward. Staff is also asking what Council wants to do about the  
39 ones that disagree with the penalty or are saying they are only going to pay one year or if  
40 the City meet their terms.

41  
42 Councilmember Leone asked what happens when someone refuses to pay.

1 Ms. Ho said the City would send them a demand letter, but the person can still refuse to  
2 pay. The City can impose an administrative citation. There is also an administrative  
3 hearing in place. There are two people who are refusing to pay because they didn't know  
4 about the tax or requirement for license; they are objecting on principle rather than the  
5 amount of money owed.

6  
7 Ms. Wagner said their business license can be revoked. They don't have the ability to lien  
8 the property. The City can't just add the penalty onto the tax bill. She will provide the  
9 Council with a memo explaining the process and what enforcement remedies are  
10 available.

11  
12 **C. Oral Report on Current City Regulations on Newsracks**

13  
14 **Staff Report by City Attorney Mary Wagner**

15  
16 Ms. Wagner said in response to the direction of the Council to investigate agreements  
17 related to news racks, Administrative Services Manager Dale Vaughn found an  
18 agreement entered into in 1992 by the City and a number of publishers. The agreement  
19 was between the City and -- at that time -- pretty much everyone who had a circulating  
20 document in the City. Annually a committee is to be created that has three members on  
21 it, called the News Rack Committee, and they are in charge of assuring that all entities  
22 comply with the terms of the agreement. The agreement includes specifications on the  
23 size of the news racks, prohibition of advertising, requirements for maintenance. There  
24 are special provisions for racks in the downtown area of the City. They have to all be  
25 finished in a federal brown color. If they aren't maintained, the person in charge of that  
26 rack would be required to remove it or give it regular attention, unless it was left  
27 unattended because of some kind of strike. So the agreement is in place. She doesn't  
28 know when the last News Rack Committee was constituted. Staff can investigate and/or  
29 bring back an ordinance dealing with the issue.

30  
31 Councilmember Weiner asked if the agreement addresses the clustering of racks, such as  
32 those on Bridgeway, which are mostly empty by the way.

33  
34 Mayor Kelly noted that removing the racks completely runs into a lot of constitutional  
35 issues.

36  
37 Ms. Wagner said the agreement doesn't limit the number of racks in an area. It does  
38 indicate if they're not being utilized that they shouldn't be left in place for more than 30  
39 days.

40  
41 Councilmember Leone suggested notifying and/or reminding the publications of their  
42 obligation to maintain the racks as stated in the agreement.

43  
44 Councilmember Weiner said he would follow up with the publications.

1 Councilmember Albritton said you'll need to identify whose rack is, and if you can't, the  
2 City can use a tag that can be pasted on the rack informing the owner that they have 30  
3 days to respond to the notice.

4  
5 Ms. Wagner said they need an inventory first.

6  
7 Councilmember Weiner said he would go out and get a picture inventory.

8  
9 Councilmember Leone said they shouldn't be heavy handed with the newspapers, which  
10 are already experiencing economic problems. He suggested they start with a friendly  
11 letter.

12  
13 Ms. Wagner would bring a report back to the Council.

14  
15 Mayor Kelly asked for public comment on the news racks, but there was no response.

16  
17 **D. Update on Police and Fire Buildings**

18  
19 **Staff Report by Community Development Director Paul Kermoyan**

20  
21 Mr. Kermoyan noted the project will be heard by the Planning Commission on July 18,  
22 2007 at which time the Commission will review modifications to the approved plans. The  
23 agreement has been completed by the City Attorney between the City and Sam Hock.

24  
25 Mayor Kelly asked Mr. Kermoyan to show Mike Hock a set of the new plans with the  
26 modifications to the roof equipment and the height of the buildings to reassure Mr. Hock  
27 that the buildings are not higher than what was originally approved.

28  
29 Mr. Kermoyan said the height poles do appear taller than the original, setting aside the  
30 screen for the mechanical equipment. The poles do look a little bit taller.

31  
32 Mayor Kelly said the plans are what will be built; the story poles may be wrong.

33  
34 Mayor Kelly asked for public comment on the police and fire buildings, but there was no  
35 response.

36  
37 **E. Consideration of recommendations of the Hospitality Business Development**  
38 **Committee for expenditures for Fiscal Year 2007 and Fiscal Year 2008** *(formerly*  
39 *Consent Calendar Item No. 5)*

40  
41 Mayor Kelly asked what the Ice House money is for.

42  
43 Councilmember Albritton said the money goes to decent salaries to keep the Ice House  
44 open seven days a week instead of six days a week.

1 Councilmember Weiner asked if that is all year round.

2  
3 Councilmember Albritton said he thought so; it's \$600 a month.

4  
5 Councilmember Leone said his question on this item was about the way the staff report  
6 was written and this concept of carrying money over from the prior years. That's not the  
7 way the City budget works; there's no carry over. It would have to be a new  
8 appropriation within the current budget and would have to come at the six month review.

9  
10 Mr. Bryant said if Councilmember Leone was talking about the \$30,000, there was  
11 \$30,000 in the 2007 budget, and there is \$30,000 in the 2008 budget. Those are two  
12 separate pots of money. There's no proposal to carry the money over.

13  
14 Councilmember Albritton said but they did try to spend some of it, and that's what these  
15 small amounts are.

16  
17 Councilmember Leone noted that Ms. Ho had not signed the report, and that should be  
18 corrected pursuant to the policy of the City Council.

19  
20 **Consent Calendar Item No. 5 was approved unanimously without a roll call vote.**

21  
22 **F. Approve encroachment agreement for the driveway, driveway retaining walls,**  
23 **minor landscaping and reconstruction of a portion of the existing access stairs,**  
24 **which are partially within the public right of way at 219 West Street (APN 065-**  
25 **231-42) (Consent Calendar Item No. 6)**

26  
27 Councilmember Leone asked why this was coming back to the Council and whether the  
28 neighborhood had been noticed of this item. He asked if it was a review of a prior  
29 decision. There was a disagreement between the neighbors and he wants to be sure there  
30 has been proper noticing. Is this an extension of a prior approval?

31  
32 Community Development Director Paul Kermoyan said it's not required to be noticed.

33  
34 City Attorney Mary Wagner said Encroachment Agreements are not required to have a  
35 10-day public notice as other land use decisions are; this is just an agreement that has  
36 agenda notice. She thinks the issue Councilmember Leone was referring to is the project  
37 at 220 West where there was a planter and a parking space in the right-of-way, and they  
38 came in for an after the fact approval.

39  
40 Councilmember Leone said they were extending the construction time for a five-year  
41 approval for a garage, so they are basically asking to renew the project in effect. If it has  
42 not been completed, it should have a noticing requirement. It looked like the approval  
43 was in 2002.

1 Mr. Kermoyan said this project was approved in 2002 at a time when the way that the  
2 City processed Encroachment Agreements was different than how they are processed  
3 today. However, they decided to come in today with their Encroachment Agreement.  
4 That's when staff said the process now is that the applicant needs to go before the City  
5 Council. So in 2002 they got their approval, but they waited until now to come in, and  
6 there's energy on their part to pull a permit. Staff realized they needed an Encroachment  
7 Agreement, and this item is for that agreement. And they need to begin construction  
8 before their permit expires. By the Council approving the Encroachment Agreement, the  
9 Council would not be renewing another five years. The applicant still needs to pull a  
10 permit and begin or commence construction before their permit expires.

11  
12 Councilmember Leone asked if this is just for the right-of-way improvements. He asked  
13 for confirmation that it would be just a question of pulling the permit, not completion of  
14 the project,.

15  
16 Mr. Kermoyan said according to the conditions of approval of the design review, they  
17 need to pull a permit and commence construction. They need to show that they are  
18 diligently working towards completion.

19  
20 Mayor Kelly asked if it was correct that the City can cancel the Encroachment Agreement  
21 with 30 days notice for any reason at any time. That's what the agreement says.

22  
23 Councilmember Leone said his point in pulling this from the Consent Calendar was that  
24 there was no notice attached to it. He had read the minutes and believed that if this item  
25 was noticed, there would be some public comment on the Encroachment Agreement.

26  
27 Mayor Kelly said if it's already been pulled, this is merely an Encroachment Agreement  
28 that the City has the right to cancel with 30 days notice for any reason. He didn't think  
29 the City had any right to go back and reopen the case.

30  
31 Councilmember Leone said the Council has had a room full of people before it when  
32 Encroachment Agreements have come before it, although the design review had been  
33 completed.

34  
35 Mayor Kelly said this was perfunctory and that's okay, because the City can cancel it if  
36 the applicant doesn't comply with the timeline. They could notice it if noticing was a  
37 requirement.

38  
39 Ms. Wagner said if people were here they'd have the same discussion they had on the  
40 Encroachment Agreement previously where they talked about what is in front of the  
41 Council is the Encroachment Agreement. If the Council chooses to deny an  
42 Encroachment Agreement for whatever reason, then often it will reopen the planning  
43 issues and conditions because the approval is often conditioned upon their acquisition of  
44 the encroachment to complete whatever improvements there are.

45

1 Councilmember Leone said he was not saying they should deny it. He was just saying  
2 he was surprised at the five year difference between the Encroachment Permit and the  
3 Planning Commission approval. To him enough time had passed that the neighborhood  
4 should be noticed.

5  
6 Ms. Wagner said what the staff report alluded to was that back around the time this  
7 occurred, she was asked about the process to review Encroachment Agreements, and it  
8 sounds as though this occurred ...

9  
10 Councilmember Leone said the history of this project was that when this house was  
11 remodeled it was red tagged to start with, and then it came in for the permits and the  
12 garage was originally denied and then a year or two later they came back for the garage  
13 and it was granted by the other three people at the Commission that evening. He did not  
14 vote for it. The neighbors were there objecting to the garage, and some of the neighbors  
15 were there for the second one. He was just saying with five years having elapsed, he  
16 thought notice would be necessary.

17  
18 Mayor Kelly said no, it was not necessary, and the way it was done before isn't the way  
19 it's done now, so it was previously a mistake or a laxity of policy previously. If the  
20 Council wants to deny this, then they should deny it and it goes back to the Planning  
21 Commission.

22  
23 Councilmember Leone said he would let it go.

24  
25 Mr. Wagner referred to Section 4 of the City's standard Encroachment Agreement, which  
26 was what she was alluding to that talks about the removal and relocation of  
27 encroachments if they interfere with governmental purpose. There may be some work  
28 that needs to be done on the City's standard agreement to verify that those two sections  
29 are in alignment.

30  
31 Mayor Kelly asked Ms. Wagner to fix that before she sends this one out.

32  
33 Councilmember Albritton said if the applicants agreed to that clause, he'd leave it in.

34  
35 Ms. Wagner said she just wanted the Council to understand her point. She thought the  
36 City was covered as it was.

37  
38 Mayor Kelly said this clause, No. 7, makes No. 4 irrelevant. Take 4 out because 7 says all  
39 you need to say.

40  
41 Ms. Wagner suggested leaving it as is in this document, and she would work with staff on  
42 modifications for future agreements, if necessary.

43  
44 **Mayor Kelly moved, seconded by Councilmember Weiner, to approve Item 6 of the**  
45 **Consent Calendar. The motion was approved unanimously without a roll call vote.**



1  
2 Councilmember Leone said when Ms. Wagner revises this, the improvements in the  
3 right-of-way maintenance should be part of this as well.

4  
5 Ms. Wagner said there are also standard conditions in the permit itself that apply, so often  
6 the Council doesn't see those when it reviews an Encroachment Agreement. Staff needs  
7 to make sure Council gets all of the pertinent information.

8  
9 **G. Update on Harrison Park Design Process**

10  
11 *(Continued to future agenda)*

12  
13 **7. CITY MANAGER AND COUNCILMEMBER REPORTS**

14  
15 **A. City Manager Reports**

16  
17 **City Manager Pro Tem Scott Paulin** reported that Municipal Parking Lot 3 and the  
18 commuter rates have been discussed in the OMIT Committee. He asked whether the  
19 Council had any direction?.

20  
21 Mayor Kelly said the Council wants to see some numbers.

22  
23 Councilmember Albritton said he understood that what started out as a resident and  
24 employee parking opportunity was now being used by non-residents. If non-residents are  
25 parking there and taking the ferry, it may not be a bad thing, but the City shouldn't  
26 provide them a preferential parking rate.

27  
28 Councilmember Leone said they may want to have one discount for employees and  
29 residents but also one for commuters, but different discounts.

30  
31 Councilmember Albritton said they need to advertise this better among the residents.

32  
33 Mayor Kelly suggested sending it back to the OMIT Committee. They need to get some  
34 numbers on how full the parking lot is at different times.

35  
36 **B. Action Report on Finance Committee meeting on June 18, 2007**

37  
38 Rec'ers agreement: City Attorney Mary Wagner said the mission statement of the 501c  
39 that was created is to fund recreational programs in Sausalito so they may earmark money  
40 they donate to the City for a specific purpose.

41  
42 Councilmember Leone asked why this has to be a discretionary component for this  
43 organization. They are being granted almost a monopoly to sell alcohol at City events.

1 Ms. Wagner said the City can't sell alcohol; this entity can and other entities can but it  
2 can't be a City representative. What she was trying to clarify is that this organization, as  
3 is true for any organization that donates money to the City, can donate it for a specific  
4 purpose and this organization has as its statement of purpose to promote Parks and  
5 Recreation Department opportunities in Sausalito. The question is when that money  
6 comes into the City if it's not designated for a specific purpose, where it should go.  
7

8 Mayor Kelly said the City should tell them where they want the money to go.  
9

10 Councilmember Leone said he didn't want to create another entity that is somehow one  
11 step removed or two steps in the door with the City where it becomes a question of who  
12 controls what, and the City has to go begging for this money. It should be on autopilot  
13 and it shouldn't be at anyone's discretion.  
14

15 Mayor Kelly said that was exactly what they're doing.  
16

17 Councilmember Leone said that was not how it has worked so far. They've made no  
18 payments to the City.  
19

20 Mayor Kelly said he didn't think that was true. He just talked with Ms. Ho about this  
21 issue, and Ms. Ho just wants to know where the City wants the money to go.  
22

23 Councilmember Leone said it should be crystal clear. The money should go right into the  
24 Parks and Recreation Department budget.  
25

26 Mayor Kelly said the City is going to say where it goes, into a place where Ms. Ho knows  
27 exactly where it goes.  
28

29 Ms. Wagner said the funds from the sale of alcohol cannot come directly into a City bank  
30 account. It goes through a separate entity that has a particular mission statement that  
31 makes the determination of when and what to donate to the City.  
32

33 Mayor Kelly said the City controls the mission statement.  
34

35 Councilmember Leone said Ms. Wagner was saying you don't, because it has to be arms  
36 length. So it's getting really foggy.  
37

38 Mayor Kelly said the City can tell them to give the money to "that." It goes through the  
39 non-profit for the very reason that the City can't have a liquor license, beyond that the  
40 City can tell them where to put this money. He will go back to the Finance Committee  
41 and report back on all the numbers.  
42

43 **C. Action Report on OMIT Committee meeting on June 16, 2007**  
44

45 No Discussion

1  
2 **D. Future Agenda Items**

3  
4 Councilmember Leone noted the polystyrene ban has disappeared from future agenda  
5 items, which was very discouraging to the Waste and Recycling Committee.

6  
7 Ms. Wagner said staff will be bringing that to the Council in September or the first  
8 meeting in October, if that's acceptable to the Council.

9  
10 Councilmember Leone asked to see the ban on the agenda either in September or at the  
11 first meeting in October.

12  
13 **Discussion of Appeal Fee Plan**

14  
15 Community Development Director Paul Kermoyan said he had learned that the City  
16 Council has some concerns regarding the appeal fee and that it may discourage people  
17 from filing an appeal. There is a fee study that identifies what the actual costs of the  
18 appeal are. He can present that to the Council and the Council can reassess what it feels is  
19 a reasonable fee. The fee depends on what is being appealed. The sharing concept was  
20 tried and did not work. This may be one of those things the Council decides it just wants  
21 to subsidize. The flip side is that if the cost is too low, that doesn't work either.

22  
23 Councilmember Albritton said he was aware of communities that if you get 20 percent of  
24 signatures within 300 feet of a project, then the fee may be waived. There is valid  
25 concern that the cost may silence the appeal.

26  
27 Mr. Kermoyan said the costs go up when attorneys are involved and the City Attorney  
28 has to respond to lengthy documentation, which can cost the taxpayer \$3,000 or \$4,000  
29 for a \$500 appeal.

30  
31 Councilmember Leone said they should agendaize this and give Mr. Kermoyan time to  
32 prepare a report to come back to Council. This is an example where you don't pursue full  
33 cost recovery. There should be a way to lower or waive these fees based on individual  
34 circumstances.

35  
36 Mr. Kermoyan said maybe the mechanism is the request to lower or reduce or waive the  
37 fee. Keep the fee the way it is but set up a mechanism where the fee can be waived in the  
38 case of hardship or other situations that may arise.

39  
40 Mayor Kelly said they just need to strike a balance. They've seen the system manipulated  
41 which brought up the idea that maybe the fees should be higher. But if someone's having  
42 a hardship, there should be a mechanism for that.

43  
44 Councilmember Leone suggested looking at what other municipalities do in Marin and  
45 report back to the Council.

1  
2 Councilmember Albritton asked staff to come back with some concepts that allow for  
3 hardship.

4  
5 **Discussion of Code Enforcement Modifications**

6  
7 Mr. Kermoyan said he needed to know from the Council that whatever the staff comes up  
8 with, the Council will support regardless of who will be complaining. That's one of the  
9 things that makes staff's job difficult -- if the codes are written clearly, then the codes  
10 have to be applied.

11  
12 Mayor Kelly suggested agendizing the issue so they can have a real discussion. He too  
13 would like to see the penalties go up.

14  
15 Mr. Kermoyan asked if the direction is that staff come back to Council at another meeting  
16 with ideas on how to raise the fee and how to apply the fee.

17  
18 Mayor Kelly said the direction was to receive a report on how to do put more teeth in the  
19 code enforcement and at the same time make it as user friendly as possible.

20  
21 Mr. Bryant asked if they're talking about just building codes.

22  
23 Councilmember Leone said it goes across the board.

24  
25 Ms. Wagner said it applies to all code enforcements. She noted that the Council needs to  
26 prioritize some of these directions for planning staff. They are all big projects.

27  
28 Mayor Kelly discussed the comments made during public communications about whether  
29 meetings of the Sausalito Historical Society should be open to the public. He said the  
30 issue is the organization is using the City website—

31  
32 Ms. Wagner said the subject is not on the agenda, if the Council wants her to research the  
33 issue and get it on a future agenda for a discussion, she can do that.

34  
35 Mayor Kelly said he talked to Chuck Miller, the attorney for the Historical Society who  
36 sent a letter out saying the Society doesn't have to hold public meetings. Mayor Kelly has  
37 no problem with that, it's a private organization, but the rub here is when does a duck  
38 become a duck. If the duck uses the duck name and his mailing address is Ducks  
39 Unlimited and he's sitting in the duck nest, one could argue he's a duck. So the problem  
40 is that the free use of the City facilities and City connections could support an argument  
41 for some people, right or wrong, that it's a quasi public agency, which could fall into the  
42 Brown Act.

43

1 **Public Comment**

2  
3 **Vicki Nichols** said the information going around was not accurate.

4  
5 Ms. Wagner repeated that the item should be agendized.

6  
7 Councilmember Albritton asked if the Historical Society has meetings that are closed to  
8 the public.

9  
10 Ms. Nichols said they have public meetings where anyone can come in and speak, and  
11 then they have executive sessions that are not public.

12  
13 Mayor Kelly asked Ms. Wagner to report back to the Council.

14  
15 Councilmember Leone said there are pending agenda items that should take priority over  
16 the Historical Society question. He'd rather see a discussion on the Housing Element, the  
17 green building code, the polystyrene ban, the historic guidelines, the code enforcement  
18 ordinance.

19  
20 Mayor Kelly said Vice Mayor Belser asked that it be agendized.

21  
22 Ms. Nichols asked if the Historical Society could pay for Ms. Wagner's time to get an  
23 opinion on this.

24  
25 Councilmember Albritton said they have spent five years trying to get transparency from  
26 a non-profit entity that uses a park for three days and then they have an organization that  
27 regularly uses a large portion of the City building to conduct its business. The City  
28 merely needs to say that it's the sense of the Council that the meetings of the Historical  
29 Society should be open to the public. And if they need a motion to say that, he's willing  
30 to do that, and leave it at that and see how the parties do. They're just looking for a sense  
31 of the Council.

32  
33 Councilmember Leone said the Council needs more information on the issue before it  
34 votes on it. Councilmember Albritton needs to go to a Historical Society meeting to see  
35 what's really going on here.

36  
37 Mayor Kelly moved to put the item on the agenda.

38  
39 Ms. Wagner said staff would request it not go on a September agenda.

40  
41 Councilmember Albritton suggested putting it on the pending agenda items for  
42 November.

43  
44 Mayor Kelly agreed.

45

1 **APPROVAL OF MINUTES**

2  
3 **Councilmember Albritton moved, seconded by Councilmember Weiner, to approve**  
4 **the minutes of May 10, 2007, as amended on the record. The motion was approved**  
5 **unanimously without a roll call vote.**

6  
7 **Councilmember Albritton moved, seconded by Mayor Kelly, to approve the minutes**  
8 **of May 15, 2007 as amended on the record. The motion was approved unanimously**  
9 **without a roll call vote.**

10  
11 Councilmember Albritton asked where they left the idea to get rid of the minutes.

12  
13 Mr. Bryant said beginning in September the minutes will be action minutes only.

14  
15 **H. Councilmember Reports - None**

16  
17 **8. ADJOURNMENT**

18  
19 **Councilmember Albritton moved, seconded by Councilmember Weiner, to adjourn**  
20 **at 12:05 a.m. The motion was approved unanimously without a roll call vote. The**  
21 **next regular City Council meeting will be held on July 24, 2007.**

22  
23 Respectfully submitted,  
24 Tricia Cambron/ Minutes Clerk

25  
26 APPROVED: