Supplemental Information Packet

Public Communications Received by 4:00 p.m.
February 27, 2023

Meeting of February 27, 2023

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available in the City Clerk's Office, 501 Poli Street, Room 204, Ventura, during normal business hours as well as on the City's Website – www.cityofventura.ca.gov
https://www.cityofventura.ca.gov/1236/City-Council-Public-Hearing-NoticesSuppl
5. APPOINTMENT OF PLANNING COMMISSIONERS
Hello Mayor Schroeder,

Thank you so much for doing the right thing with your decision to keep Scott McCarty as your Planning Commissioner. His service to Ventura is invaluable. Keeping this seasoned member is a definite asset to your team. Keep up the good work!

Sincerely,
Amy Cherrie
VDM

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>> Please verify all links and attachments before opening them! <<
Dear Mayor Schroeder,

Your keeping of veteran Planning Commissioner Scott McCarty is much appreciated. He has done a thoughtful and thorough job, and I look forward to working with both of you to ensure that Ventura progresses at a pace benefits its residents and business community alike.

Carol Spector

Sent from my iPad
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Dear Mayor Schroeder,
Unfortunately I am unable to attend the City Council meeting this evening to thank you for listening to the public and retaining Mr. McCarty on the Planning Commission. As you know he is extremely qualified and is always completely prepared for the meetings. With so many new planning commissioners it is helpful to have someone with Mr. McCarty's knowledge and experience.
Thank you again,
Wendy Sauter

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<td>Agenda Item Number/Topic</td>
<td>Agenda Item 5, Appointment of Planning Commissioners</td>
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<tr>
<td>Name</td>
<td>Natalie Jane Bruton</td>
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<tr>
<td>Address</td>
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<tr>
<td>Recommendation</td>
<td>Support Recommendation</td>
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<tr>
<td>Written Comments</td>
<td>I wish to congratulate the four incoming planning commissioners and to thank Mayor Schroeder for retaining Mr. McCarty. The Planning Commission is a vital component to our City's development process and each commissioner should be respected and thanked for their willingness to serve. These new members along with the existing commissioners have a</td>
</tr>
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charter to provide a balanced review of projects and developments affecting our city and we look forward to working with you all. Thank you - The Bruton Family

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9. CALTRANS ACTIVE TRANSPORTATION GRANT WITH VENTURA PORT DISTRICT APPLICATION
February 24, 2023

City of Ventura
501 Poli Street
Ventura, CA 93001
Attn: Akbar Alikhan, Interim City Manager

Dear Akbar Alikhan,

On behalf of the Ventura Port District, I would like to express our strong support for the City of Ventura's grant application for the Caltrans Sustainable Transportation Planning Grant Program to develop the Multi-modal Harbor Access and Mobility Plan for the Ventura Port District (commonly referred to as Ventura Harbor).

Ventura Harbor is home to a myriad of businesses, including restaurants, shops, hotels, commercial fisheries, and the Channel Islands National Park Visitor Center. All the businesses are supported by residents, visitors, boaters, and fishers. The Ventura Port District's Board of Port Commissioners has established new Guiding Principles and 5-Year Objectives, which include implementing sustainability policies and practices such as multi-modal and active transportation strategies for the public. Hence, we understand the value of redesign at Ventura Harbor for nonmotorized accessibility and it is important to our District.

Incorporating a Multi-modal Harbor Access and Mobility Plan will have several benefits. It will improve active transportation (bike or pedestrian facilities) for the public, which will encourage the usage of nonmotorized vehicles. Additionally, it can increase accessibility by adding transit stops within the Harbor. Further, it can improve traffic management and increase visitation, which can increase revenue generated by Harbor businesses.

The City's proposal to develop a Multi-modal Harbor Access and Mobility Plan for Ventura Harbor extends the work accomplished in its City-wide Active Transportation Plan as outlined in the application. If approved, this action will initiate the shift from a reliance on motor vehicles to more active and sustainable modes of transportation. The District is confident the City will successfully execute this plan and that the resulting transportation changes will be widely utilized by the public as they are known for being home to engaged citizens who actively work to improve their community.

The District is excited for this opportunity and is prepared to provide an in-kind contribution of services that will be used to develop the plan, including both District staff time and through the engagement of consultants to support the project and stakeholder outreach.

Sincerely,

Briab D. Pendleton
Ventura Port District | General Manager

Cc: Phillip L. Nelson, Public Works Director
15. INCLUSIONARY HOUSING PROGRAM ORDINANCE
Dear Council,

Thank you for your time and commitment to our city. Below are some concerns that I would like you to consider before approving our Inclusionary Housing Ordinance (IHO). Again, thank you for your serious consideration.

1. The hired consultant repeatedly arrived unprepared and misinformed the Planning Commission regarding stronger local inclusionary housing ordinances.
   a. Kathe Head of Keyser Martin and Associates claimed she did a comprehensive analysis of our region and financial realities. Yet, when she was asked by commissioners and the public at the initial Planning Commission meeting if she was aware of the stronger Goleta and Agoura Hills ordinances, she conceded that she was not.
   b. After the Planning Commission was disappointed with her report and asked for more concrete data to prove her claims, her subsequent December 2022 report still neglected an analysis of the Goleta and Agoura Hills ordinances.
   c. When asked about the two ordinances' omission from the report by Commissioner Farkas, she claimed that Goleta and Agoura Hills respective ordinance's are deterring development. Yet, she did omit that there were currently 177 units within multi-unit developments that fall under the inclusionary housing ordinance in Agoura. She also omitted that Goleta has 120 units (two projects) that fall under their IHO and have completed applications.
   d. These two municipalities have proven that having strong IHOs are not deterring development and can help us meet our lower-income RHNA requirements. Please keep in mind these are smaller municipalities with dramatically lower RHNA goals and relative development quantities.
   e. Los Angeles and Santa Barbara counties have higher median-market property costs and lower AMIs. I think it still needs to be adequately explained why Ventura County municipalities would need to have more tepid inclusionary housing policies than these LA and SB municipalities. In other words, basing requirements off of a higher median income while simultaneously having cheaper housing is a uniquely Ventura County phenomenon and needs to be put into consideration when attempting to refute stronger requirements.
   f. To summarize, Goleta requires 20 percent for both rentals and for-purchase (5% extremely low, 5% very low, 5% low, and 5% moderate) and has two 60-unit market-rate, IHO-eligible projects coming down the pike; Agoura Hills has 15 percent for both rentals and for-purchase (7% very low, 4% low, 4% moderate) and has two developments (117-unit and 60-units respectively) that market-rate and IHO-eligible. This should be a cause for concern that she did not adequately inform or analyze such information for the Planning Commission.

2. Haley Point, a for-sale development, was 20 percent moderate-level inclusionary housing.
   a. After hearing questions about Haley Point seemingly contradicting her financial analysis, Kathe Head responded dismissively by saying this is a density bonus project.
   b. Yet, the Haley Point's owners' decision to move from 15-percent of sequential inclusionary requirements, i.e., an 11 unit combination of very-low, low, and moderate levels, to 20 percent (14 units) of moderate-income units fell within and did not exceed the current IHO. Further, had the owners stayed with the 15 percent sequential combination, the Haley Point project likely would have earned two density bonus exceptions by having 5 percent very-low and 10 percent of low and moderate.
   c. Her report omits an analysis of Haley Point and how it contradicts her claims that developers cannot afford more than 10 percent of moderate inclusionary housing.
Best Regards,

Matthew Bello
Ventura Resident

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February 27, 2023

TO: cityclerk@cityofventura.ca.gov

CC: jschroeder@cityofventura.ca.gov, jpalacios@cityofventura.ca.gov, lcampos@cityofventura.ca.gov, dhalter@cityofventura.ca.gov, mike.johnson@cityofventura.ca.gov, bmcreyolds@cityofventura.ca.gov, jim.duran@cityofventura.ca.gov

Subject: 2/27/23 Ventura City Council hearing agenda item 15, Inclusionary Housing Ordinance

Dear Ventura City Council:

I am writing as a long-time Ventura resident and also on behalf of Ventura County Clergy and Laity United for Economic Justice to urge you to adopt the recommendations of Homes For All and the Ventura Social Services Task Force. The rules recommended by staff are inadequate to meet the severe need.

The minimum needed is
   Rental - 15% very low income  
   For Sale - 15% low income or 20% moderate income

Additionally, we support:
  • Moving ahead now, without additional studies;
  • Strong in lieu fees, as proposed, that would encourage the development of affordable housing on site, or if utilized, would provide sufficient gap financing for the development of the needed housing; and
  • Lowering the threshold for implementation to seven homes, as proposed.

Access to affordable housing is a key issue separating the haves and have-nots in Ventura. You must take more aggressive action to assure safe and affordable housing for all our residents and working families.

Thank you for your leadership.

Sincerely,

Nan Waltman, CLUE-VC Co-chair
Thank you for considering this important ordinance to help increase the number of low and extremely rental and for low-income sale housing. There will be strong opposition to this ordnance and ANYTHING that will increase housing the our “sleepy little beach town” of Ventura. Unfortunately, that attitude labels us as elitist and makes housing unavailable for middle- and low-income residents. I don’t want to be that city.

I am a member of Homes for All and Ventura Social Service Task Force. I concur with their Inclusionary Housing Ordinance request of:

- Rental – 15% very low income
- For Sale – 15% low income or 20% moderate income

Additionally, I support:
- Moving ahead now, without additional studies;
- Strong in lieu fees, as proposed, that would encourage the development of affordable housing on site, or if utilized, would provide sufficient gap financing for the development of the needed housing; and
- Lowering the threshold for implementation to seven homes, as proposed;

I further would like to see the City develop and fund a housing land trust for low-income housing.

I am sorry that I can’t support the Ordnance in person. You don’t want my Cold germs in your chambers.

Kathleen (Kappy) M Paulson PE

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<td>Name</td>
<td>Lupita Gonzalez</td>
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<tr>
<td>Address</td>
<td>Ventura, CA</td>
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<td>Phone Number</td>
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<td>Recommendation</td>
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<tr>
<td>Written Comments</td>
<td>My name is Lupita Gonzalez and I'm a Junior at Foothill Tech &amp; youth leader with CAUSE. I'm here in support of the Inclusionary Housing Ordinance and to make sure it includes a high percentage of new units being built for &quot;very low&quot; income folks. My family and I have lived here in the city for 10 ½ years. I love living in Ventura but it's become so hard for my dad</td>
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especially, who works 2 jobs, to help us stay afloat. I know he carries a lot of weight on his shoulders ever since my mom was diagnosed with cancer in 2008 which has since caused her the inability to work. As a result he works long hours and I hardly get to see or spend much time with him.

I worry that if housing costs continue to increase we would likely have to move to a smaller city in a smaller home and would likely have to get rid of our dogs. That’s why I’m here, to urge you to pass this Inclusionary Housing ordinance and also urge you to stop pushing off Tenant Protections. TP Now!

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Hello,

On behalf of CAUSE here in the city of Ventura, I Kristian Nunez would like to share this comment letter with members of the City Council in regards to the Inclusionary Housing Ordinance public hearing taking place tonight at city hall.

The letter will be attached to this email, thank you.

Kristian Nunez
Policy Advocate

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February 27, 2023

RE: Item 15a: Comments on Inclusionary Housing Ordinance.

Dear Mayor Schroeder and Councilmembers,

CAUSE is a community organization whose mission is to build grassroots power for social, economic and environmental justice through policy research, leadership development, community organizing, and advocacy in Ventura and Santa Barbara Counties. We believe housing is a human right, where a stable home can provide economic security and a healthy community. With the rising cost of rents putting working families at the frontlines of the housing crisis, we need an Inclusionary Housing Ordinance that will create ambitious goals for low income housing, require strong in-lieu fees and protect the safety and well-being of tenants. Our efforts towards working for affordable housing has dated back to the start of CAUSE as an organization and continues to be at the forefront of our efforts to improve community equity in Ventura.

Although the City of Ventura currently is meeting the needs for above moderate income housing, there is a dire need for improvements in regards to Low and Very Low-income affordable housing. We encourage the city to address these concerns by improving the inclusionary requirements and including a higher percentage to be designated for Low-Income and Very-Low Income housing. We strongly urge the City Council to include a 15% Very Low-Income requirement for rental units and a 15% Low-Income or 20% Moderate Income requirement for for-sale units. Additionally, we support strong in-lieu fees which would encourage developers to build affordable housing, or alternatively pay a fee substantial enough that would finance affordable public housing.

The years spent delaying the passage of a strong Inclusionary Housing Ordinance have been years of missed opportunities to create needed affordable housing in the City of Ventura. Now we’re seeing the same attempt to delay the timeframe for tenant protections. Renters are in crisis, and the longer the city ignores the needs of the working class families, in the coming year, rents will be far too high and generations of families will be displaced. We’re asking the City Council to not delay tenant protections to 2024 and instead address them in 2023. Our hope is that tenant protections no longer be delayed, our at risk
communities can no longer wait and are asking for immediate action to protect them from permanent displacement or homelessness in Ventura.

We appreciate and thank you for your efforts, please do not hesitate to contact us with any questions or concerns.

Sincerely,
Kristian Nunez
CAUSE Policy Advocate
18. CONDUCT A STUDY SESSION FOR THE PROPOSED FISCAL YEAR 2024-2028 CAPITAL IMPROVEMENT PROGRAM
Public Comment Form

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Select Legislative/Hearing Body
City Council

Meeting Date
2/27/2023

Select a Topic: Field not completed.

Name
Herbert L Schwind

Address

Phone Number

Email Address

Recommendation Field not completed.

Written Comments
The recently published City Council agenda included an item #18 related to the CIP. The letter to the Council related to the item said:

Residents and interested parties may review the Proposed FY 2024-2028 CIP at the City’s website at the link below.

Selecting that link provides no information. See the attached file I have uploaded.

Upload Files
Attachment-A---Information-Sheets-for-Proposed-FY2024-2028-CIP.pdf

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PUBLIC COMMUNICATIONS
This was meant for the town hall meeting a couple days ago but it never went through. The residents need to have their voices heard.

> The city needs to do something about the disgusting homeless that create trash with their encampments and motor homes and threaten the public with their drug use and mental instabilities. This city should not aid in their existence. I shouldn’t have to pay taxes and a mortgage while a homeless person can live for free in their motorhome on the same street. Literally right now there are trailers and motorhomes with cut outs into private land that create a front yard and generators and solar panels that line Transport street 24/7. Motorhomes should not be able to set up camp for over a month on Market street next to Kaiser. This is ridiculous. Get rid of the homeless. I also don’t want my taxes going to some ridiculous motel for them to live in. They made their choices and I made mine. Get them out of here.
>
> Respectfully

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From: Cynthia Malecky  
Subject: -EXT- Interim City Management Positions  
Date: February 13, 2023 at 2:23:10 PM PST  
To: Doug Halter <dhalter@cityofventura.ca.gov>, Jeannette Palacios-Sanchez  
<jpalacios@cityofventura.ca.gov>, Joe Schroeder <jschroeder@cityofventura.ca.gov>, Liz Campos <lcampos@cityofventura.ca.gov>, Mike Johnson  
<mike.johnson@cityofventura.ca.gov>, Bill McReynolds <bmcreynolds@cityofventura.ca.gov>, Jim Duran <jim.duran@cityofventura.ca.gov>  

Dear Council Members,

There was an article on the Ventura Star on Jan. 11, 2023, which I found disturbing. In the article Joe Schroeder talked about hiring Akbar Alikan as the interim City manager. It is premature to consider any permanent positions in city management until after the forensic audit is completed and presented to the public. Any person hired under the supervision of Alex McIntyre should be under review. Thankfully Peter Gilli left of his own accord but Neda Zayer, who is interim Comm. Dev. Director, certainly shouldn’t be permanently put into that position. After the comments she and Jamie Peltier made during a city council meeting regarding their distain for the public and their close friendship to the developer, neither one of them belongs in any position of authority in the city. Akbar Alikan may be a good candidate for city manager but that must be investigated and reviewed. His credibility is under question due to his close connection with Alex McIntyre. He was a participant in some of the egregious financial activities with Alex McIntyre. Being hired by and working so in step with Alex makes one question his integrity. It seems the CFO, Michael Coon, may currently be under review. After his telling performance at the city council meeting where he illustrated his incompetence with overseeing employee expenditures, he should have been gone immediately. Hopefully that will happen soon and you won’t pay him to leave like you did Alex McIntyre.
And the question of your choice for mayor. Why would you put someone in the position of mayor who also participated in Alex McIntyre’s inappropriate activities. Joe Schroeder was present when fillet mignon and wine and excessive tipping were done. He also participated in the Brown Act violation. He also wanted to limit the scope of the forensic audit, which really begs the question, why?

The city needs to take a pause and collect pertinent information before forging ahead with choosing new managers. Much has been done in the past to put the citizens ill at ease. It's time to take the time to ameliorate this situation.

A concerned and disheartened citizen,

Cindy Malecky

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From: O'Rode, Nancy L  
Sent: Tuesday, February 21, 2023 2:39 PM  
To: Council  
Cc: Christy Weir; Barbara BROWN; Sharon Roberts; O'Rode, Nancy L  
Subject: -EXT- Ventura Tree Alliance Thanks You

Date: February 21, 2023  
To: The Ventura City Council  
From: The Ventura Tree Alliance

Dear Members of the Ventura City Council,

The Ventura Tree Alliance thanks you for adding Urban Forestry to your 2023 Council Goals.

We appreciate your leadership in climate resiliency, beautifying our beloved City of Ventura, and increasing the urban canopy of our hometown. In the past 16 months, over 200 Ventura citizens have come out to plant trees and we expect 50 - 60 volunteers to help us plant in March. Our community of volunteers is very interested in expanding and taking care of Ventura’s urban forest.

You are invited to come to our Arbor Day Tree Planting at Barranca Vista Park on the 10th of March from 10 am - noon.

Thank you for investing in trees!

Sincerely,

The Ventura Tree Alliance  
Christy Weir, President  
Barbara Brown, Vice-President  
Sharon Roberts, Treasurer  
Nancy O'Rode, Secretary

Nancy O'Rode  
Secretary, Ventura Tree Alliance

VenturaTreeAlliance.com  
The Ventura Tree Alliance works to enhance Ventura's urban canopy, to beautify Ventura and contribute to counteracting climate change. Our goals are to inspire, engage and support Venturans in planting and caring for trees through education, advocacy, volunteerism, and fundraising.

October 5, 2022.
March 12, 2022 Arbor Day

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From: Jim Duran
Sent: Wednesday, February 22, 2023 2:29 PM
To: Michael MacDonald
Subject: Fwd: -EXT- FW: Current law does not require the City of Ventura to have a special election in order to increase table capacity. A pending bill in the Legislature, AB 341, has serious anti trust implications for the City of Ventura

FYI

Begin forwarded message:

From: John Lovell
Subject: -EXT- FW: Current law does not require the City of Ventura to have a special election in order to increase table capacity. A pending bill in the Legislature, AB 341, has serious anti trust implications for the City of Ventura
Date: February 22, 2023 at 1:40:24 PM PST
To: Joe Schroeder <jschroeder@cityofventura.ca.gov>, "aheglund@cityofventura.ca.gov" <aheglund@cityofventura.ca.gov>, "aailkhan@cityofventura.ca.gov" <aailkhan@cityofventura.ca.gov>
Cc: "ipalacios@cityofventura.ca.gov" <ipalacios@cityofventura.ca.gov>,
"lcampos@cityofventura.ca.gov" <lcampos@cityofventura.ca.gov>,
"dhalter@cityofventura.ca.gov" <dhalter@cityofventura.ca.gov>,
"mike.johnson@cityofventura.ca.gov" <mike.johnson@cityofventura.ca.gov>,
"bmcreynolds@cityofventura.ca.gov" <bmcreynolds@cityofventura.ca.gov>,
"jim.duran@cityofventura.ca.gov" <jim.duran@cityofventura.ca.gov>

Mayor Schroeder, City Attorney Heglund, City Manager Alikhan, and Honorable Members of the Ventura City Council:

Greetings: My name is John Lovell and I am one of the Counsels for Players Poker Club located in the City of Ventura. In the past I have served for a number of years as Chief Counsel for the Los Angeles City Attorney.

Recently I have been examining the law to determine whether the Ventura City Council has the authority to permit table expansion at Players Poker Club without the obligation for calling a special election in connection with that expansion. For the reasons listed below, I believe that the Ventura City Council has that authority through adoption of a Council Resolution.
The operative law is **Ordinance No. 2014–004** which was adopted by the Ventura City Council on April 28, 2014. Prior to its adoption, the draft of Ordinance No. 2014–004 was conveyed to the Gambling Control Commission pursuant to state law. As presented to the Gambling Control Commission in 2014, Ordinance No. 2014–004 permitted the card room within the City of Ventura to increase its number of tables to 22 card tables or “such greater number of card tables as permitted by applicable state or city law . . .” The Gambling Control Commission, in 2014, ratified Ordinance No. 2014–004, which ratification authorized the expansion to 22 or such greater number of card tables.

Subsequent to that ratification by the Commission, Ordinance No. 2014–004 was adopted by the Ventura City Council by resolution pursuant to unanimous vote and approved by the Mayor. The enactment of Ordinance No. 2014–004 was NOT conditioned on any requirement for a special election to be held to finalize the increase to 22 or such greater number of card tables. And no such special election was held. As Ordinance No. 2014–004 permitted expansion to 22 tables or such greater number of card tables and only required approval of a resolution by the City Council. Ordinance No. 2014–004 subjected the resolution’s final enactment to a 31 day waiting period subject to a referendum. A referendum is NOT a special election. A referendum is initiated by obtaining a requisite number of citizens to force a vote on the Council’s action. There was no such referendum on Ordinance No. 2014–004.

Here is the state of affairs: Ordinance No. 2014–004 continues on the City’s Municipal Code. Nine years ago it was ratified by the Gambling Control Commission, and the Commission did not require a special election. The terms of Ordinance No. 2014–004 are unchanged since state ratification nine years ago. Therefore, the City Council, in the absence of a moratorium, may increase the number of card tables provided they have a 31 day waiting period during which time a referendum may be initiated by the voters. No special election is required any more than such a special election was required in 2014.
Some policy thoughts for consideration by the City of Ventura:

I recognize that everyone is very busy, but with all respect, I believe that a sense of urgency is essential. Ordinance 2014—004 is plain on its face that the City can take action to permit the expansion of a card room that is a proven revenue benefit to the City of Ventura.

Moreover, we are on the threshold of enactment AB 341, which, in my 38 years at the Capitol, is without doubt not only the quintessence of corruption but, if enacted will do direct and serious harm to the City of Ventura. I think moving forward with an authorization of capacity growth for a proven revenue benefit to Ventura and also the initiation of anti-trust litigation to prevent the affirmative harm to the City of Ventura are both essential and minimal steps to secure the City’s future.

Thank you for your consideration. I look forward to further discussing this important matter at the convenience of policy makers for the City of Ventura.

John Lovell

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Submission Deadlines:
Submit your Comment Form at least 2 hours prior to the scheduled/posted start time of the meeting, as stated on the posted Agenda. If submitting a comment during a meeting, please submit before the Agenda Item concludes, during a Live Meeting, to be considered part of the record. Select the Legislative/Hearing Body below to ensure your comment is emailed to the correct body.

Select Legislative/Hearing Body: City Council

Meeting Date: 2/27/2023

Select a Topic: Public Comments

Name: Taylor

Address

Phone Number: Field not completed.

Email Address: Field not completed.

Recommendation: Field not completed.

Written Comments: Community Development Plan Check Process:

The plan check process is a joke. I am a licensed engineer trying to remodel/add-on to my home. The current city process for plan check and examination is unacceptable.

First, not being able to speak to or get a hold of an actual person for days or weeks for a simple question.
Second, once plans are submitted not having any indication of where you stand in the queue.

Third, the implementation of digital plan check is incomplete and does not work appropriately. Plans digitally signed by Bluebeam or other services are not readable by your system, this is a standard program in the industry. If documents need to be signed use DocuSign, AdobeSign, or...

Fourth and final, the outside consultants providing plan check for the city are an inefficient waste of tax payer dollars and do not care about the community. Please reconsider your approach to plan check and consider re-implementing on-site plan check staff. HIRE CITY STAFF!

Upload Files  
Field not completed.

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February 24, 2023

Dear Honorable Mayor, Members of the City Council, and City Manager:

We are writing to express our concern over alarming developments following the City of Ventura’s award of three retail cannabis permits to Responsible and Compliant Retail Ventura LLC (dba Embarc), TAT Ventura LLC (dba The Artist Tree) and ZASA LLC (dba Wheelhouse Ventura) on October 21, 2022. Since that time, the City Attorney’s Office has repeatedly acted in violation of the cannabis business rules in the San Buenaventura Municipal (the “Code”) and, as of today, has yet to schedule appeal hearings with the designated Hearing Officers who handled prior appeals under existing written procedures. Instead, the City Attorney’s office is misinterpreting, in multiple ways, the appeal process defined in the Code to try and compel a misguided and inappropriate “settlement” of appeals filed by the denied applicants.

As you may recall from our letters dated December 5, 2022 and January 23, 2023, “sore loser” appeals are standard in nearly every community that issues merit-based retail cannabis licenses. They are nothing to be afraid of and should not influence the City’s decision-making. As was emphasized during the City Council Hearing in early December, and again in our letter in January:

1. **The City Must Stay the Course to Prevent Legal Challenge:** The only appropriate course forward is to proceed with the appeal process required by the City’s Code. Deviating from said process for example, by preemptively issuing additional licenses, will result in immediate legal action, both from the selected applicants and from applicants who did not participate in Phase 4.

2. **Appeals are Commonplace and Do Not Warrant Overreaction:** The losing applicants’ appeals do not raise meritorious challenges to the process, i.e., our legal teams, who bring significant relevant experience in municipal cannabis processes and litigation, have reviewed the totality of appeals and believe strongly that the City’s process will be upheld.

3. **The Three Winners Should Be Moving Forward:** Cannabis license awards are routinely challenged in communities across California and the appeals are often resolved after the selected companies are operational. There is no legal basis for the City’s ad hoc decision to prohibit the selected winners from moving forward with construction and development of our dispensary locations. To put it more clearly, the pending appeals have no legal bearing on the permits awarded to us and are legally limited to review of the denied applications only. Our operations should not be put on hold pending decisions by a hearing officer on the merits of claims by unsuccessful applicants.

**Inappropriate Attempts to Force a Settlement Create Liability for the City**

While the City’s refusal to allow the selected operators to move forward is very troubling and not authorized by the ordinance, we are particularly concerned about the City Attorney office’s erroneous and inconsistent view of the appeals process. On Friday February 17, 2023, the City Attorney’s office convened a meeting of both the successful applicants and appellants and made a number of assertions in contravention of the ordinance.

While it seems these statements were part of a negotiating tactic employed by Senior Assistant City Attorney Andy Viets to compel a premature settlement, his approach harms the City’s interests and is counterproductive to the City’s desire to resolve these appeals in a legally defensible and compliant manner. Fortunately, City Attorney Andy Heglund appeared to walk-back at least some of Mr. Viets’ assertions in a telephone call on February 23rd. Because of the discrepancies and inconsistencies with the messages being delivered from the City Attorney’s office, we have illuminated our primary concerns below:
1. Mr. Viet's suggested that the City interprets the mere act of appeals being filed as rendering our final winning selection invalid. In effect, per Mr. Viet's, the City Attorney's office intends for the Hearing Officer to treat all eight companies as equals and to make a new determination on winners and losers—a decision far outside the scope of the appeals and in violation of the Code.

The Code sets forth clear appeal procedures. An applicant's right to appeal the final decision of the City Manager is expressly limited by Code Section 6.420.230(e), which states an Applicant "may appeal the denial of a Cannabis Business Permit to a hearing officer designated by the City Manager subject to the requirements of Sections 6.420.290 and 6.420.300." This means what it says—the Code allows an applicant to appeal only the denial of a Permit. It does not allow a denied applicant to appeal the winning permits that were awarded to successful applicants, nor to challenge the entire selection process.

2. Mr. Viet's also suggested that the City intends to utilize a different hearing officer than the one used for all previous appeals and intends to combine all appeals into one hearing. The City has already published written appeal procedures, which it followed successfully and efficiently to resolve the appeals in Phase 2 and 3 of the application process. However, Mr. Viet's now appears to be advising the City to deviate from the City's established procedures, and to assign appeals to a different hearing officer of unknown qualifications to select the winning applicants rather than first deciding on whether there are even merits to the sore loser appeals.

3. The City has indicated that the selected operators cannot move forward with entitlement and construction pending the outcome of this process, a sentiment again stated by Mr. Viet's last Friday. But under the Code, the successful applicants, Embarc, The Artist Tree, and Wheelhouse, are entitled to move forward with the permitting process, including obtaining required land use approvals and building permits, pursuant to the City's issuance of permits on October 21, 2022, regardless of the appeals. The City's resistance to allowing the licensees to move forward at this time is not authorized by the Code and will result in lost city tax revenue and community benefits payments.

4. Mr. Viet's claimed the City intends to try and schedule the appeals in late April or May—approximately six months after the decision was made and approximately four months after the City's required deadline. The City is currently in violation of the Code, which requires the City to hold an appeal hearing within 60 days of the filing of an appeal (Section 6.420.300(b)), which lapsed in early January.

5. The suggestion by Mr. Viet's that the City could award 8 retail dispensary permits contradicts Code Section 6.420.430(a) and City Resolution 2021-009, which allow the City up to 5 cannabis retailer/non-storefront retailer/microbusiness permits.

6. The appellants' argument that City violated the Code because City Staff did not provide a "Staff Report" to the City Manager lacks merit, because there is no such requirement for a "Staff Report" in the Code. In contrast, City staff provided a report of all materials necessary for the City Manager to render his decision, satisfying the requirements of Code Section 6.420.230(a)(5). Unfortunately, instead of defending the City's process through these appeals as was done in the Phase 2 and 3 appeals, the City Attorney's office appears to be caving to pressure from a group of boisterous appellants who are obviously motivated to create as much noise and trouble as possible without regard to the law or the facts.
7. Three of the five appeals were untimely and should be dismissed outright because they were not filed within “ten calendar days” of the City Manager’s final decision as required by Code Section 6.420.290(a). There is no allowance in the Code for an extension of time to appeal.

We Remain Ready to Defend the City’s Selection Process – and Eagerly Await the Ability to Open Our Doors

Operating a cannabis business is a privilege not a right and the government has the authority to review our businesses annually and determine whether we may continue operations. As a result, each of our business models is predicated on establishing working relationships and open communication with municipal staff for the lifetime of the business. Defending ourselves, our rights, and the fundamental idea of fairness in this process is thus exceptionally risky as we fear alienating staff and elected leadership with our outcry. But ultimately, we believe the City Council must be made aware of inappropriate and likely unenforceable interpretations being made by the City Attorney’s office (and inconsistent interpretations within the ranks of the office) given they create the risk of significant liability for the City, and we do not believe they represent the will of this community.

It appears to us that the process has been mismanaged and is spiraling out of control. The City developed and implemented a municipal licensing process, followed that process, and selected winners. Unsuccessful applicants then appealed the decision, and they are, under the Code, afforded a fair opportunity to have their concerns about their denial heard in individual appeal hearings specific to the confines of their respective appeals. This process is standard and can be addressed within mere days by a City Attorney’s office who works vigorously to defend the City, its process, and the ability to move on to other more pressing municipal matters. Instead of following the existing process and the Code, the appeals have taken on a life of their own that must not be allowed to go forward in violation of the law. The City Council plainly and clearly gave direction in December to hear the appeals without deviation from the process or municipal Ordinance. Why then – nearly three months later – are we still stuck in the same place with appeals not resolved, and with the winners not allowed to move forward?

We appreciate your time and attention to this matter, and ask you to please:

1. Instruct City staff to immediately grant the selected operators the ability to begin our entitlement and construction process as, per the Ordinance, our selection is not what is subject to appeal;

2. Contact HdL – the City’s selected consultant that was hired to assist in the development of this ordinance – as necessary to seek clarity on the Code, the City’s intent in drafting the Code, public interest, the appeal process that the City has followed up to this point, and the appeal standard followed by other cities; and

3. Cease any continued discussion about deviating from the process until after the appeals, in order to protect against legal challenge.

Sincerely,

Lauren Carpenter
Embarc

Lauren Fontein
The Artist Tree

Sergio Burga
Wheelhouse
Hi Tracy, Michael,

Can you include this in tonight’s supplemental packet?

Thanks and hope you all survived the weekend weather!

Glenn Overley

At the February 13, 2023 Council meeting, Council members discussed limiting public speaking times to expedite meetings. As you may recall, that particular Monday had multiple speakers who discussed pickle-ball, a fatal traffic accident on Ocean, Spanish interpreters, and miscellaneous other topics, all important to the public.

Last year, Mayor Rubcava had a short time frame where she limited citizens to time frames that where between 90 seconds and 2 minutes. Many residents were upset and complained. Toward the end of her term, the standard was reset to 3 minutes per speaker.

What is the courts’ position of public input timeframes at public meetings? The second appellate court under case name Ribakoff vs Long Beach, et al. has clearly established the “reasonable time” as three minutes for public speakers. The Court stated, “These opinions properly strike a balance between the public’s need to address their elected officials, while also allowing the public entity to manage meetings and complete them in a reasonably efficient manner.”

Please keep in mind, citizens elect public officials to conduct business on their behalf, but do not give up their rights to be critical of government processes at public meetings. Let me share some of the positive effect of citizen input with this council over the last year or so...

1. It was the citizens that identified the Brown act violations before the DAs Office was notified
2. It was the citizens that identified the out of policy Cal Card expenditures, including the multiple purchases of alcohol
3. It was the citizens that pointed out the filet Mignon meals at the Paso Robles executive retreat, during a time that our city was shut down due to Covid.
4. It was the citizens that got the ball rolling for the audit related to the above activities
5. And it was the citizens, that shed light on the inappropriate removal of an extremely qualified Planning Commissioner, who was also retired military veteran.

Now, some Council Members have floated the idea that limiting citizen input would make meetings more efficient. I only wish those Council members would have run an election campaign where they clearly stated that they want to limit or eliminate citizen input. The outcome of the recent elections may have been quite different had the citizens known this before they cast their votes.
As noted by the appellate court, three minutes appears to be a balance for citizen input and efficiency concerns for the length of public meetings. Perhaps Council could limit the number of consent items and formal items on each of the meetings at the beginning of the month to provide true citizen input as the law allows. I see limiting citizen input as encouraging potential law suits related to the balance described by the appellate court in Ribakoff vs Long Beach.

Glenn Overley
District 2.7

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PRESENTATIONS
Inclusionary Housing Program Ordinance

Leona Rollins, Housing Services Manager
Neda Zayer, Acting Community Development Director

City Council
February 27, 2023
Inclusionary Housing Program Goals

- Develop the strongest requirements allowed by law that can be justified by financial analysis.

- Helps meet our Regional Housing Needs Assessment (RHNA) numbers which for the 6th Cycle Housing Element (2021-2029) are:
  - 593 Extremely Low Income
  - 594 Very-Low Income
  - 865 Low-Income
  - 950 Moderate-Income
What is Inclusionary Housing?

- Inclusionary Housing Programs are local policies that help facilitate the production of affordable housing.

- Requires income-restricted housing within a market-rate project.

- Provides housing affordability to lower income households. This includes the following categories:
  - Extremely Low
  - Very Low
  - Low
  - Moderate
Affordability Thresholds

Area Median Income (AMI)
- County AMI (Household of 4) = $118,550
  - Low (50-80% AMI) = $90,350
  - Very Low (30-50% AMI) = $56,450
  - Extremely Low (0-30% AMI) = $33,850
- Affordability
  - Qualified households will pay 30% of their income.

From General Plan Update Housing Background Information
Development of the Inclusionary Housing Program

- Staff and Consultants held stakeholder meetings with:
  - Affordable and market-developers
  - Housing agencies and advocacy groups
- Garnered support for in-lieu fees and off-site units
- Shared draft Ordinance with Stakeholders
- Ordinance heard at 3 Planning Commission Meetings
Planning Commission

- February 9, 2022
- February 23, 2022
  - Asked staff and consultant to come back with deeper affordability (5-2 vote).
- December 14, 2022
  - Planning Commission recommended (vote 6-0):
    - Adjust affordability for rental units as follows:
      - 10% low income
      - 5% very low income
    - Adjust in-lieu fees accordingly.
    - Adjust the covenants to in perpetuity for rental units.
    - Keep for-sale units as proposed (10% at moderate).
## Inclusionary Housing Program

<table>
<thead>
<tr>
<th>Current Inclusionary Housing Program</th>
<th>Project Threshold</th>
<th>For Sale Requirement</th>
<th>Rental Threshold</th>
<th>Off-Site Alternatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>59 units or less</td>
<td>59 units or less requires 1-7 units depending on number proposed</td>
<td>Redevelopment Area Only: 15%</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>60 units or more</td>
<td>60 units or more requires 15%</td>
<td>40% of the units for very-low income</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>60% of the units for low and moderate income</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed Inclusionary Housing Program</td>
<td>7 units or more</td>
<td>10%</td>
<td>15%</td>
<td>In-lieu fees</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Moderate income level</td>
<td>10% at low income</td>
<td>Property dedication</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>5% at very-low income</td>
<td>Off-site construction</td>
</tr>
</tbody>
</table>
Inclusionary Housing: Financial Evaluation
City of San Buenaventura

PRESENTED BY: KEYSER MARSTON ASSOCIATES, INC.
FEBRUARY 27, 2023
May 2018: City Council adopted an Interim Inclusionary Housing Program.
  - Chapter 25. 200 describes the citywide requirements, excluding the Merged Downtown Redevelopment Project Area.
  - Chapter 25.300 describes the requirements being imposed within the Merged Downtown Redevelopment Project Area.

In September 2021, KMA was engaged to prepare an Inclusionary Housing: In-Lieu Fee analysis to be included in a unified program to be implemented citywide. KMA was directed to base the in-lieu fee analysis on the following income and affordability standards:
  - A 15% moderate income requirement for ownership projects; and
  - A 15% low income requirement for apartment projects.

At a meeting held on February 9, 2022 KMA presented the results of the analysis. At that meeting several public comments were made about the lack of a financial evaluation that would test the supportable affordable housing requirements.

At a meeting held on February 23, 2022 the Planning Commission voted to engage KMA to prepare a financial evaluation of the supportable requirements at the following affordability levels:
  - Ownership housing: Moderate income and low income
  - Apartments: Low income and very low income
At a February 23, 2022 meeting the Planning Commission voted to engage KMA to prepare a financial evaluation of the supportable requirements at the following affordability levels:

- Ownership housing: Moderate income and low income
- Apartments: Low income and very low income

At a December 14, 2022 meeting KMA presented the results of the Inclusionary Housing: Financial Evaluation (Financial Evaluation). Based on the results, KMA recommended the following requirements:

- A 10% moderate income requirement for ownership projects; and
- A 15% low income requirement for apartment projects.

At the December 14, 2022 meeting several public comments were made about the standards being imposed. After a lengthy discussion the Planning Commission voted unanimously to recommend the following standards:

- A 10% moderate income requirement for ownership projects; and
- A 15% requirement for apartment projects comprised of 5% very low income plus 10% low income units.

In a memorandum dated February 15, 2023, KMA evaluated the impacts created by the Planning Commission recommendation. In that memo, KMA concluded that the affordability requirements being recommended by the Planning Commission can reasonably be supported.
Financial Evaluation
Inclusionary Housing Specifics

The legal standards for implementing an Inclusionary Housing program are:

◦ The requirements cannot be confiscatory; and
◦ The requirements cannot deprive an owner or a developer of a fair and reasonable return on their investment.

As a practical matter, the requirements should balance the interests of property owners and developers against the public benefit created by the production of affordable housing units.

A financial evaluation is prepared to evaluate these issues.

The financial evaluation results are used to recommend the Inclusionary Housing percentages to be imposed on market rate projects.

The following income and affordability scenarios were tested in the analysis:

- Ownership housing development:
  - Moderate income
  - Low income

- Apartment development:
  - Low income
  - Very low income
  - 75% low income + 25% very low income
  - 50% low income + 50% very low income
  - 25% low income + 75% very low income
## Financial Evaluation

<table>
<thead>
<tr>
<th>Step 1:</th>
<th>Identify the typical residential development types occurring within Ventura (Residential Prototypes).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Step 2:</td>
<td>Conduct a pro forma analysis for each Residential Prototype – first assuming a 100% market rate project.</td>
</tr>
<tr>
<td>Step 3:</td>
<td>Based on the results of Step 2, affordable housing units are incrementally added into the pro forma to measure the impacts of an Inclusionary Housing requirement.</td>
</tr>
<tr>
<td>Step 4:</td>
<td>Limit the Inclusionary Housing standards to avoid requirements that are confiscatory or that deprive an owner or a developer of a fair and reasonable return on investment.</td>
</tr>
</tbody>
</table>
Ownership Housing Development Analysis
# Development Characteristics

<table>
<thead>
<tr>
<th></th>
<th>Detached Single Family Homes</th>
<th>Townhomes</th>
<th>Stacked Flat Condominiums</th>
</tr>
</thead>
<tbody>
<tr>
<td>Density – Units Per Acre</td>
<td>7</td>
<td>15</td>
<td>50</td>
</tr>
<tr>
<td>Average Unit Size – Square Feet</td>
<td>2,870</td>
<td>1,790</td>
<td>1,120</td>
</tr>
<tr>
<td>Total Development Costs Per Unit</td>
<td>$1.13 million</td>
<td>$709,000</td>
<td>$532,000</td>
</tr>
<tr>
<td>Weighted Average Sales Price Per Unit</td>
<td>$1.33 million</td>
<td>$865,400</td>
<td>$606,400</td>
</tr>
<tr>
<td>Developer Profit as Percentage of Cost</td>
<td>11.1%</td>
<td>15.3%</td>
<td>7.7%</td>
</tr>
</tbody>
</table>
Affordable Sales Prices

<table>
<thead>
<tr>
<th></th>
<th>Detached Single Family Homes</th>
<th>Townhomes</th>
<th>Stacked Flat Condominiums</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Moderate Income</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>One-Bedroom Units</td>
<td></td>
<td></td>
<td>$323,000</td>
</tr>
<tr>
<td>Two-Bedroom Units</td>
<td></td>
<td></td>
<td>$356,400</td>
</tr>
<tr>
<td>Three-Bedroom Units</td>
<td>$380,100</td>
<td></td>
<td>$379,600</td>
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<tr>
<td>Four-Bedroom Units</td>
<td>$397,000</td>
<td></td>
<td>$410,700</td>
</tr>
<tr>
<td>Five-Bedroom Units</td>
<td>$431,500</td>
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<td></td>
</tr>
<tr>
<td><strong>Low Income</strong></td>
<td></td>
<td></td>
<td>$90,700</td>
</tr>
<tr>
<td>One-Bedroom Units</td>
<td></td>
<td></td>
<td>$95,400</td>
</tr>
<tr>
<td>Two-Bedroom Units</td>
<td></td>
<td></td>
<td>$89,900</td>
</tr>
<tr>
<td>Three-Bedroom Units</td>
<td>$89,900</td>
<td></td>
<td>$89,300</td>
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<tr>
<td>Four-Bedroom Units</td>
<td>$83,600</td>
<td></td>
<td>$97,400</td>
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<tr>
<td>Five-Bedroom Units</td>
<td>$95,100</td>
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<td></td>
</tr>
</tbody>
</table>
### Pro Forma Analysis Results

<table>
<thead>
<tr>
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<th>Detached Single Family Homes</th>
<th>Townhomes</th>
<th>Stacked Flat Condominiums</th>
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</thead>
<tbody>
<tr>
<td><strong>Moderate Income</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supportable Inclusionary Percentage</td>
<td>9%</td>
<td>10%</td>
<td>10%</td>
</tr>
<tr>
<td>Developer Profit as a Percentage of Cost</td>
<td>5.2%</td>
<td>9.8%</td>
<td>3.3%</td>
</tr>
<tr>
<td>Market Price Increase Required to Offset Impact</td>
<td>5.5%</td>
<td>4.9%</td>
<td>4.3%</td>
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<tr>
<td><strong>Low Income</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supportable Inclusionary Percentage</td>
<td>6%</td>
<td>6%</td>
<td>6%</td>
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<tr>
<td>Developer Profit as a Percentage of Cost</td>
<td>5.2%</td>
<td>11.1%</td>
<td>3.5%</td>
</tr>
<tr>
<td>Market Price Increase Required to Offset Impact</td>
<td>5.2%</td>
<td>3.6%</td>
<td>3.8%</td>
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</table>
## In-Lieu Fee Payment Amounts Based on a Moderate Income Inclusionary Standard

### Ownership Housing Development

<table>
<thead>
<tr>
<th></th>
<th>Detached Single Family Homes</th>
<th>Townhomes</th>
<th>Stacked Flat Condominiums</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>In-Lieu Fee Per Inclusionary Unit</strong></td>
<td>$931,500</td>
<td>$407,500</td>
<td>$251,000</td>
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</tbody>
</table>

### In-Lieu Fee Per Market Rate Unit in a 100% Market Rate Project

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Detached Single Family Homes</th>
<th>Townhomes</th>
<th>Stacked Flat Condominiums</th>
</tr>
</thead>
<tbody>
<tr>
<td>15% Requirement</td>
<td>$133,070</td>
<td>$53,150</td>
<td>$37,650</td>
</tr>
<tr>
<td>20% Requirement</td>
<td>$190,100</td>
<td>$88,590</td>
<td>$50,200</td>
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</table>

### In-Lieu Fee Per Square Foot of Saleable Area in a 100% Market Rate Project

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Detached Single Family Homes</th>
<th>Townhomes</th>
<th>Stacked Flat Condominiums</th>
</tr>
</thead>
<tbody>
<tr>
<td>15% Requirement</td>
<td>$46.40</td>
<td>$29.80</td>
<td>$33.60</td>
</tr>
<tr>
<td>20% Requirement</td>
<td>$66.30</td>
<td>$49.60</td>
<td>$44.80</td>
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</tbody>
</table>
Apartment Development Analysis
### Development Characteristics: Base Zoning Alternatives

<table>
<thead>
<tr>
<th></th>
<th>Coastal Area</th>
<th>Inland Area</th>
<th>Downtown Specific Plan Area</th>
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</thead>
<tbody>
<tr>
<td>Density – Units Per Acre</td>
<td>20</td>
<td>40</td>
<td>50</td>
</tr>
<tr>
<td>Average Unit Size – Square Feet</td>
<td>890</td>
<td>1,010</td>
<td>1,120</td>
</tr>
<tr>
<td>Total Development Costs Per Unit</td>
<td>$584,000</td>
<td>$447,000</td>
<td>$483,000</td>
</tr>
<tr>
<td>Weighted Average Rent Per Unit</td>
<td>$4,216</td>
<td>$3,294</td>
<td>$3,644</td>
</tr>
<tr>
<td>Stabilized Return on Total Investment</td>
<td>6.0%</td>
<td>5.9%</td>
<td>6.1%</td>
</tr>
</tbody>
</table>
# Affordable Rents

<table>
<thead>
<tr>
<th></th>
<th>Low Income</th>
<th>Very Low Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>One-Bedroom Units</td>
<td>$1,798</td>
<td>$1,106</td>
</tr>
<tr>
<td>Two-Bedroom Units</td>
<td>$2,013</td>
<td>$1,234</td>
</tr>
<tr>
<td>Three-Bedroom Units</td>
<td>$2,230</td>
<td>$1,356</td>
</tr>
</tbody>
</table>
### Pro Forma Analysis Results

<table>
<thead>
<tr>
<th></th>
<th>Coastal Area</th>
<th>Inland Area</th>
<th>Downtown Specific Plan Area</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Low Income</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supportable Inclusionary Percentage</td>
<td>9%</td>
<td>12%</td>
<td>11%</td>
</tr>
<tr>
<td>Stabilized Return on Total Investment</td>
<td>5.6%</td>
<td>5.6%</td>
<td>5.8%</td>
</tr>
<tr>
<td>Market Rent Increase Required to Offset Impact</td>
<td>5.2%</td>
<td>5.1%</td>
<td>5.5%</td>
</tr>
<tr>
<td><strong>Very Low Income</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supportable Inclusionary Percentage</td>
<td>7%</td>
<td>8%</td>
<td>8%</td>
</tr>
<tr>
<td>Stabilized Return on Total Investment</td>
<td>5.6%</td>
<td>5.6%</td>
<td>5.8%</td>
</tr>
<tr>
<td>Market Rent Increase Required to Offset Impact</td>
<td>5.2%</td>
<td>5.4%</td>
<td>5.7%</td>
</tr>
</tbody>
</table>
§65915 Density Bonus

State density bonus can potentially mitigate the impacts of affordable housing requirements by allowing an increased number of units plus one to three incentives or concessions such as height and floor area ratio increases.

Projects that use the State density bonus cannot pay a fee in lieu of producing affordable housing units.

KMA analyzed prototype density bonus apartment projects that include a 50% density bonus. In each case the prototype supported a 15% very low income requirement.
### In-Lieu Fee Payment Amounts: 15% Low Income Inclusionary Standard

<table>
<thead>
<tr>
<th>Description</th>
<th>Coastal</th>
<th>Inland</th>
<th>Downtown Specific Plan Apartments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Inclusionary Unit</td>
<td>$290,000</td>
<td>$137,000</td>
<td>$190,000</td>
</tr>
<tr>
<td>Per Market Rate Unit in a 100% Market Rate Project</td>
<td>$43,500</td>
<td>$20,550</td>
<td>$28,500</td>
</tr>
<tr>
<td>Per Square Foot of Leasable Area in a 100% Market Rate Project</td>
<td>$48.90</td>
<td>$20.30</td>
<td>$25.40</td>
</tr>
</tbody>
</table>
KMA Recommendations December 14, 2022
Foundational Requirements

KMA recommended the following Inclusionary Housing Production Requirements:

- Ownership housing development 10% moderate income
- Apartment development 15% low income

AB 491 imposes the following requirements on mixed-income multifamily projects:

- Affordable units cannot be isolated to units on a specific floor or area within a market rate project.
- Residents in the affordable units must be provided with the same access to the common entrances, common areas, and amenities as are provided to the residents in the market rate units.

The covenant period should remain in place for as long as the site is developed with a residential use, but not less than 55 years.
Rationale Behind the KMA Recommendations

The recommended requirements are based on the following factors:

- Courts have not provided guidance for defining confiscatory or a reasonable return on a property owner’s investment.
- Using a conservative approach, KMA created benchmark impacts against which potential Inclusionary Housing requirements would be measured.
- The recommended Inclusionary Housing requirements are based on the results of the pro forma analyses KMA undertook as part of this Financial Evaluation.
- AB 1505, and subsequent HCD guidance, strongly recommended that the maximum standards be set at a 15% inclusionary housing requirement, and affordability standards at 80% of area median income.

Stricter standards can be applied when rental units are used to fulfill the inclusionary requirements in an off-site location.

Developers who use the §65915 density bonus will likely propose to fulfill the affordability requirements with very low income units.
The Planning Commission recommended that the following standards be applied:

- A 10% moderate income requirement for ownership projects; and
- A 15% requirement for apartment projects comprised of 5% very low income plus 10% low income units.

KMA prepared a supplemental analysis to evaluate the Planning Commission recommendation. This analysis reached the following conclusions:

- As would be anticipated, the standards being proposed by the Planning Commission created a greater financial impact than the standards recommended by the KMA Financial Evaluation.
- The analysis of State Density Bonus prototypes indicates that the benefits can be expected to offset the impacts for a significant number of apartment development projects.
Recommendations

a. Conduct a Public Hearing.

b. Determine that the Inclusionary Housing Program Ordinance is exempt from the California Environmental Quality Act (CEQA) under the “common sense exemption” in CEQA Guideline Section 15061(b)(3), because the enactment would amend the Ordinance and have no potential for the changes to result in a significant effect on the environment.

c. Introduce and approve the first reading of the ordinance, titled as follows:

“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BUENAVENTURA, CALIFORNIA, REPLACING DIVISION 25 OF THE MUNICIPAL CODE, IN ITS ENTIRETY, WITH DIVISION 25, ENTITLED “INCLUSIONARY HOUSING PROGRAM” WHICH INCLUDES ALTERNATIVE COMPLIANCE PROCEDURES SUCH AS IN-LIEU FEES”

With modification to the For Sale requirement to 10% versus 15%

d. Set the second reading and adoption of this ordinance at the City Council meeting for March 13, 2023.

e. Authorize the Finance Department to adjust revenue and expenditure appropriations as necessary to account for the income received from the In-Lieu Fee, as well as create reserve accounts for collecting and tracking In Lieu Fee revenue received.
Pension Update & ADP Payment

City Council
February 27, 2023

Greg Morley, Acting Chief Financial Officer
Pam Townsend, Financial Services Manager
CalPERS – Basics

- Plan administrator is CalPERS (California Public Employees’ Retirement System)
- Eligible City employees participate in one of the City’s two defined benefit plans (Safety and Miscellaneous), each with varying benefit formula levels based upon hire date.
- CalPERS is the nation’s largest public pension fund
  - Established in 1932
  - Over 2 million members
  - Administers plans to over 2,892 employers (including 1,556 public agencies)
Contributions + Investment Earnings = Benefits + Expenses
**NORMAL COST**
- On-going cost/based on payroll
- Pays for current benefits
- Shared by employer/employee

**UNFUNDED ACCRUED LIABILITY (UAL)**
- Amortized as long-term debt
- City pays interest @ “Discount Rate”
- Employer pays 100%

**CalPERS**
- Administers plan, takes contributions, pays out benefits
- Invests for target return (Discount Rate)

**RETIREES**

Discount Rate = Expected rate of return on plan assets. Also the rate at which UAL accrues interest. Currently @ 6.8%, down from 7%
### Ventura’s Current Status

<table>
<thead>
<tr>
<th></th>
<th>Safety</th>
<th>Miscellaneous</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Members</td>
<td>565</td>
<td>1,157</td>
<td>1,722</td>
</tr>
<tr>
<td>Total Accrued Liability</td>
<td>$452.0M</td>
<td>$333.6M</td>
<td>$785.6M</td>
</tr>
<tr>
<td>Market Value of Assets</td>
<td>-$314.6M</td>
<td>-$280.8M</td>
<td>-$595.4M</td>
</tr>
<tr>
<td>Unfunded Liability</td>
<td>$137.4M</td>
<td>$52.8M</td>
<td>$190.2M</td>
</tr>
<tr>
<td>Funded Ratio</td>
<td>69.6%</td>
<td>84.2%</td>
<td>75.8%</td>
</tr>
</tbody>
</table>

Based on CalPERS valuation report for Fiscal Year ending June 30, 2021
CalPERS Funded Ratios

Funding Ratios For Actuarial Valuations Ending June 30

- **2017**: 76.5%
- **2018**: 74.7%
- **2019**: 74.9%
- **2020**: 73.6%
- **2021**: 84.2%
- **2022 Est**: 73.8%
- **2023 Est**: 69.2%
- **2022 Est**: 61.6%
- **2023 Est**: 58.4%

- **Misc**
- **Safety**
How did we get here?

• Investment Losses
  ▪ Market yields lower-than-expected rate of return
  ▪ Changes in Discount Rate
• Enhanced Benefits
• Demographics
  ▪ Expected lifespan, age at retirement
Risk mitigation strategy
• In years where investment performance outperforms discount rate, the discount rate will be lowered
• Intent is to lower investment volatility over time
• FY 2021 investment returns of 21.3%, triggering a discount rate reduction of 20 basis points

<table>
<thead>
<tr>
<th>If actual investment returns exceed the discount rate by: (percentage points)</th>
<th>Then the discount rate will be reduced by:</th>
<th>Then the resulting discount rate will be:</th>
</tr>
</thead>
<tbody>
<tr>
<td>+2 (9%)</td>
<td>5 bps</td>
<td>6.95%</td>
</tr>
<tr>
<td>+7 (14%)</td>
<td>10 bps</td>
<td>6.90%</td>
</tr>
<tr>
<td>+10 (17%)</td>
<td>15 bps</td>
<td>6.85%</td>
</tr>
<tr>
<td><strong>+13 (20%)</strong></td>
<td><strong>20 bps</strong></td>
<td><strong>6.80%</strong></td>
</tr>
<tr>
<td>+17 (24%)</td>
<td>25 bps</td>
<td>6.75%</td>
</tr>
</tbody>
</table>
How Unfunded Liabilities are Created

CalPERS Investment Returns for Fiscal Years Ending June 30

- Rate of Return
- Discount Rate%
• We’re seeing this trend across all of CalPERS
• Problem nationwide
• This was not created overnight

• Unfunded Liability is a dynamic number
  ▪ Managing cost of CalPERS obligations requires constant evaluation and flexible long-term funding strategies
Why does this matter?

- Unfunded liabilities are the responsibility of the City
- More vulnerable to volatile market swings
- Improves the financial health of the City
- Costly to have large unfunded liabilities
  - CalPERS is charging us interest on that unfunded liability
What’s being done? (City)

- Pay annual unfunded liability upfront
- Council revised City policy to address pension obligations (October 2022)
  - Established a “target” available unassigned fund balance
  - “Target” should be no more than specified percentage of prior year’s operating expenditures

<table>
<thead>
<tr>
<th>CalPERS Funding Ratio</th>
<th>Target Balance</th>
<th>Pensions</th>
<th>CIP</th>
<th>Other Priorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;75%</td>
<td>13%</td>
<td>90%</td>
<td>10%</td>
<td>-</td>
</tr>
<tr>
<td>&gt;=75% and &lt;82.5%</td>
<td>15%</td>
<td>70%</td>
<td>30%</td>
<td>-</td>
</tr>
<tr>
<td>&gt;=82.5% and &lt;90%</td>
<td>16.5%</td>
<td>50%</td>
<td>40%</td>
<td>10%</td>
</tr>
<tr>
<td>&gt;=90% or higher</td>
<td>18%</td>
<td>-</td>
<td>50%</td>
<td>50%</td>
</tr>
</tbody>
</table>
• Continue to pay annual upfront liability upfront

• Make Additional Discretionary Payment (ADP) - A one-time discretionary payment to CalPERS in order to pay off a portion of the unfunded liability
Potential Impact of ADP – Five Year Forecast

- **FY 2024 Outlook**:
  - Expenditures: $135.1M
  - Expenditures with $10.5M ADP: $132.9M

- **FY 2025 Outlook**:
  - Expenditures: $139.7M
  - Expenditures with $10.5M ADP: $137.5M

- **FY 2026 Outlook**:
  - Expenditures: $142.4M
  - Expenditures with $10.5M ADP: $141.3M
  - Revenues: $144.6M

- **FY 2027 Outlook**:
  - Expenditures: $147.6M
  - Expenditures with $10.5M ADP: $146.4M
  - Revenues: $148.9M

- **FY 2028 Outlook**:
  - Expenditures: $152.4M
  - Expenditures with $10.5M ADP: $151.2M
  - Revenues: $153.9M
1. Receive this report regarding the status of the City of San Buenaventura with the California Public Employee’ Retirement System

2. Authorize the Finance Department to adjust appropriations as necessary to make the Additional Discretionary Payment
Study Session for Proposed 2024-2028 Capital Improvement Program

Phil Nelson
Public Works Director
February 27, 2023
Topics

- Completed and Deleted Projects
- Added Projects
- Financial Overview
- Next Steps
- Discussion
## 3 Projects Completed in Current CIP

<table>
<thead>
<tr>
<th>Resource Area</th>
<th>Project Title</th>
<th>Fund</th>
<th>Project Total Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Streets &amp; Transportation</td>
<td>Hwy 126 Bike Gap Closure CMAQ</td>
<td>02 &amp; 12</td>
<td>$1,219,324</td>
</tr>
<tr>
<td></td>
<td>Sidewalk and ADA Ramp Improvements</td>
<td>05 &amp; 32</td>
<td>$303,521</td>
</tr>
<tr>
<td>Wastewater</td>
<td>Wastewater Plant – Aeration Blowers</td>
<td>71</td>
<td>$9,561,110</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$11,083,955</strong></td>
</tr>
</tbody>
</table>

64 Projects in Planning or Design    11 Projects in Construction
In-Progress Highlight: Montalvo Safe Routes to School

Victoria Avenue
Before

During

After

February 27, 2023
Public Works Department
REASONS FOR DELETION

- Scope included in other projects
- Completed in operations
- Alternative solutions
- No longer needed

<table>
<thead>
<tr>
<th>Program Area</th>
<th>No. of projects</th>
<th>Program Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Streets &amp; Transportation</td>
<td>1</td>
<td>$70 to 90M</td>
</tr>
<tr>
<td>Wastewater</td>
<td>2</td>
<td>$37,671,000</td>
</tr>
<tr>
<td>Water</td>
<td>1</td>
<td>$10,690,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4</strong></td>
<td><strong>$118 to 138M</strong></td>
</tr>
</tbody>
</table>
# 8 New Projects Added to FY2024-2028 CIP

<table>
<thead>
<tr>
<th>Program Area</th>
<th>Priority</th>
<th>Project Status</th>
<th>Project Total</th>
<th>Project ID</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coastal</td>
<td>2</td>
<td>Partially Funded for Design Only</td>
<td>$760,340</td>
<td>90109</td>
</tr>
<tr>
<td>Transportation</td>
<td>2</td>
<td>Start FY24 Grant Funded</td>
<td>$3,526,000*</td>
<td>91158</td>
</tr>
<tr>
<td>Informational Technology</td>
<td>3</td>
<td>Start FY23 Grant Funded for Design Only</td>
<td>$473,270</td>
<td>97011</td>
</tr>
<tr>
<td>Facilities</td>
<td>3</td>
<td>Start FY24 Funding Not Identified</td>
<td>$4,650,000</td>
<td>93112</td>
</tr>
<tr>
<td>Parks</td>
<td>2</td>
<td>Partially Funded</td>
<td>$499,000</td>
<td>92950</td>
</tr>
<tr>
<td>Stormwater</td>
<td>2</td>
<td>Start FY24 Funding Not Identified</td>
<td>$1,762,000</td>
<td>95134</td>
</tr>
<tr>
<td>Stormwater</td>
<td>2</td>
<td>Start FY24 Funding Not Identified</td>
<td>$1,325,000</td>
<td>95135</td>
</tr>
<tr>
<td>Ventura Water</td>
<td>2</td>
<td>Start FY24 Fund 72 CIP Funded</td>
<td>$3,240,000</td>
<td>96974</td>
</tr>
</tbody>
</table>

*New Project*

---

**February 27, 2023**

Public Works Department
Adopted FY 2023 – 2027 CIP

**Funded**
- 3 Street Resurfacing CIP Projects $8.37M
- 7 Sidewalk Repair/ADA Improvements $7.74M
- 13 Street Resurfacing Maintenance Projects $15.6M

**Unplanned**
- 2 Street Resurfacing CIP Projects $7.7M
- 6 Street Resurfacing Maintenance Projects $17.5M
Proposed 2024-2028 CIP by Program Area

$946M Total Value
135 Projects

- 54% Funded
- 46% Unfunded

- Streets & Transportation, $268
- Wastewater, $382
- Water, $167
- Coastal, $17
- Facilities, $20
- Information Technology, $16
- Parks and Medians, $32
- Public Art, $1
- Stormwater, $43

February 27, 2023
Public Works Department
Five-Year Workplan by Program Area

$842M Total Value
115 Projects

60% Funded

40% Unfunded

Water, $167

Wastewater, $382

Streets & Transportation, $208

Coastal, $17

Facilities, $16

Information Technology, $16

Parks and Medians, $6

Public Art, $1

Stormwater, $29
Five-Year Potential Grant by Program Area

- Streets & Transportation, $60.00
- Parks and Medians, $27.50
- Stormwater, $14.60
- Facilities, $4.57
- Public Art, $0.07

$105M Total Value
20 Projects
Next Steps

✓ Jan 11th – Parks Commission Review
✓ Jan 23rd – Submitted Proposed CIP
✓ Feb 27th – Council Study Session
  o Receive public comment
  o Council questions, discussion, and direction to staff
• Feb 28th – Water Commission Review
• Mar 22nd – Planning Commission Review
• Mar 27th - Public Hearing and Adoption
  o The CIP must be adopted by April 1, 2023
Recommendation

Conduct a Study Session on the proposed CIP including public input

No formal Council action required.

Unless directed otherwise, staff will prepare CIP for adoption as presented.