MINUTES
HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, MARCH 9, 2010
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:45 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

	P	*P*	*P*	*P*	*A*	*P*	*P*
ROLL CALL:	*Mantini,*	*Scandura,*	*Speaker,*	*Farley,*	*Shier Burnett,*	*Delgleize,*	*Livengood*

Commissioner Shier Burnett arrived at 5:47 PM.

AGENDA APPROVAL

A MOTION WAS MADE BY SPEAKER, SECONDED BY SCANDURA, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF MARCH 9, 2010, BY THE FOLLOWING VOTE:

AYES: **Mantini, Scandura, Speaker, Farley, Shier Burnett, Delgleize, Livengood**
NOES: **None**
ABSENT: **None**
ABSTAIN: **None**

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS)

A-1. ENTITLEMENT PLAN AMENDMENT NO. 09-012 (HUNTINGTON CHRISTIAN SCHOOL MODULAR TRAILERS – 9700 LEVEE DRIVE, 92649) – Andrew Gonzales, Associate Planner

Andrew Gonzales, Associate Planner, gave a brief overview of the proposed project. He noted that staff has received five public comments from residents regarding this project, two in the form of petitions. He said that the public comments cited concerns with potential traffic impacts, safety and a potential negative impact on property values.

Commissioner Livengood questioned the net increase in parking. Mr. Gonzales noted that the request includes a proposed expansion to the existing north parking lot, which will result in an increase from 91 parking spaces to 127 parking spaces.

Commissioner Speaker asked if the school expected to eventually have an enrollment of 650 students. Mr. Gonzales said yes, but for now the school plans on maintaining its existing cap of 575 students. He noted that if the enrollment goes beyond 575, then a mitigation measure requires a trip generation analysis, both before and after the increase in enrollment. He also said that the use of the proposed trailers would be multi-function.

Commissioner Scandura discussed parking and asked if the school is required to build a fire access lane to the trailers. Mr. Gonzales confirmed this and said that the school will also be adding parking spaces. Mr. Scandura said he was concerned that the additional parking would block fire access. Mr. Gonzales noted that the proposed fire access lane would be 28' wide and would not block access. Fire Division Chief Bill Reardon noted that the addition of the fire access lane will create better access for the Fire Department.

Commissioner Scandura discussed staff report attachments 4.2 and 4.3 and student enrollment. He noted that enrollment was at 547 this year and asked what would happen if enrollment exceeded the current 575 cap. Mr. Gonzales said that the last trip generation analysis was done based on an enrollment of 575 students. He noted that if enrollment exceeds 575, then a new trip generation analysis will be required. Mr. Scandura asked if the 2008 trip generation analysis was the most recent, and Mr. Gonzales confirmed this.

Commissioner Mantini noted that the school currently holds community outreach meetings twice per year. Mr. Gonzales confirmed this. He also noted that the applicant is requesting that these meetings now be held at the discretion of the school, or the Planning & Building and Public Works Departments, due to poor attendance at twice-yearly meetings. Ms. Mantini asked if the school has received any traffic complaints and Mr. Gonzales said no.

Chair Farley asked staff if there were any public comments and Planning Manager Herb Fauland said no.

B. STUDY SESSION ITEMS

B-1. PLANNING COMMISSION GOALS 2010 – Chairman Blair Farley

Chair Farley asked the Planning Commission to review the 2009 Planning Commission Goals and to recommend any modifications or changes.

Commissioner Livengood recommended keeping the Circulation Element Update and Undergrounding of Utilities Ordinance Goals.

Commissioner Delgleize asked about transportation. Planning Manager Herb Fauland noted that Traffic/Circulation is listed on the 2009 Planning Commission Goals. He also noted that the Circulation Element Update will be discussed at the Planning Commission Workshop on March 31, 2010.

Commissioner Delgleize reported on her attendance at the Environmental Board (EB) meeting of March 4, 2010. She noted that a representative from Village Green was also in attendance and gave a presentation. She said that Energy Project Manager Aaron Klemm is doing an excellent job. Mr. Fauland noted that Mr. Klemm will be presenting at the Planning Commission Workshop.

Chair Farley noted that he would like the Planning Commission to stay engaged with the Environmental Board. Mr. Fauland asked if Ms. Delgleize should continue as the Planning Commission liaison to the Environmental Board. Mr. Farley agreed.

Commissioner Speaker noted that the last Circulation Element Committee meeting was held on May 14, 2009. He recommended that staff schedule another Circulation Element Committee meeting.

Commissioner Scandura recommended keeping the Circulation Element Update and Undergrounding of Utilities Ordinance Goals. He also recommended that the Planning Commission continue to monitor the General Plan Cultural Resources Element Update Goal.

Commissioner Scandura noted that the Planning Commission may be done with the Edinger/Beach Blvd. Corridor Specific Plan and the Downtown Specific Plan/Parking Master Plan Goals. Director of Planning & Building Scott Hess noted that the Downtown Economic Development Committee meets on a regular basis. Mr. Scandura recommended that the Planning Commission continue to monitor the Downtown Specific Plan/Parking Master Plan Goal.

Commissioner Scandura questioned wireless facilities and asked staff what wireless projects are scheduled to come before the Planning Commission. Mr. Fauland noted that there are numerous wireless facility projects, and not all of them will come before the Planning Commission. Mr. Hess noted that staff has been directed by the City Council to work on the wireless facility Draft Ordinance.

Commissioner Delgleize asked if staff could identify acceptable wireless facility sites within the city. She also asked if this would be a discussion topic at the Planning Commission Workshop.

Commissioner Mantini concurred with Commissioner Delgleize. She said that she would like to see the city take a proactive approach regarding future wireless facility projects and potential locations.

Chair Farley suggested adding wireless facilities as a discussion topic for the Planning Commission Workshop. Mr. Fauland cautioned Mr. Farley and the Planning Commission. He noted that the Planning Commission should proceed with caution when discussing these types of projects outside of the public hearing process. Mr. Farley recommended instead that the Planning Commission monitor wireless facility projects, with Commissioner Mantini as the Planning Commission contact. Mr. Fauland agreed.

Commissioner Delgleize asked if downtown parking would be discussed at the Planning Commissioner Workshop. Mr. Farley recommended adding downtown parking to the Downtown Specific Plan/Parking Master Plan Goal.

Chair Farley also recommended deleting the Edinger/Beach Blvd. Corridor Specific Plan Goal.

Commissioner Mantini said that she would like to add Affordable Housing and the implementation of Affordable Housing to the 2010 Planning Commission Goals.

Mr. Scandura noted that the Housing Element is already in place. Chair Farley noted that the City Council has tasked staff to continue to monitor Affordable Housing. Mr. Fauland noted that the Departments of Economic Development and Building & Planning would work in conjunction on this project. Mr. Fauland also suggested that the Planning Commission schedule future study sessions to feature presentations and discussions on Affordable Housing. Mr. Farley agreed.

Commissioner Speaker asked about upcoming wireless facility projects. Mr. Fauland noted that a wireless project will be coming before the Planning Commission in April or May 2010. He also noted that the wireless facility projects are numerous and continual. He said that staff is working on the wireless facility Draft Ordinance.

Chair Farley recommended that the Planning Commission continue to monitor the Downtown Specific Plan Goal until the California Coastal Commission (CCC) approves it. Mr. Hess noted that on March 8, 2010, the CCC deemed the application of the City Council approval of the Downtown Specific Plan Update incomplete. He also said that the issues are minimal and that staff will be responding to these issues and meeting with the CCC. Mr. Farley asked if the CCC is required to make the meeting site local and Mr. Hess said no.

Commissioner Delgleize asked for an update on the church at Peter's Landing. Mr. Hess noted that the CCC also deemed this application incomplete. He noted that the applicant, Michael C. Adams and Associates, will be responding to the CCC's concerns.

Chair Farley asked for a status update on the Undergrounding of Utilities Ordinance Goal. Public Works staff said that they would research and provide this information to the Planning Commission.

General discussion ensued regarding the Planning Commission Goals for 2010. It was decided that Commissioner Delgleize would continue to be the Planning Commission contact for the Green Team/Environmental Board/Green Building Program Goal. It was decided that Commissioners Scandura and Speaker would continue to monitor development within the Downtown Specific Plan and downtown parking improvements. It was decided that Commissioner Livengood would continue to monitor progress of the General Plan – Historic & Cultural Resources Element update. It was decided that Commissioners Farley and Speaker would monitor progress of the General Plan – Circulation Element update. It was decided that Commissioner Shier Burnett would monitor the Undergrounding of Utilities Ordinance – HBMC 17.64. It was decided that the Downtown Economic Development Committee meetings would be attended by Commissioner Delgleize, with Commissioner Farley as the alternate. It was decided that Commissioner Mantini would monitor the update to the Wireless Communications Facilities Ordinance.

C. PUBLIC COMMENTS – NONE

D. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS)

Herb Fauland, Planning Manager, reviewed the items for tonight's meeting. He noted that there is one Late Communications for Item No. B-1 (Newland Car Wash) and several Late Communications for Item No. B-2 (Huntington Shorecliffs).

E. PLANNING COMMISSION COMMITTEE REPORTS

Commissioner Shier Burnett reported on her attendance at the Subdivision Committee meeting for "Huntington Shorecliffs" on February 25, 2010.

F. PLANNING COMMISSION COMMENTS - NONE

6:30 PM – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Farley

	P	P	P	P	P	P	P
ROLL CALL:	*Mantini,*	*Scandura,*	*Speaker,*	*Farley,*	*Shier Burnett,*	*Delgleize,*	*Livengood*

AGENDA APPROVAL

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE THE PLANNING COMMISSION AGENDA OF MARCH 9, 2010, BY THE FOLLOWING VOTE:

AYES: Mantini, Scandura, Speaker, Farley, Shier Burnett, Delgleize, Livengood
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. ORAL COMMUNICATIONS - NONE

B. PUBLIC HEARING ITEMS

B-1. APPEAL OF THE ZONING ADMINISTRATOR'S APPROVAL OF CONDITIONAL USE PERMIT NO. 09-012 (NEWLAND CAR WASH - CONTINUED FROM THE FEBRUARY 9, 2010 MEETING WITH THE PUBLIC HEARING CLOSED) **Applicant:** Thomas Hwang, 616 Imperial LLC **Appellant:** Larry Kennepohl **Request:** **CUP:** To permit the construction of an approximately 2,336 sq. ft. express service carwash building and associated site improvements, on a 22,363 sq. ft. vacant lot. This request was approved by the Zoning Administrator on November 18, 2009. **Location:** 8471 Warner Avenue (northwest corner of Warner Avenue and Newland Street). **Project Planner:** Ethan Edwards

STAFF RECOMMENDATION: Motion to "Approve Conditional Use Permit No. 09-012 with findings and suggested conditions of approval (Attachment No.1)."

Ethan Edwards, Associate Planner, gave the staff presentation and an overview of the project

Mr. Fauland also noted that there is one Late Communication for this item, a letter from Mike Adams and Associates.

Commissioner Scandura asked about the block wall's height. Mr. Edwards noted that it is 6' and the applicant plans to keep the wall at that height.

Commissioner Shier Burnett asked if staff has received any comments or complaints from neighboring residents. Mr. Edwards said no.

Mr. Fauland noted that the applicant only has control of one side of the block wall.

Commissioner Delgleize discussed the possibility of adding light landscaping in front of the wall. Mr. Edwards noted that the distance between the wall and neighboring buildings is 5'.

Commission Speaker concurred with Commission Delgleize regarding landscaping, and recommended that the applicant work with staff on this design aspect.

Commissioner Scandura noted that the Zoning Administrator and staff have done a great job on this project. He also noted that the applicant has enhanced the project design.

Chair Farley questioned the possibility of a one-year review of traffic at the proposed site. Commissioner Scandura noted that staff has already provided an in-depth traffic analysis. Chair Farley noted he has concerns with traffic queuing at the site.

Planning Manager Herb Fauland noted that the Planning Commission can recommend that traffic monitoring be included as a condition of approval. He also said that this item can be brought back before the Planning Commission if there are future traffic concerns.

A MOTION WAS MADE BY SCANDURA, SECONDED BY SPEAKER, TO APPROVE CONDITIONAL USE PERMIT NO. 09-012 WITH FINDINGS AND MODIFIED CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES:	**Mantini, Scandura, Speaker, Farley, Shier Burnett, Delgleize, Livengood**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15301 of the CEQA Guidelines, because the proposed project consists of an addition of less than 10,000 sq. ft. of floor area to existing structures on a site where public services and facilities area available and the surrounding area is not environmentally sensitive.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 2009-012:

1. Conditional Use Permit No. 2009-012 to permit the redevelopment of a former gas station site with the construction of an approximately 2,336 sq. ft. express carwash building and associated site improvements will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The project will not significantly impact adjoining residential properties located to the north and west of the site. The carwash building will be sited furthest away from residential uses at the southeast corner of the property. The residential uses to the west will be buffered from the carwash by an approximately 65 ft. separation consisting of a drive aisle, parking lot landscaping, 12 ft. high noise attenuating screen canopy, 10 ft. wide landscape planter, and a 6 ft. high block wall. Residential uses to the north will be buffered from the carwash by a drive aisle and a 5 ft. setback with landscaping. A noise study was submitted indicating compliance with established noise level thresholds. Noise will be attenuated through operational requirements and onsite improvements which include limited operating hours, a perimeter block wall and appropriate building orientation. Additionally, noise emitting mechanical equipment will be enclosed within the building and oriented away from residential properties. Furthermore, the use will be subject to compliance with the City of Huntington Beach Noise Ordinance (Chapter 8.40 Noise Control) and based upon the conditions imposed, potential noise impacts will be mitigated. Lighting will be designed to be directed onto the project site without any spillage onto adjacent properties. The Newland Street driveway is conditioned to require ingress and egress access to alleviate potential queuing conflicts. The project is on a site of a former auto-related use; consequently no significant traffic impacts are anticipated. The project will provide adequate on-site parking and will not present unsafe conditions for pedestrians or vehicular circulation.

2. The conditional use permit will be compatible with surrounding developments because the carwash building will be located on commercially zoned property, formerly occupied by a gas station, in an area containing similar auto-related land uses. The building's architecture is consistent with the surrounding neighborhood by providing appropriate scale through a

single story design and appropriate proportion and character through variable façade offsets and harmonious colors and materials. The proposed development, as conditioned, conforms to the design criteria as stipulated within the City's Urban Design Guidelines by siting the building at the street corner, accommodating anticipated circulation patterns between vehicles and pedestrians, improving the driveways to current standards, and minimizing the visibility of mechanical equipment within the carwash tunnel openings.

3. The development will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance, including minimum building setbacks, minimum on-site parking and minimum onsite landscaping, maximum building height and maximum floor area ratio. The proposed car wash use is permitted within the CG (General Commercial) zoning district with approval of a conditional use permit.

4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation CG-F1 (General Commercial – 0.35 maximum floor area ratio) on the subject property. In addition, it is consistent with the following goals, objectives and policies of the General Plan:

   Land Use Element

   Objective - LU 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents.

   Policy - LU 10.1.4: Require that commercial buildings and sites be designed to achieve a high level of architectural and site layout quality.

   Policy - LU 10.1.6: Require that commercial projects abutting residential properties adequately protect the residential use from the excessive or incompatible impacts of noise, light, vehicular traffic, visual character, and operational hazards.

   Policy - LU 10.1.12: Require that commercial uses be designed and developed to achieve a high level of quality, distinctive character, and compatibility with existing uses and development including consideration of:

   a. Incorporation of site landscape, particularly along street frontages and in parking lots;
   b. Siting of building to the street frontage to convey a visual relationship to the street and sidewalks;
   c. Architectural treatment of buildings to minimize visual bulk and mass, using techniques such as the modulation of building volumes and articulation of all elevations.

   The project is a redevelopment of a former gas station site with a new express carwash facility. The proposed use will redevelop a currently vacant site with a facility that caters to the needs of local residents. The project will not significantly impact the adjoining residential property to the north and west of the site. The carwash building will be sited furthest away from residential uses. The residential uses to the west will be buffered from the carwash by an approximately 65 ft. separation consisting of a drive aisle, parking lot landscaping, 12 ft. high noise attenuating screen canopy, 10 ft. wide landscape planter, and a 6 ft. high block wall. Residential uses to the north will be buffered from the carwash by a drive aisle and a 5 ft. setback with landscaping. The mechanical equipment associated with the carwash will be located inside the building; in addition, the building is oriented so that the carwash tunnel

openings do not directly face adjacent residential uses. A noise study prepared by Giroux & Associates on November 6, 2009 identifies that project noise levels will not cumulatively contribute to significant impacts. Lighting will be designed to be directed onto the project site without any spillage on to adjacent properties.

Urban Design Element

Objective - UD 1.1: Identify and reinforce a distinctive architectural and environmental image for each district in Huntington Beach.

Policy - UD 1.2.1.E: Enhance the connections, where feasible between the public sidewalk and private commercial interior open spaces as described by the Land Use Element by using decorative paving materials.

The proposed design of the carwash building will incorporate distinctive architecture which includes variations to the roof height and form, insets and offsets in the building façade to create enhanced visual relief and break up of building mass, and variations in exterior building treatments. The project will incorporate a connection from the public sidewalk on Warner Avenue and Newland Street by providing clear and identifiable access to the carwash building.

Noise Element

Objective - N 1.4: Minimize noise spillover or encroachment from commercial and industrial land uses into adjoining residential neighborhoods or "noise-sensitive" uses.

Objective - N 1.4.3: Require that the parking areas of all commercial and industrial land uses, which abut residential areas, to be buffered and shielded by walls, fences, or adequate landscaping.

A noise study prepared by Giroux & Associates on November 6, 2009 identifies that project noise levels will not cumulatively contribute to an increase in levels above established thresholds. Noise will be attenuated through operational requirements and onsite improvements which include limiting the hours of operation (Suggested Condition of Approval No. 4.a), and providing for a perimeter block wall and appropriate building orientation. Additionally, noise emitting mechanical equipment will be enclosed within the building and oriented away from residential properties.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2009-012:

1. The site plan, floor plans, and elevations received and dated February 26, 2010 shall be the conceptually approved design with the following modifications:

    a. Landscaped setbacks along both street frontages shall incorporate mounding, shrubbery and enhanced vertical elements to enhance the aesthetics of the site and provide for additional screening at the openings to the carwash tunnel and interior mechanical equipment.

    b. The Recovery and Collection Hydro-Carbons area located at the northwest corner of the site shall provide screening to match the adjacent trash enclosure. All screening enclosures shall be compatible and provide materials found in the carwash building.

c. Additional trees shall be clustered along the west and north landscaped setback to provide screening of the carwash from view of the adjacent residential buildings.

d. The pedestrian access pathway from Warner Avenue to the southwest end of the building shall be removed and the portion within the landscape planter fronting Warner Avenue shall be replaced with a landscaped berm.

2. Prior to submittal for building permits, one set of project plans revised pursuant to Condition of Approval No. 1, shall be submitted for review, approval and inclusion in the entitlement file, to the Planning Department.

3. Prior to building permit final, all existing overhead utilities located along the Newland Street and Warner Avenue frontage shall be undergrounded. This shall include all utilities, including but not limited to telephone, electric, and Cable TV lines. If required, easements shall be quitclaimed and/or granted to the corresponding utility companies. **(PW)**

4. The use shall comply with the following:

   a. The hours of operation shall be between the hours of 7 a.m. and 8 p.m.

   b. The car wash dryer units shall be equipped with a silencer.

   c. Paging and music system speakers located or being activated outside of the building shall be prohibited.

   d. Customers shall be cautioned against the creation of unacceptably loud noise during waiting and within the vacuum/wipe off areas by signage posted near this area. Customer noise clearly audible beyond the property line (5 dB or more above ambient) shall be eliminated immediately by staff intervention.

5. Incorporating sustainable or "green" building practices into the design of the proposed structures and associated site improvements is highly encouraged. Sustainable building practices may include (but are not limited to) those recommended by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Program certification (http://www.usgbc.org/DisplayPage.aspx?CategoryID=19) or Build It Green's Green Building Guidelines and Rating Systems (http://www.builditgreen.org/index.cfm?fuseaction=guidelines).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

B-2. **TENTATIVE TRACT MAP NO. 17296 (HUNTINGTON SHORECLIFFS MOBILE HOME PARK CONVERSION)** **Applicant:** Robert Coldren, Hart, King & Coldren **Appellant:** Boyd Hill, Hart, King & Coldren **Request:** To subdivide the Huntington Shorecliffs Mobile Home Park, approximately 39.2 acres, into 304 numbered lots and 33 lettered lots for purposes of converting an existing 304 space for-rent mobile home park for ownership purposes. The applicant proposes to convert the for-rent park to enable the existing park residents to purchase their own lots. The project also includes an appeal filed by the applicant of the applicable code requirements. **Location:** 20701 Beach Blvd., 92648 (west side of Beach Blvd., south of Indianapolis Ave.) **Project Planner:** Ethan Edwards

STAFF RECOMMENDATION: Motion to

A. "Approve Tentative Tract Map No. 17296 with findings and suggested conditions of approval (Attachment No. 1)."

B. "Deny the appeal of the Code Requirements."

The Commission made the following disclosures:

- Commissioner Mantini has visited the site, attended the study session, attended the public hearing, spoken to staff, spoken to the residents, spoken to the applicant, and discussed the project with Councilman Dwyer.
- Commissioner Scandura has visited the site, spoken to the residents, attended the Subdivision Committee meeting, spoken to staff, attended the study session and attended the public hearing.
- Vice Chair Speaker has visited the site, attended the study session, spoken to staff and attended the Subdivision Committee meeting.
- Chair Farley has attended the study session, attended the Subdivision Committee meeting, attended the public hearing, visited the site and spoken to the residents.
- Commissioner Shier Burnett has visited the site, spoken to the residents, attended the Subdivision Committee meeting and attended the study session.
- Commissioner Delgleize has visited the site, spoken to staff and attended the study session.
- Commissioner Livengood has visited the site, met with staff, attended two study sessions and attended the public hearing.
- Commissioner Shier Burnett.

Ethan Edwards, Associate Planner, gave the staff presentation and an overview of the project.

Commissioner Mantini asked staff about requirements for public access on Beach Blvd. City Engineer Tony Olmos noted that this would be processed through CalTrans, via an encroachment permit.

Commissioner Scandura asked what authority the city has regarding the infrastructure implementation. Deputy City Attorney III Mike Vigliotta said that the city's authority is derived from the Subdivision Map Act, the Health and Safety

code and city code requirements. Mr. Scandura asked if the city can require these modifications without an application to act on and Mr. Vigliotta said no. Mr. Olmos noted that the city would not take action on these items without the subdivision application.

Herb Fauland, Planning Manager, noted that there are several Late Communications for this item, including a letter from the applicant and letters from residents.

Commissioner Livengood asked about the status of the on-site oil well. Fire Division Chief Bill Reardon noted that the well was drilled in 1953 and capped in 1958. He said that if there is no evasive grading at the well, then it should not be a cause for concern.

Commissioner Livengood asked for the cost of improvements, both on and off-site. Mr. Olmos said the on-site improvements would cost approximately $609,000 and full improvements to Beach Blvd. would cost approximately $1.7 million.

Commissioner Scandura noted that the applicant has proposed to help pay towards the on-site improvements, but not the full amount. Mr. Olmos confirmed this. Mr. Scandura asked if the Planning Commission has the authority to agree to funding amounts. Mr. Olmos noted that the drainage fee is standard. He recommended putting the applicant's funds into an account and paying for the improvements in their order of priority. Mr. Olmos also noted that changing funding amounts would mean revising existing city code.

Chair Farley spoke regarding a Late Communication email received on March 5, 2010. He asked for an analysis of the current average rental rate for the lots, and Mr. Edwards said that staff does not have those figures. Mr. Farley noted that no matter what the existing rents are, they would still jump to $1,650 if the subdivision is approved. Mr. Edwards confirmed this.

Mr. Fauland stated that the applicant had requested thirty minutes to speak and noted that four members of the applicant's team had submitted public speaker requests. Chair Farley stated that the Commission would allow for 15 minutes of speaking time and that if additional time was needed, the commission would vote on that. Mr. Hess asked if the applicant was asking for 30 minutes for each team member and noted that each team member would be entitled to four minutes each. Mr. Coldren stated that he was requesting 30 minutes total. Chair Farley stated that each team member would be given four minutes to speak for a total of 16 minutes. Mr. Coldren asked for additional time as the applicant and stated that the members of his team would be speaking separately as public speakers. Chair Farley stated that Mr. Coldren would be allowed 15 minutes and his team members would be allowed four minutes each.

THE PUBLIC HEARING WAS OPENED.

Robert Coldren, applicant, spoke in favor of Item No. B-2. He said that the proposed subdivision is not about changing the grading, but an opportunity for current renters to purchase their lots. He also said that statewide rent control would be enforced. He said that he feels the conditions of approval are not lawful.

Jonn Saunders, applicant/ property owner, spoke in favor of Item No. B-2. He said that lot rents go up when leases expire and are currently averaging $1300-$1400 a month. He said he sees no downside to the proposed subdivision.

Commissioner Scandura discussed rent increases resulting from leases expiring. He noted that if this project is approved, it won't be effective until the subdivision is recorded. He asked Mr. Saunders if he would raise the rents. Mr. Saunders said that the rents go up when the leases expire, regardless. Mr. Scandura asked if the rents would have a yearly increase and noted that rent control lasts four years. Mr. Saunders said that the rent control four year term applies to non-low income housing.

Commissioner Delgleize discussed the possibility of no rent increases. Mr. Saunders said that rent increases have built-in policies to help renters subsidize, forgive or defer unpaid increases. Ms. Delgleize asked who would respond to renters' issues and Mr. Saunders noted that it would be his staff.

Boyd Hill, of Hart, King & Coldren, spoke in favor of Item No. B-2. He said that under state law, the code requirements have been preempted. He said that the site has no Beach Boulevard frontage, only a wall. He stated that independent of the Subdivision Map Act the city does not have the authority to enforce these changes and that the authority lies with the Department of Real Estate. He urged the Planning Commission to view this project from a liability perspective. Chair Farley asked if the results of the tenant survey would have an impact in preventing the proposed subdivision and if this was case law. Mr. Hill stated that it is part of legislative history of the tenant survey requirements.

Mindy Criswell, with four minutes donated by Mary Vaughn, spoke in opposition to Item No. B-2. She cited concerns with financial burdens for the residents, as well as mold. She asked that the project be denied or postponed until the current lawsuits are settled.

Donald Prince, resident, spoke in opposition to Item No. B-2. He cited concerns with flooding and provided the Planning Commission with pictures of the site.

William Seymour, resident, spoke in opposition to Item No. B-2. He cited concerns with flooding, sewer problems and other repair issues. He said that he disagrees with the proposed Beach Blvd. improvements and fears the cost for those will be passed onto the residents.

Sharon Dana, resident, spoke in opposition to Item No. B-2. She said she has concerns that the costs for the on-site and off-site improvements will be passed onto the residents. She also said that the map is inaccurate as the oil well is not identified.

Commissioner Shier Burnett briefly discussed Section 8 assistance eligibility for Huntington Shorecliffs residents.

Philip Anshutz, Saunders Property Company, spoke in favor of Item No. B-2 and encouraged the Planning Commission to approve the subdivision.

Steve Gullage, president of the Huntington Beach Mobilehome Owners Association, spoke regarding Item No. B-2. He said that he was reluctant to speak either for or against the proposed project, but that he does have concerns with rent increases, lot deterioration and mildew.

Mary Jo Baretich, Cabrillo Mobilehome Park, asked the Planning Commission to deny Item No. B-2. She says that the applicant is not in compliance with city codes and fears economic displacement of the senior residents.

Scott Steeper, president of the Huntington Shorecliffs Homeowners Association, spoke regarding Item No. B-2. He noted that he is in support of subdivision, as he wants to purchase his lot. He noted that many current residents may be unable to purchase their units, as it can be difficult for a senior citizen to secure a 30-year mortgage. He said that he hopes the property owner will work with the residents to come to an agreement and that litigation won't benefit either side.

Sue Sanders, resident, spoke regarding Item No. B-2. She said that she is considering purchasing her lot and would like that option to remain open to her.

Jonn Saunders, applicant/property owner, spoke in favor of Item No. B-2. He noted that the city's pipe gushes water into the Mobilehome park and he would like the city to fix this. He also cited issues with a CalTrans drain on Beach Blvd. He said that the park has only one sewer problem and that there are no problems with the capped oil well. He also said that he would make every effort to accommodate those homeowners/renters who qualify for assistance under Section 8.

Commissioner Shier Burnett asked Mr. Saunders if rents would increase if the subdivision were to be approved, and Mr. Saunders said yes. She also asked about the residents' complaints of flooding. Mr. Saunders said that they try and address these issues and fix them. He said that the biggest flooding problems at the site result from the city's pipe and the CalTrans drain. Ms. Shier Burnett asked if he has addressed residents' complaints of sinking or tilting lots. Mr. Saunders said that he has not received complaints from his tenants regarding those issues.

Commissioner Delgleize noted that making improvements would benefit both the property owner and the tenants and address health and safety issues. Mr. Saunders said that he feels the main cause of the flooding is the city's pipe and the CalTrans drain.

Commissioner Livengood asked Mr. Saunders if he determined which residents were eligible for Section 8 assistance, and Mr. Saunders said yes.

Barbara Hamm, resident, spoke against Item No. B-2. She said that since she has lived at Huntington Shorecliffs, her rent has almost doubled. She cited concerns with the oil well and the lack of proper drainage at the site.

WITH NO ONE ELSE PRESENT TO SPEAK, THE PUBLIC HEARING WAS CLOSED.

Commissioner Livengood said that he has concerns with the possibility of residents' economic displacement, as Section 8 housing assistance was

terminated. Mr. Vigliotta said that it is not the Planning Commission's purview to consider economic displacement when making their decision. Mr. Livengood also noted that the proposed improvements to Beach Blvd. would cost approximately $7,000 per lot and the proposed improvements to Huntington Shorecliffs would cost approximately $2,000 per lot. He also said that he has concerns with flooding and health issues. He stated that he feels that these improvements are the park owner's responsibility and should not impact the residents financially.

Chair Farley noted that the total proposed improvements, both on Beach Blvd. and within the park, would cost approximately $2.3 million. He noted that this would be an approximate $7,565 cost per lot.

Commissioner Scandura noted that he has concerns with the way the proposed lots are labeled. Mr. Edwards noted the Tentative Tract Map process allows for some revisions and errors, such as the omission of the oil well. He also said that these will be corrected prior to the issuance of a Final Tract Map.

Commissioner Scandura noted that with beach frontage properties, there are fees to pay for frontage improvements. He said that he feels the fees would be unreasonable for the residents and asked if the fees could be levied on the park owner. Mr. Olmos noted that the park owner could enter into a deferred payment agreement, enabling the fees to be paid over a period of years.

Mr. Scandura said that he has concerns with rent increases and the infrastructure of the park. He noted that if the Planning Commission does not approve the subdivision, the rents will increase. He said that if the Planning Commission approves the subdivision, rents will increase, but at a controlled rate. He also noted that the city cannot mandate that the park owner make the infrastructure improvements unless the subdivision is approved. He also recommended that if the applicant chooses to pay for infrastructure improvements (outside of a fee), then the decision to approve such a payment should be the City Council's purview.

Commissioner Shier Burnett recommended discussing the tenant surveys. Mr. Vigliotta noted that the law is unsettled. He said the statute reads that tenant surveys regarding the subdivision are to be considered, but the court cannot deny approval due to the survey results. He said that the Planning Commission should consider evidence in addition to the residents' survey results.

Commissioner Shier Burnett said that she has concerns with the recommended improvements to Beach Blvd. She said that funding these improvements should be the responsibility of the park owner, not the residents. She recommended removing the Beach Blvd. improvements from the conditions of approval.

Commissioner Farley said that he would support the conversion if the residents did, and it is clear that the residents do not.

Commissioner Livengood directed the Planning Commission's attention to Public Works Code Requirement attachment 10.5, item #9, regarding the drainage fee. He recommended that instead of a fee, this condition be changed to requiring the park owner to make the recommended improvements to the site.

Commissioner Speaker referenced the applicant's letter to Director of Planning & Building Scott Hess dated March 9, 2010. He noted that the rents are proposed to be $1,650 in the first year, $1,750 in the second year and $1,850 in the third year. He cited concerns with these rent increases and said that he agrees that the drainage needs to be fixed. Mr. Vigliotta noted that the Planning Commission cannot control the rents.

Commissioner Livengood noted that if the subdivision is approved, then Huntington Shorecliffs Mobilehome park will have the second highest rental rates for mobilehome parks in the city. He noted that he was prepared to make a motion.

Mr. Olmos discussed Code Requirement attachment 10.5, item #9, regarding the drainage fee. He noted that the language is already written into this condition that the property owner may make the required park improvements in-lieu of paying the drainage fee. Mr. Hess noted that staff wants to encourage the property owner to make the improvements. Mr. Hess directed the Planning Commission's attention to condition of approval #2a (attachment 1.3) regarding the onsite storm drain. Commissioner Livengood noted that the park owners may pass the fee onto the homeowners and renters and that the Planning Commission cannot control that. He recommended strengthening the wording on Public Works Code Requirement item #9. Mr. Olmos noted that if the property owner constructs the storm drain, then no fee will be required.

Chair Farley said that the best way to protect the homeowners and tenants is to respect their vote.

Commissioner Scandura noted that the law doesn't say that the residents have veto power. He noted that staff is recommending modifying condition of approval #2a to read that a onsite storm drain shall be designed and constructed prior to the issuance of a Final Tract Map. Mr. Olmos confirmed that the property owner can either pay the fee or construct the storm drain.

Commission Delgleize asked staff the approximate cost of the storm drain. Mr. Olmos said it would be $572,000, based on a fee-per-acre engineer's estimate. He also noted that the estimate was five years old.

Mr. Hess recommended deleting Code Requirement attachment 10.5, item #9.

Mr. Speaker spoke regarding fees collected from property owners/applicants for conditioned improvements. He said if the fees are sufficient to cover the cost of the improvements, then the city makes those improvements and if the fees are insufficient, then the city, doesn't make those improvements. He also noted if the fees collected are more than what the improvements cost, the property owner/applicant receives a refund.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SCANDURA, TO APPROVE TENTATIVE TRACT MAP NO. 17296 WITH MODIFIED FINDINGS AND MODIFIED CONDITIONS OF APPROVAL, BY THE FOLLOWING VOTE:

AYES:	**Mantini, Scandura, Speaker, Shier Burnett, Delgleize, Livengood**
NOES:	**Farley**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

A MOTION WAS MADE BY SCANDURA, SECONDED BY SHIER BURNETT, TO DENY THE APPEAL OF THE CODE REQUIREMENTS, BY THE FOLLOWING VOTE:

AYES:	**Mantini, Scandura, Speaker, Farley, Shier Burnett, Delgleize, Livengood**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The proposed project is considered categorically exempt pursuant to Class 1, Existing Facilities, Section 15301(k) of the California Environmental Quality Act, which provides that division of existing multiple-family or single-family residences into common-interest ownership are exempt where no physical changes occur which are not otherwise exempt.

FINDINGS FOR APPROVAL - TENTATIVE MAP NO. 17296:

1. Tentative Tract Map No. 17296 for the purposes of converting an existing 304 space for-rent mobilehome park to a mobilehome park where residents can purchase the land where the mobilehome is located is consistent with the General Plan Land Use Element designation of RMH-25 (Residential Medium-High Density – Max. 25 units per acre) on the subject property, or any applicable specific plan, or other applicable provisions of this Code.

A. *Growth Management Element*

Objective GM 7.1: Ensure that adequate storm drain and flood control facilities are provided and properly maintained in order to protect life and property from flood hazards.

The City's Master Plan of Drainage which was adopted by the City in 2005 recommends replacement of the existing surface storm gutter with construction of an underground 24-inch diameter pipeline (at minimum) to convey storm water flows. The recommended condition of approval to construct a storm drain pipeline to convey storm water underground will provide relief of the drainage issue. This will also allow additional storm water treatment methods that comply with the US EPA's National Pollutant Discharge Elimination System and remedy a public health and safety issue complying with SMA 66428.1(d).

B. *Utilities Element*

Objective U 3.1: Ensure that adequate storm drain and flood control facilities are provided and properly maintained in order to project life and property from flood hazards.

The City's Master Plan of Drainage which was adopted by the City in 2005 recommends replacement of the existing surface storm gutter with construction of an underground 24-inch diameter pipeline (at minimum) to convey storm water flows. The recommended condition of approval to construct a storm drain pipeline to convey storm water underground will provide relief of the drainage issue. This will also allow additional storm water treatment methods that comply with the US EPA's National Pollutant Discharge Elimination System and remedy a public health and safety issue complying with SMA 66428.1(d).

C. *Land Use Element*

Policy LU 2.1.1: Plan and construct public infrastructure and service improvements as demand necessitates to support the land uses specified in the Land Use Plan (as defined in the Circulation and Public Utilities and Services Elements of the General Plan).

Policy LU 7.1.3: Allow for the continued occupancy, operation, and maintenance of legal uses and structures that exist at the time of the adoption of the General Plan and become non-conforming due to use, density, and/or development requirements.

Objective LU 15.6: Facilitate the preservation and development of Residential Mobile Home Parks.

The City's Master Plan of Drainage recommends replacement of the existing surface storm gutter with construction of an underground pipeline to convey storm water flows. The recommended condition of approval to construct a storm drain pipeline will convey storm water underground to provide relief of the drainage issues.

The mobilehome park was established in 1969, before the adoption of the current General Plan and zoning ordinance. The existing mobilehome park is located in the Residential Mobilehome Park (RMP) zone and does not fully comply with the present development standards and is considered non-conforming. The proposed tentative tract map does not include the creation of new lots or development; therefore, the non-conforming development standards are not required to comply with the current provisions of the HBZSO. The subdivision to convert the existing for-rent mobilehome park to ownership facilitates the preservation of an existing legal use (mobilehome park). No new development or change of land use is proposed as part of the subdivision.

2. The site is physically suitable for the type and density of development. The proposed subdivision converts an existing 304 space for-rent mobilehome park to a 304 space ownership mobilehome park at a density of 8.2 units per net acres and is physically suitable for the site.

3. The design of the subdivision will not cause serious health problems or substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat as the subdivision will provide for the replacement of existing inadequate drainage facilities to address health and safety issues per Subdivision Map Act 66428.1(d).

4. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision unless alternative easements, for access or for use, will be provided.

5. Pursuant to California Government Code 66427.5, the applicant filed an Impact Report dated December 15, 2009 which analyzed the impact of the conversion on residents. In addition, the applicant obtained a Resident Survey of Support which was conducted in accordance with an agreement between the applicant and the resident that is independent of the applicant. The Impact Report was provided to each resident of the mobilehome park at least 15 days prior to the hearing on the map. The results of the survey were presented to the City on March 9, 2010. The survey was considered and it was found that 105 residents opposed the conversion, 25 approved, 52 declined to comment and 124 missing.

CONDITIONS OF APPROVAL – TENTATIVE TRACT MAP NO. 17296:

1. The Tentative Tract Map No. 17296 for Subdivision of an existing 304 space mobilehome park received and dated January 12, 2010 shall be the approved layout.

2. Prior to submittal of the final tract map to the Public Works Department for processing and approval, the following shall be required **(PW)**:

    a. An onsite storm drain shall be designed and constructed per the final approved hydrology and hydraulics study, City Standards and per the City adopted 2005 Master Plan of Drainage. The storm drain system located within private streets shall be private and maintained by the Homeowner's Association. A soils report, prepared by a Licensed Engineer shall be submitted for reference only. A Project Water Quality Management Plan (WQMP) conforming to the current Waste Discharge Requirements Permit for the County of Orange (Order No. R8-2009-0030) prepared by a Licensed Civil Engineer, shall be submitted to the Department of Public Works for review and acceptance. The WQMP shall address all current surface water quality issues. **(ZSO 255.04A) (PW)**

    b. The subdivider shall refer to the California Department of Housing and Community Development (HCD) for domestic and irrigation water metering requirements. **(PW)**

    c. The required Hydrology and Hydraulic Analysis for the subject project shall analyze 10, 25, and 100-year storms and back-to-back storms. In addition, this study shall include 24-hour peak back-to-back 100-year storms for onsite detention analysis. Any drainage improvements required by the aforementioned analysis shall be designed and constructed as required by the Department of Public Works to mitigate impact of increased runoff due to development or deficient downstream systems. Design of all necessary drainage improvements shall provide mitigation for all rainfall event frequencies up to a 100-year frequency. **(PW)**

3. The subdivider shall offer each existing tenant an option to either purchase his or her subdivided unit, which is to be created by the conversion of the park to resident ownership, or to continue residency as a tenant. **(Subdivision Map Act § 66427.5) (PL)**

4. The subdivider shall be required to avoid the economic displacement of all non-purchasing residents in accordance with the following **(PL)**:

    a. As to non-purchasing residents who are not lower income households, the monthly rent, including any applicable fees or charges for use of any pre-conversion amenities, may increase from the pre-conversion (commencing at the

time of final map recordation) rent to market levels, as defined in an appraisal conducted in accordance with nationally recognized professional appraisal standards, in equal annual increases over a four-year period. **(Subdivision Map Act § 66427.5)**

b. As to non-purchasing residents who are lower income households, the monthly rent, including any applicable fees or charges for use of any pre-conversion amenities, may increase from the pre-conversion rent by an amount equal to the average monthly increase in rent in the four years immediately preceding the conversion (commencing at the time of final map recordation), except that in no event shall the monthly rent be increased by an amount greater than the average monthly percentage increase in the Consumer Price Index for the most recently reported period. **(Subdivision Map Act § 66427.5)**

5. Prior to the recordation of a final tract map, the following shall be required:

a. Submittal of an Improvement Plan for the subject project shall comply with Public Works plan preparation guidelines and include the following improvements on the plan **(PW)**:

i) ADA compliant access ramps shall be installed on the easterly curb returns on Delaware Street at Mermaid Lane per Caltrans Standard Plan A88A. **(ZSO 255.04, ADA and SMA 66428.1(d))**

ii) An ADA compliant access ramp shall be installed on the southeast corner of Delaware Street and Frankfort Avenue per Caltrans Standard Plan A88A. **(ZSO 255.04, ADA and SMA 66428.1(d))**

iii) Damaged curb and gutter along the Frankfort Avenue frontage (at Hill Street) shall be removed and replaced per Public Works Standard Plan No. 202. **(ZSO 255.04 and SMA 66428.1(d))**

iv) ADA compliant access ramps shall be installed on the south curb returns of Frankfort Avenue at Shorecliff Drive (at the subject site's northerly entrance) per Caltrans Standard Plan A88A. **(ZSO 255.04, ADA and SMA 66428.1(d))**

v) An ADA compliant access ramp shall be installed on Frankfort Avenue where it intersects Hill Street per Caltrans Standard Plan A88A. **(ZSO 255.04, ADA and SMA 66428.1(d))**

vi) The existing 8-inch backflow device configuration is non-conforming placing the City's water supply at risk of potential contamination. As a result of health and safety concerns, the subdivider shall reconstruct or replace the existing backflow device to comply with current Water Standards. **(Resolution 5921, Title 17 State Regulation, SMA 66411.5(a), and SMA 66428.1(d))**

b. The applicant shall provide an analysis of the existing onsite sanitary sewer system. If any improvements are required per said analysis, they shall be constructed and comply with all associated requirements of HCD. **(PW)**

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

C. CONSENT CALENDAR

C-1. PLANNING COMMISSION MINUTES DATED OCTOBER 13, 2009

RECOMMENDED ACTION: Motion to: "Approve the October 13, 2009, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY SHIER BURNETT, SECONDED BY DELGLEIZE, TO APPROVE THE OCTOBER 13, 2009, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES:	**Mantini, Scandura, Speaker, Farley, Shier Burnett, Delgleize, Livengood**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

C-1. PLANNING COMMISSION MINUTES DATED DECEMBER 8, 2009

RECOMMENDED ACTION: Motion to: "Approve the December 8, 2009, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY SCANDURA, SECONDED BY SHIER BURNETT, TO APPROVE THE DECEMBER 8, 2009, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES:	**Mantini, Scandura, Speaker, Farley, Shier Burnett, Delgleize, Livengood**
NOES:	**None**
ABSENT:	**None**
ABSTAIN:	**None**

MOTION APPROVED

D. NON-PUBLIC HEARING ITEMS - NONE

E. PLANNING ITEMS

E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING

Scott Hess, Director of Planning and Building- reported on the items from the previous City Council Meeting.

E-2. CITY COUNCIL ITEMS FOR NEXT MEETING

Scott Hess, Director of Planning and Building – reported on the items for the next City Council Meeting.

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING

Herb Fauland, Planning Manager – reported on the items for the next Planning Commission Meeting.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Mantini stated that she would not be attending the March 23, 2010, Planning Commission Meeting.

Commissioner Scandura thanked his fellow commissioners and staff for their efforts on Item #B-2 (Huntington Shorecliffs).

Vice-Chair Speaker noted that the Department of Oil and Gas does not allow capped wells to be excavated unless there is proof of methane leakage.

Commissioner Shier Burnett stated that her grandparents had recently celebrated their 70th wedding anniversary. She noted that her grandparents reside in a resident owned mobile home park.

Commissioner Delgleize commended her fellow commissioners for their work on Item #B-2 (Huntington Shorecliffs) and stated that she hoped the applicant would resolve the drainage issues.

Commissioner Livengood thanked staff for their efforts on Item #B-2 (Huntington Shorecliffs). Commissioner Shier Burnett thanked Mr. Vigliotta for his assistance on this item.

Chair Farley wished Commissioner Scandura a happy birthday. Commissioner Scandura wished Chair Farley a happy birthday.

ADJOURNMENT: Adjourned at 10:17 PM to the next regularly scheduled meeting of Tuesday, February 23, 2010.

APPROVED BY:

Scott Hess, Secretary

Blair Farley, Chairperson