

ROLL CALL

On a call of the roll the following Council Members reported present: Steve Olsen, Rae Hanstad, Sue Horgan, Joe DeVito, and Carol Smith. Also present were: City Manager, Jere Kersnar; City Attorney, Monte Widders; Ojai Chief of Police, Capt. Bruce Norris; Finance Director, Susie Mears, Acting Public Works Director, Mike Culver; City Planner, Katrina Schmidt; Redevelopment Manager, Kathy McCann; Planning and Redevelopment Consultant, Tom Figg; and City Clerk, Carlon Strobel.

PLEDGE OF ALLEGIANCE Mayor Pro Tem DeVito

INVOCATION *Moment of Silence*

PRESENTATIONS

- a. Proclamation for the *National Blood Donors Month*.
- b. Presentation *State of the Utility System* by Nancy Williams of Southern California Edison.

PUBLIC COMMUNICATIONS

Bill Miley, North Signal Street, read a "*Season's Greetings*" to the City Council.

Dwayne Bower, President, Group Against Graffiti, presented an update on occurrences and removal of graffiti within the community.

Mayor Pro Tem DeVito invited members of the public to attend the Ventura County Transportation Commission, Unmet Transit Needs meeting on February 4, 2008 to express any concerns regarding perceived transportation needs within the County.

Ken Vaccio voiced objection to an inference that an increase of low income housing would directly increase graffiti activities.

Gloria Starks commented on graffiti in Los Angeles and stated that there was a direct connection between graffiti and low income housing.

1. **CONSENT CALENDAR**

- a) Warrants for November 29, 2007 and Payroll Warrants for November 21, 2007 in the amount of \$414,277.79.
RECOMMENDATION: Authorize payment.
- b) Minutes of the Ojai City Council Meeting of November 27, 2007
RECOMMENDATION: Approve as submitted.
- c) Reappointments to Planning Commission
RECOMMENDATION: Consider reappointment of Paul Crabtree, Steven Foster, and John Mirk to the Ojai Planning Commission.

MOTION: Council Member Hanstad moved and Council Member Horgan seconded to approve the Consent Calendar as presented.

The result of the roll call vote:

AYES: Olsen, Hanstad, Horgan, DeVito, Smith
NOES: None
ABSTAIN: None
ABSENT: None

PUBLIC HEARING

2. Preliminary Housing Plan of the Housing Element Update

City Manager Kersnar presented an introduction into the preliminary Housing Plan of the Housing Element.

City Attorney Widders related that the Housing Element mandates reflect that the State of California deems housing to be a matter of state-wide concern. He commented that the State legislature adopted certain statutes requiring the City, among others, to adopt a new housing element every five years and noted that the housing element was the only element of the general plan which the State required updating on a regular basis. Mr. Widders communicated that the housing element was a superior element among equals. He explained that no other element in the general plan could have a program which hindered or impeded the housing element's goals for the production of housing. He emphasized that the focus was on whether or not local control would facilitate or impede the development of housing by others.

Mr. Widders reported that 80% of the 580 cities in California comply with and have certification from the State Department of Housing and Community Development ("HCD"); 13% did not comply or they have self-certified; and 7% were in discussions with HCD.

City Attorney Widders related that the City of Ojai received approval of its Housing Element in 2000, and with that approval exists a statutory presumption that the City's Housing Element complied with State law.

Mr. Widders commented that the State developed a system for determining each jurisdiction's fair share of regional housing needs; that fair share included all economic levels. He noted that the State does not mandate that the City build the number of units assessed in the Regional Housing Needs Assessment (RHNA) allocations, but that the City have programs and zoning in place to accommodate building their fair share.

In response to an inquiry from Council Member Hanstad, Mr. Widders stated that the General Plan for the City of Ojai was approved in 1997 or 1998. Regarding the proposed Housing Element, he noted that the environmental implications had not yet been studied.

Of the two Housing Elements prior to 2000, Council Member Hanstad asked if they were certified by the State. Mr. Widders responded that the Housing Element prior to 2000 was not certified by the State, the City self-certified the Element.

Planning and Redevelopment Consultant, Tom Figg, presented an overview of the proposed housing plan and the process of moving forward to submit the Housing Element to the State of California for certification.

Mayor Smith opened the public hearing.

The following persons spoke in support of the proposed preliminary Housing Plan of the Housing Element:

Dulanie LaBarre, Housing Task Force
Susan Weaver, Housing Element Task Force
Teresa Rooney, Housing Element Task Force

The following persons spoke in opposition to the proposed preliminary Housing Plan of the Housing Element and encouraged the Council to consider specific limitations on Ojai's ability to accommodate substantial residential growth which would impact the health, safety and well being of the residents; and urged the Council to order environmental impact research on air quality, traffic demands, adequate water, sanitary, and sewer services prior to finalizing the Housing Element:

Kathy Broesamle, Thacher Road
Jim Jackson, McNell Road
Joyce Greene, Reeves Road
Bill Miley, North Signal Street
John Azevedo, North Ventura Street
Jim Ruch, Ojai Water Conservation District and
Ojai Basin Groundwater Management Agency
Stan Greene, North Montgomery Street
Roderick Greene, Housing Element Task Force
Andrew Whitman, North Signal Street
John Broesamle, Thacher Road
Heidi Whitman, North Signal Street
Gloria Starks
"B" Dawson, Noah's Apothecary

Council Comments

Council Member Olsen

Council Member Olsen observed that it seemed that the City had lost local control over housing within the City. He noted that housing was not a local issue or even a regional issue, but a State issue and a state-wide concern. Council Member Olsen stated that the City of Ojai must maintain control over its own destiny and accommodate affordable housing to the extent of its capacity as determined by resources and land use planning. He opposed the idea of having a number which was fictional, even if it was a policy

number and not an implementation number. Regarding the requirement of an environmental impact report, Council Member Olsen referred to Judge Johnson's report which stated "It is a policy statement from which legislation may spring." Council Member Olsen stated that there was some danger that a future council might take the Element at its word, but that did not make the Element itself an implementation document. He expressed concern that once in print it might become a document which could be taken not only as policy but as implementation.

Council Member Olsen expressed astonishment that a project could qualify as affordable with only fifteen percent of the units actually being affordable. He believes the number of affordable units should be at least fifty percent and preferred sixth to seventy-five percent to qualify a project as affordable.

Council Member Olsen recommended becoming more proactive with the League of California Cities in challenging and changing the law to reflect fact not fictional RHNA numbers tied to actual resources.

Council Member Olsen stated that since the timeline was set for June of 2008 there would be time to conduct more workshops, gather additional information, and consider the Housing Plan more thoroughly.

Mayor Pro Tem DeVito

Mayor Pro Tem DeVito concurred that more meetings were required. He noted that it was important to let people know that the Council was listening to the public's valid concerns.

Mayor Pro Tem DeVito made the following observations and recommendations:

- Regarding development capacity, the proposed numbers reflected too great a density.
- Stick to the City's Growth Management Plan.
- Agreed with Council Member Olsen that fifteen percent to qualify as an affordable project was too low. He supports fifty percent.
- Consider the unintended consequences.
- Regarding sustainability and smart growth, revisit our live/work concepts as to size and location.
- It is important that we provide housing for seniors, the handicapped, school teachers, firemen, that income level.
- Advise the State that we are a community isolated geographically and restricted by a two lane highway.
- Define impacts regarding water, traffic, etc., and enforce mitigation requirements.

Council Member Hanstad

Council Member Hanstad agreed with the idea of having more meetings because more public input was needed as well as additional facts. In particular, she is very concerned about water. Council Member Hanstad referenced *The Water Management Plan* presented by Mr. Miley and noted that it actually predicated its ability to serve water on

using Lake Casitas for backup. She does not believe that to be a very good approach. Council Member Hanstad would like a report from Golden State Water on how they would issue 433 will serve letters within the City and how they could supply the water. She does not think it is possible and does not think it is an impediment that the State can ask to City to overcome.

Council Member Hanstad requested a clearer description of the air quality impacts. She agreed with many of the programs that could really work in Ojai.

Overall, Council Member Hanstad stated that if we could talk about what we can do and for whom we are really doing it (not for the State), she thinks we could come up with a Housing Element that was meaningful whether or not we have to self-certify or what other alternatives are out there.

Council Member Horgan

Council Member Horgan related that she thought the Housing Element law and the RHNA numbers created an impossible burden on cities. She did not support the Housing Element in 2002 and could not support the currently proposed Housing Element.

Council Member Horgan reiterated that Council had been told:

- The numbers are meaningless. In the past we have not come anywhere close to those numbers being built.
- We don't have to build 433 new housing units, but we need to create a plan that outlines specifically how those units could be built.
- We need to remove any impediments to building those units and we need to create some incentives to encourage the building of those units.

Council Member Horgan stated that to approve the housing element based upon the foregoing would be disingenuous. It would be bad policy.

Council Member Horgan agreed with Mr. Greene's words that the proposed housing element eviscerates our zoning codes and building standards. She believes the consequence of approving the proposed housing element would be, essentially, the City abdicating its own land use decisions to the State.

Council Member Horgan noted the following risk to being HCD non-compliant:

- 1) To be vulnerable to litigation regarding land use decisions.
- 2) Loss of grant opportunities.
- 3) Punitive or cumulative RHNA number allocation in future years.

Council Member Horgan advocated committing time and resources now to change the legislation. She does not believe the proposed Housing Element is in the best interest of the City.

Overarching Principles

Council Member Horgan supports the overarching principles, essentially low impact development, jobs and housing balance, and preservation of community character.

Statistics

Council Member Horgan questioned some of the statistics used, in particular, the projected population growth (which to her seemed exaggerated); and the housing affordability gap presented in the plan based on the relationship between current home prices and current income levels. She thinks that the report presents an invalid and unsupported conclusion that 42% of homeowners in Ojai can't afford their homes. She noted that while it was true that home prices had escalated dramatically in recent years, many people have owned their homes for a long time and, frankly, afford them very comfortably.

Special Housing Overlay

Council Member Horgan recalled from previous discussions that the original plan suggested placing a special housing overlay on a Mallory Way property. She noted this being the only property with a special housing overlay and in Council's deliberations it was concluded that the overlay should be removed. In her recollection, in the previous plan, no properties were actually identified for the special housing overlays.

Council Member Horgan conveyed that she did not find the map in the staff report particularly helpful because she could not clearly read it. She would like a map which is easier to read and to see because she would like to visit the properties then assess them from her own standpoint as to whether or not they would be good candidates for special housing overlay. Also, she did not agree with the change in zoning which allowed for an increase in density of 20 to 25 units per acre.

RHNA Numbers

Council Member Horgan related that she really did not like the idea, since we were pursuing a permissive way of looking at the RHNA numbers, of finding a way to achieve 200% of our RHNA goals. She did appreciate Mr. Figgs' ideas that included being able to do 100% of the goals and then backfill if needed, or put a cap in place.

CEQA Override

Council Member Horgan does not agree with the concept of modifying our policies to permit CEQA override of projects which fail to meet prescribed traffic thresholds.

Second Unit Program

Council Member Horgan does not agree with the second unit program which reduced the minimum lot requirement and allowed exceptions in development standards, particularly since the City spent a good deal of time very recently redoing the second unit ordinance. She does not want to go backwards. Similarly, as to the amnesty program she does not support granting exceptions to the City's development standards in order to make unpermitted second units lawful.

Demonstration Projects

Council Member Horgan noted that the grid did not have any particular number of units identified for demonstration projects. She related that this program suggests we identify the development potential of candidate sites owned by the City or the Redevelopment Agency and assess the feasibility for residential disposition.

Council Member Horgan noted that in the last couple of years a lot of time had been spent talking about the possibility of selling surplus property because of budgetary issues. A couple of sites were suggested for housing (Grand and Signal), however, time and again the community, overwhelmingly, said don't sell the property. Council Member Horgan acknowledged that demonstration projects remain untested and perhaps should be revisited.

Senior Housing

Council Member Horgan supports the strategies for promoting senior housing and hopes to be successful in that endeavor which started a long time ago.

Inclusionary Housing

Council Member Horgan requested additional information regarding inclusionary housing and recommended discussion and review of the pros and cons. She related that she would need a better understanding before she could endorse the concept.

Pooling – Growth Management Option

Regarding growth management options which talked about different pooling, Council Member Horgan indicated that she could not endorse the concept because she did not know what the ramifications might be. She recommended further discussion in a workshop.

Sustainability Concepts

Council Member Horgan supports the sustainability concepts as set forth.

In conclusion, Council Member Horgan thinks the City needed to be prepared and commit resources to do battle with the State.

Mayor Smith

Mayor Smith noted that what was being heard from the Council and the public was a consensus toward self-certification.

Mayor Smith indicated her support for the follow principles:

- Amnesty program
- Senior housing
- Work force housing
- Replacement housing
- Inclusionary housing

Mayor Smith urged focus on what the City could accomplish given the limitations and capacities.

Mayor Smith agreed with Council Member Olsen regarding a project qualifying as affordable with only fifteen percent of the units actually being affordable. She agreed the percentage should be higher.

City Manager Kersnar clarified that if a city self-certified that did not mean it can change its allocated RHNA numbers. He emphasized that it meant choosing a number of programs that HCD might or might not certify as meeting the allocated RHNA numbers but the City believed it could generate the required RHNA numbers utilizing certain programs. Mr. Kersnar stated that the proposed programs would have to be submitted to HCD for their feedback.

Mayor Smith related that she had checked with the League of California Cities and did not find anybody who seemed to be working toward changing the legislation and wondered why, when so many cities in California were unable to realistically meet the State imposed RHNA allocations.

City Attorney Widders responded that the League of California Cities has been strongly opposed to the housing element legislation and its amendments over time. He explained that on one side was a very potent combination have banded together on this issue, affordable housing advocates and the building industrial association. On the other side was the League advocating for local control and environmental groups. They have been overwhelmed by, particularly, the coalition of affordable housing advocates.

Mr. Widders related that there was a procedure to trade numbers with other communities but it was very onerous and difficult.

Responding to Council Member Horgan's comments about the down side of having a HCD non-compliant Housing Element, Mr. Widders related that the State law says that coastal cities cannot approve housing or any projects until they adopt a Local Coastal Plan. That fit perfectly with the City of Malibu because they did not want to approve any projects, so they never adopted a Local Coastal Plan. The State Coastal Commission adopted a plan for them and the court supported the State Coastal Commission's action. The State, in effect, preempted local control because the City of Malibu was ignoring State law for their own purposes.

Council Member Horgan referenced statistics which show that the average household size in Ojai was 2.5. She commented that Ojai had an aging population and many large homes. She asked if a home sharing concept would be possible.

Mr. Figg explained that the problem was the definition of a dwelling unit and the household within. He related that a shared arrangement was considered one household. He noted that the Task Force discussed the possibility of being able to partition off a dwelling and create two units under the same roof.

With regard to our natural resources in particular, Council Member Horgan proposed that a possible strategy would be to have these studies completed before going any further.

City Manager Kersnar confirmed Council's direction for additional information on the following:

1. Resource limitations (other than land and money) as a factor.
2. More details or elaboration on an amnesty program.
3. Further elaboration on the percentage standard for inclusionary housing.
4. Status of legislation designed to relieve cities' burdens regarding the RHNA numbers – what's happening there.

Along with an amnesty program, Mayor Smith requested more information about the possibility of creating multiple units in large residences and any incentives that could be provided by the City.

Council Member Olsen requested facts on cities who either self-certified or ignored HCD and what happened to them.

Council Member Horgan reminded staff to provide clear, readable maps and addresses regarding Special Housing Overlay.

City Manager Kersnar verified that it was Council's intent to continue this matter to the Council's next regularly scheduled meeting of January 8, 2008.

DISCUSSION

3. Ventura County Fire Protection District Ordinance No. 26

City Manager Kersnar presented an overview of the staff report.

MOTION: Council Member Hanstad moved and Mayor Pro Tem DeVito seconded to adopt Resolution No. 07-45 ratifying the implementation of Appendix J, which allows the Ventura County Fire Protection District to enforce certain building standards within the City of Ojai.

The result of the roll call vote:

AYES: Olsen, Hanstad, Horgan, DeVito, Smith
NOES: None
ABSENT: None

The Ojai City Council then recessed and convened as the Redevelopment Agency. Subsequent to hearing those items before them, the Redevelopment Agency adjourned and reconvened as the Ojai City Council.

5. Reorganization of Council

Council Members commended Mayor Smith on her service over the past year as mayor.

Council Member Horgan stated that in anticipation of the reorganization of Council she had been reflecting on her years of service to the City. She announced that at the expiration of her term next November she would not seek reelection. Council Member Horgan stated that she would very much like to serve her last year on the Council as mayor. In accordance with the rotation system, Mayor Pro Tem DeVito was in line to be mayor in 2008 and she was in line to be Mayor

Pro Tem. She proposed that she and Mayor Pro Tem DeVito switch positions in the rotation so that she would become the next mayor and Mayor Pro Tem DeVito would remain mayor pro tem. The following year Mayor Pro Tem DeVito would become mayor and Council Member Hanstad would become mayor pro tem as she would in the normal rotation. Council Member Horgan asked for the Council's concurrence and support on this one time, limited change to the rotation system.

Mayor Pro Tem DeVito related that he received a letter dated November 12, 2007 in which Council Member Horgan asked that he consider the proposed change in rotation. He stated that he would like to defer to the wisdom of the Council on this matter.

Mayor Smith stated that she would like to hear Mayor Pro Tem DeVito's thoughts on the proposal.

Council Member Hanstad noted that she thought it was a bold and good idea and she would continue to support the rotation beyond this change. She acknowledged Mayor Pro Tem DeVito's generosity and stated that she would support his being mayor in 2009.

Council Member Olsen related that when he was appointed to Council, four of the Council Members asked one question and that was "Do you support the rotation?" He stated that he supported the rotation system 100%. He thinks there should to be some flexibility but only if it is mutually agreed upon.

Mayor Pro Tem DeVito related that it had been very awkward for him, for example, an Ojai Valley News reporter, interviewed him about being mayor in the upcoming year and he responded to questions as though he would indeed be mayor. He had received several cards of congratulations and had talked with many people who commended him on being the new mayor. Mayor Pro Tem DeVito stated that he supports the rotation system and requested the Council's assurance that a year from now he would be appointed mayor.

Council Member Hanstad commented that her sense was that the rotation would continue with just this one exception to the rotation.

Mayor Pro Tem DeVito confirmed that what he was hearing from Mayor Smith, Council Member Hanstad and Council Member Olsen was that he would be appointed mayor after Council Member Horgan. Since the current Council was making the decision and there might be one or perhaps two new members after the November 2008 election, Mayor Pro Tem DeVito asked if it would be appropriate to have the Council reorganize at their last meeting in November of 2008.

City Manager Kersnar stated that it was his understanding that Council reorganization occurred with the new Council after the oath of office. He noted that as a general principle, the current council could not commit a future council, on the other hand, he recognized that at least three of the current council members— a majority — would remain on the council after the November 2008 election.

Mayor Pro Tem DeVito disclosed reluctance on his part to alter the rotation of mayor and mayor pro tem.

Council Member Olsen stated that the decision to alter the rotation in this instance belonged to Mayor Pro Tem DeVito. Council Member Olsen confirmed that he would support Mayor Pro Tem DeVito's decision.

City Clerk Strobel confirmed that the proposal was to change the order of rotation as follows:

Sue Horgan, Mayor
Joe DeVito, Mayor Pro Tem
Rae Hanstad, Council Member
Steve Olsen, Council Member
Carol Smith, Council Member

NOMINATION AND MOTION: Mayor Smith moved and Council Member Olsen seconded to nominate Council Member Sue Horgan for mayor. The motion passed unanimously.

NOMINATION AND MOTION: Council Member Olsen moved and Mayor Smith seconded to nominate Mayor Pro Tem DeVito as mayor pro tem. The motion passed unanimously.

6. **Council Representatives to County and Regional Boards, Committees and Commissions; and Council Ad Hoc Committees**

This item was continued to the regularly scheduled meeting of January 8, 2008.

INFORMATIONAL ITEM

7. **Status of Skate Park**

REPORTS FROM COUNCIL MEMBERS

ORAL REPORT(S) FROM CITY MANAGER

ADJOURNMENT

There being no further business the meeting was adjourned at 12:18 a.m.

Carol Smith, Mayor

Carlton Strobel, City Clerk