

BUDGET AND FINANCE/TRANSPORTATION & COMMUNITY DEVELOPMENT COMMITTEES
AGENDA

Tuesday, November 29, 1988

2:00 p.m.

Planning Commission Hearing Room
1231 I Street, First Floor
Sacramento, CA

1. Res. approving the Miller Park development concept and directing staff to call for qualifications and proposals relating to the development of the 2.5 acre Miller Park and the 5.6 acre parcel of land east of the railroad tracks. (D1)

RECOMMENDATION OF STAFF: RECOMMEND APPROVAL AND FORWARD TO COUNCIL

-
2. Various matters regarding the Housing Trust Fund (HTF) Ordinance: (D-All)

- A. Res. amending the Fee and Charge Report to establish fees for administering Housing Trust Fund requirements;
- B. Res. amending the FY 1988-89 Operating Budget for Housing Trust Fund contribution processing revenue;
- C. Ord. adding Section 33 to the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, relating to Housing Trust Fund requirements for non-residential development projects.

RECOMMENDATION OF STAFF: RECOMMEND APPROVAL AND FORWARD TO COUNCIL

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

3. Res. approving the relocation of the County Health Department's Public Inebriate Facility from 2700 Front Street. (D1)

RECOMMENDATION OF STAFF: APPROVE RECOMMENDATIONS AND FORWARD TO COUNCIL

-
4. Res. adopting the Housing Assistance Plan, Program & Financing Strategy. (D-All)

RECOMMENDATION OF STAFF: RECOMMEND APPROVAL AND FORWARD TO COUNCIL

COMMITTEE MEMBERS: Robie (Chair), Chinn, Ferris, Kastanis, Mueller, Pope, Serna, Shore

COPY

CITY OF SACRAMENTO
STATE OF CALIFORNIA

--o0o--

In re the matter of)
)
Various matters regarding)
the Housing Trust Fund)
(HTF) Ordinance: (D-All))
_____)

--o0o--

Joint Meeting of the
Transportation and Community Development Committee
and the
Budget and Finance Committee
November 29, 1988

--o0o--

(Transcription from Taped Proceedings)

--o0o--

CAPITOL REPORTERS

DEPOSITION & GENERAL COURT REPORTERS

1828 TRIBUTE ROAD, SUITE G - SACRAMENTO, CA 95815

(916) 923-5447

TRANSPORTATION AND COMMUNITY DEVELOPMENT COMMITTEE
MEMBERS PRESENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Lynn Robie
Lyla Ferris
Terry Kastanis
David Shore

BUDGET AND FINANCE COMMITTEE MEMBERS PRESENT

Joe Serna
Tom Chinn
Kim Mueller
Doug Pope

1 JOINT MEETING OF THE TRANSPORTATION AND
2 COMMUNITY DEVELOPMENT COMMITTEE and
3 THE BUDGET AND FINANCE COMMITTEE
4 NOVEMBER 29, 1988

5 CHAIRPERSON ROBIE: We're going to move to Item 2
6 now. Do you want 4 first, or 2 first?

7 You want 2 and 4 together, but you want 4 first?

8 MR. MOLLOY: Yes.

9 CHAIRPERSON ROBIE: Okay. Let's move to Item 4
10 then.

11 This is to keep you on your -- alert here, so
12 that --

13 UNIDENTIFIED SPEAKER: (Inaudible).

14 CHAIRPERSON ROBIE: Sorry.

15 UNIDENTIFIED COUNCILMEMBER: (Inaudible) up on the
16 agenda this way.

17 CHAIRPERSON ROBIE: Item 4, please.

18 MR. MOLLOY: Madam Chair, members of the joint
19 committee.

20 CHAIRPERSON ROBIE: Well, do you want us to read
21 it, John, first or --

22 MR. MOLLOY: Oh.

23 CHAIRPERSON ROBIE: Yeah.

24 MR. MOLLOY: By all means.

25 CHAIRPERSON ROBIE: We'll read it first.

 THE CLERK: Resolution adopting the Housing

1 Assistance Plan, Program and Financing Strategy.

2 CHAIRPERSON ROBIE: Good. John?

3 MR. MOLLOY: Item 2, which is on your agenda, and
4 which will follow, is an integral part of the overall
5 recommendations of the Housing Assistance Plan, Program and
6 Financing Strategy.

7 I just wanted to preface that with the larger
8 picture of what your Housing Finance Task Force has
9 recommended to you.

10 The Housing Finance Task Force was appointed
11 jointly by the Board of Supervisors and by your Council to
12 look at issues involved with raising funds, at a local
13 level, to help construct and support affordable housing for
14 low and very low income people throughout the City and
15 County of Sacramento.

16 It's a very serious problem. I think we're all
17 familiar with the facts of the Federal budget deficit.

18 And the Housing and Urban Development Budget has
19 been decreasing annually. And, essentially, the Federal
20 government has been backing away from the issue of
21 provision of low income housing.

22 Your Housing Finance Task Force worked for about a
23 year and a half, looking at various measures, various ways
24 to come up with local financing strategies to help
25 subsidize the production of low income housing.

1 The essence of their recommendation is that the
2 City and the County should jointly come together in support
3 of a public/private partnership to further the production
4 of housing affordable to very low income Sacramentans.

5 And the way that they are recommending that this be
6 done is that we maximize the housing credits available
7 through the Federal and State tax systems.

8 We maximize equity participation on the part of the
9 development community.

10 And that we also use our best efforts to bring
11 together the traditional loan resources, through savings
12 and loans institutions, commercial banks and so forth, and
13 try to maximize the debt side of the equation.

14 But, that, essentially -- and, as we went through
15 our pro formas and looked at what it takes to deliver a
16 unit of housing affordable to a very low income family in
17 Sacramento, we came to the inevitable conclusion that you
18 do need subsidy funds to deliver a housing unit which is
19 affordable to low income Sacramentans.

20 The prototypical pro forma that the Task Force
21 adopted was a 800 square foot, two bedroom, one bath,
22 42,000 dollar cost rental unit.

23 And there was a consensus agreement that we would
24 adopt that as the prototypical pro forma.

25 If you went through that, and tried to maximize the

1 equity, and maximize the debts which could be supported at
2 a rent level affordable to those in the 50 percent of
3 median bracket or below, you -- we found that the average
4 subsidy needed to produce one of those units was about
5 12,000 dollars a unit.

6 So, roughly 30 percent of the cost needs to be
7 delivered in some form of a subsidy to that project.

8 And the Task Force then looked at the need
9 throughout the County. And their focus was County wide,
10 and their focus was on the provision of housing for very
11 low income people.

12 They found, based on census statistics, that there
13 are some 24,000 very low income renter households in the
14 County of Sacramento that are paying more than 50 percent
15 of what they do earn for rent.

16 Remember that the housing subsidies, unlike basic
17 welfare, unlike food stamps, unlike Medi-Care, Medi-Caid
18 and so forth, are not entitlements. They are on a first
19 come, first serve basis.

20 And only about 20 percent of those eligible for
21 housing subsidies, either through Section 8 or public
22 housing, receive those subsidies.

23 Many persons who are eligible do not receive them.
24 And what you end up with is this population of very low
25 income renters in the County paying exorbitant portions of

1 what they do earn for rent.

2 So, that became the focal point of the Task Force.
3 And they found you couldn't deliver a unit to that
4 population for anything less than about a 12,000 dollar
5 subsidy injection per unit.

6 What they proposed was what we call the Sacramento
7 Housing Partnership. And they set a target figure of 1,000
8 new affordable rental units to be produced in Sacramento
9 County each year. And that's essentially a 42 million
10 dollar program.

11 And the Task Force recommended that roughly -- of
12 that 42 million dollar annual program, about 30 percent
13 could come from equity sources, particularly with the
14 availability of the Federal and State tax credits for low
15 income housing.

16 So, about 13 million dollars coming from the equity
17 side. About 40 percent of the program coming from the debt
18 side -- roughly 16 million dollars, or thereabouts.

19 And then our traditional sources of housing subsidy
20 that we have historically used -- tax increments, community
21 development block grant and other competitive grants that
22 we've gone after at the State level, and so forth.

23 Our track record has produced about six and a half
24 million dollars, or about 15 percent of the total amount
25 needed for that 1,000 unit per year program.

1 And then, we're -- the Task Force also recommended
2 two new resources, one of which is the subject of the other
3 item on the agenda, the development fee.

4 The idea here is that, as new development occurs,
5 the -- there is additional need for new affordable housing.

6 And this would essentially be a mitigation fee for
7 new housing demand created by new development as it occurs.
8 That would generate about 9 percent of the total amount
9 needed.

10 And then the Task Force also recommended the idea
11 of going to the -- a vote of the people for some additional
12 tax revenues.

13 They saw the possibility of an employee tax, which
14 would be paid by employers for each employee that they have
15 on their work force.

16 And foreseeing problems with that, they then said
17 that if the employee tax were unsuccessful, that the City
18 and County -- the Board of Supervisors and the City Council
19 should come up with some matching funds from their general
20 fund, to at least match the amount that the development
21 community was putting up.

22 Those were the recommendations of the Task Force.

23 We certainly do wish to explore the employee tax.
24 But, in conjunction with trying to meld the Task Force's
25 recommendations with the recommendations coming out of the

1 North Natomas legal settlements, we've come up with
2 slightly different approach to the development fee
3 recommendation.

4 Which Steve Peterson and myself will be getting
5 into here shortly.

6 But, that was the essence -- the overall essence of
7 what came out of your Housing Finance Task Force. And I
8 think the important point is that it's not just the
9 development fee that's being recommended.

10 It is an overall effort -- a larger effort -- to
11 put together a public/private partnership for the
12 construction of affordable housing in Sacramento.

13 CHAIRPERSON ROBIE: Good. Excellent. Questions?
14 Doug has a question.

15 COUNCILMEMBER POPE: John, if I understand it, they
16 figure it'll -- there's a 12,000 dollar deficit in putting
17 up -- producing each unit.

18 MR. MOLLOY: Per unit. Right.

19 COUNCILMEMBER POPE: And this money, then, from
20 this Trust Fund here, all those figures down there, that
21 total -- 42 million, would go to fill that 12,000 dollar
22 gap?

23 MR. MOLLOY: No. 42 million is the total cost of
24 developing a thousand units a year, at 42,000 dollars a
25 unit.

1 COUNCILMEMBER POPE: And, so that -- how would you
2 be making up the gap?

3 MR. MOLLOY: The gap would be made from those
4 traditional governmental resources that we've indicated
5 there.

6 What we've -- our track record -- what we've been
7 able to come up with in tax increments and community
8 development block grant funds, and so forth.

9 And then, additionally, those two new resources
10 that are recommended, the development fee, and then the
11 employee tax.

12 COUNCILMEMBER POPE: They would go to make up that
13 gap, then?

14 MR. MOLLOY: They would go to make up about half of
15 the gap. The other half being made up from the traditional
16 governmental resources.

17 COUNCILMEMBER POPE: And would that -- (inaudible)
18 says there would probably be partial direct grants, and
19 then partial loans in there, or all loans, or?

20 MR. MOLLOY: We would continue to pursue every
21 available Federal and State subsidy resource, such as
22 public housing construction funds, special grants from the
23 state, that we've -- have been traditionally pursuing.

24 So, we would go after those. But, in addition,
25 we're asking for these additional resources to help fill

1 that gap.

2 All of that would come together, and we would try
3 to put together the tax credit resources, the debt
4 resources, and the gap resources, turn to the private
5 sector, and ask -- on a request for a proposal basis, for
6 proposals to construct -- actually construct the housing.

7 We might want to do a little bit of it ourselves as
8 the Housing Authority. CADA might want to participate.

9 But, primarily, we're looking to a private sector
10 construction program.

11 COUNCILMEMBER POPE: But, like that gap -- that
12 money that's going into the 12,000 dollar gap, would that
13 be -- would we just be lending that to the individual unit?
14 I mean --

15 MR. MOLLOY: Yeah. We would structure that
16 primarily as a silent second, a deferred second. That
17 would be out there -- recaptureable upon re-sale type of
18 thing.

19 But, essentially, an up front equity injection to
20 make the project cost lower at the front end, so that the
21 people earning less than 50 percent of median income could
22 afford to go into that (inaudible).

23 COUNCILMEMBER POPE: So, if there were to be any
24 modification in the -- you know, if we didn't get the
25 employee tax, or the developer fees weren't adopted the way

1 you suggested, we would just then be modifying the dollar
2 amount that would be going into this Trust Fund?

3 MR. MOLLOY: Yeah. And you'd be lowering the total
4 unit.--

5 COUNCILMEMBER POPE: Production.

6 MR. MOLLOY: Yeah. The production end.

7 COUNCILMEMBER POPE: It wouldn't totally shut off
8 the idea, but it would just cut down the number?

9 MR. MOLLOY: That's correct. And we would be back
10 to you, I can assure you, with other proposals on it.

11 We want to raise that gap subsidy fund that we need
12 to --

13 CHAIRPERSON ROBIE: Tom, and then Lila.

14 COUNCILMEMBER CHINN: John, it was contained in the
15 separate document that you gave us, but could you expand on
16 the employee tax a little bit? And, also --

17 MR. MOLLOY: Okay.

18 COUNCILMEMBER CHINN: -- how -- what do you really
19 feel are the chances of getting that, because I --

20 MR. MOLLOY: The conceptual argument behind that --
21 and we did go into this at some length on the Task Force.

22 The development community was saying, "Don't target
23 us. This is a societal problem that needs to be taken care
24 of societally. Don't put the burden on us."

25 And, so, in an effort to balance that, rather than

1 just targeting new development as it occurred, we wanted to
2 go back and, essentially, try to put some of the burden on
3 existing employers that are, in fact, paying many of their
4 employees minimum wage, and so forth, and contributing, in
5 that sense, to those in need of a housing assistance.

6 So, the philosophy there was to try to balance the
7 load, if you will, between the new development and the
8 existing development.

9 It would be -- in order to raise the three million
10 six hundred thousand dollar target figure, it'd be a tax a
11 10 dollars per employee for every private employee.

12 We couldn't go after the State or the Feds, but
13 it'd be every private employee in Sacramento County.

14 So, annually, we would have to impose that tax on
15 all employers in the County.

16 We would have to seek special State legislation for
17 this. So, that would be the first hurdle. And then we
18 would have to put it on the ballot and have it voted on.

19 The closest parallels that I can give you were the
20 recent support of housing bond issues at the State wide
21 level, and there appears to be some support for that.

22 And then another indicator that we have that there
23 might be some support for this is the fact that, in order
24 to build public housing in the State of California, you
25 have to go to the voters and obtain their approval for

1 public housing.

2 We've done that on a number of occasions, in the
3 City and the County of Sacramento. The last time we went,
4 we obtained approval for 45 hundred units of public housing
5 construction, and that was overwhelmingly approved. Almost
6 by a two-thirds majority.

7 So, there are some indicators there. If you
8 authorize us to proceed with this, we would certainly like
9 to do some sample polling, those kinds of things, before we
10 go to the full effort of developing a ballot issue.

11 COUNCILMEMBER CHINN: What percentage vote do you
12 need? Two-thirds or majority?

13 MR. MOLLOY: No. If we get the authorization from
14 the State for a special tax, it'd be 51 percent.

15 COUNCILMEMBER CHINN: Okay. The other thing is --

16 MR. MOLLOY: A majority vote.

17 COUNCILMEMBER CHINN: -- as far as the State
18 legislation is concerned, would that be enabling
19 legislation?

20 MR. MOLLOY: Right.

21 COUNCILMEMBER CHINN: But not limited just to
22 Sacramento? Anybody else can use it?

23 MR. MOLLOY: No. We would seek special legislation
24 just --

25 COUNCILMEMBER CHINN: Just for Sacramento?

1 MR. MOLLOY: Just for Sacramento.

2 CHAIRPERSON ROBIE: Lila?

3 COUNCILMEMBER FERRIS: I think that you probably
4 answered my question when you spoke to -- when you answered
5 Mr. Pope's question.

6 But, I just wanted to go -- I just want to hit it
7 one more time to make sure that it's really clear.

8 If we were not to be able to put in these new
9 financing methods for the gap, which total 18 percent
10 roughly, would that -- or 15 percent -- 18 percent --

11 MR. MOLLOY: 18 percent.

12 COUNCILMEMBER FERRIS: 18 percent. Would that
13 mean, then, that we'd be cutting the number of units --

14 MR. MOLLOY: Oh, yeah. Absolutely.

15 COUNCILMEMBER FERRIS: -- by more than half.

16 MR. MOLLOY: Essentially, what you'd be is reduced
17 to your existing program, which is really a very paltry
18 program.

19 We're lucky, in a good year, to crank out 300
20 units, maybe 400.

21 COUNCILMEMBER FERRIS: So, we'd essentially be back
22 to status quo.

23 MR. MOLLOY: Oh, right.

24 COUNCILMEMBER FERRIS: Okay.

25 MR. MOLLOY: But we would not abandon this -- the

1 principle. We still want to go with the public/private
2 partnership to the maximum extent possible.

3 COUNCILMEMBER FERRIS: Right.

4 MR. MOLLOY: Get the private sector to participate
5 in the construction of these units. We do not --

6 COUNCILMEMBER FERRIS: At a thousand units, how
7 long does it take us meet the need, at a thousand units a
8 year?

9 MR. MOLLOY: It -- a thousand units a year is a
10 very meager program --

11 COUNCILMEMBER FERRIS: That's right.

12 MR. MOLLOY: -- when compared to the overall need.
13 It's an aggressive program compared to our historical track
14 record in putting low income units on the ground.

15 But, in terms of meeting the need out there, as I
16 said, we have, right now, 24,000 very low income renter
17 households in the County of Sacramento that are paying more
18 than what they -- 50 percent of what they do earn for rent,
19 so.

20 COUNCILMEMBER FERRIS: It seems to me that, at
21 roughly 300 or 400 units a year, we're probably going
22 behind.

23 MR. MOLLOY: Oh, yes. Absolutely. There is -- one
24 component of the Federal subsidy program, which is the
25 privately held Section 8 housing, that many of the owners

1 of those developments are opting out of the program.

2 And, so, we're going the other way as fast as we're
3 going -- we're losing as many units annually as we're
4 putting on the ground.

5 CHAIRPERSON ROBIE: Okay.

6 COUNCILMEMBER MUELLER: I have one --

7 CHAIRPERSON ROBIE: Kim.

8 COUNCILMEMBER MUELLER: -- question. With regard
9 to the Trust Fund proposal in particular, you mentioned two
10 areas where the recommendation differs slightly from the
11 Task Force's concept.

12 For instance, the Ordinance that we're going to be
13 considering allows a builder pay option. The Task Force
14 did not recommend --

15 MR. MOLLOY: Yeah.

16 COUNCILMEMBER MUELLER: -- that. And the Task
17 Force also recommended this independent Board of Trustees.

18 Have those differences been reviewed at the Task
19 Force? Do they have a recommendation as a Task Force on
20 those differences, and also, what exactly do we lose if we
21 don't go with the independent Board of Trustees?

22 MR. MOLLOY: Well, the recommendation coming out of
23 your Planning Commission and Redevelopment Commission was a
24 blended recommendation, which included the build or pay
25 option.

1 We would generate a lot less money under that
2 option than we would under the pure low income option which
3 was recommended by the Task Force.

4 All -- I think all of the members of the Task Force
5 are aware of what has occurred in that subsequent iteration
6 in which the two proposals were blended together. Some of
7 them are here today and they want to speak to that aspect
8 of it.

9 But, most of the advocates -- the Housing advocates
10 on the Task Force, I think, are somewhat disappointed by
11 that approach, which generates less total money for --

12 COUNCILMEMBER MUELLER: Right.

13 MR. MOLLOY: -- the subsidy program.

14 The other part of your question --

15 COUNCILMEMBER MUELLER: Board of Trustees.

16 MR. MOLLOY: The Board of Trustees --

17 COUNCILMEMBER MUELLER: Is there anything lost if
18 we don't establish an independent separate board?

19 MR. MOLLOY: Probably.

20 COUNCILMEMBER MUELLER: Uh-huh.

21 MR. MOLLOY: Probably. We would like a
22 partnership. It depends upon how -- at what point you view
23 it.

24 We want to bring into our partnership a lot of
25 private sector investors, bankers, and other builders, and

1 other people. We're going to be soliciting private
2 builders to come into the program.

3 The recommendation coming out of your Commission
4 was to let the Sacramento Housing Redevelopment Commission,
5 essentially, act as the recommending authority for the
6 funds.

7 You would contribute -- retain ultimate control of
8 your portion -- that -- those Trust Fund monies that would
9 be generated within the City, you would control.

10 And the County, likewise, would control that
11 portion generated in the County.

12 So, they would be acting as the ultimate, and you
13 would be acting as the ultimate, Board of Trustees,
14 reviewing projects that were recommended to be financed,
15 using Trust Fund monies.

16 COUNCILMEMBER MUELLER: So, we might lose the
17 opportunity to involve some more private sector folks in a
18 more meaningful way?

19 MR. MOLLOY: We're confident we can get that
20 anyway.

21 CHAIRPERSON ROBIE: Good. David. And then Doug.

22 COUNCILMEMBER SHORE: Just a couple questions.

23 First one, on the employee tax -- a bit of a
24 comment as well as a question -- I have a problem with that
25 in that we'd have a tax that would affect the private

1 sector, but not the State and Federal governments, since
2 they're outside of our jurisdiction. And so it becomes an
3 unfair tax, it seems to me.

4 The other thing is that this is taxed on the
5 employer --

6 MR. MOLLOY: Yeah.

7 COUNCILMEMBER SHORE: -- him or herself --

8 MR. MOLLOY: Right.

9 COUNCILMEMBER SHORE: -- and, if I'm mistaken,
10 because of the number of people coming to the City every
11 day, there's probably a greater amount of employment in the
12 City limits versus outside, because that's the traffic
13 flows.

14 So, it would seem like -- just a quick
15 observation -- that this would be a heavier tax burden on
16 the City versus the County, because that's where the
17 employment sector is.

18 So, those two observations, it -- just -- difficult
19 tax for me to accept.

20 On -- now questions -- on the Trust Fund itself,
21 when we're dealing with enterprise zones, redevelopment
22 areas, or perhaps the downtown incentive zone, where
23 there's an effort for fee waiver, is there any --

24 MR. MOLLOY: We looked long and hard at the issue,
25 particularly on the downtown redevelopment.

1 What we are proposing there is that projects within
2 the downtown redevelopment area would be liable to the
3 Trust Fund fee.

4 However, the City Council retains discretion
5 through its redevelopment agency powers, to assist that
6 developer in other ways, potentially offsetting the impact
7 of that.

8 So, you could use your tax increment resources, or
9 whatever, to offset that.

10 But we wanted to, in the -- particularly since
11 we're trying to bring the County into this, we wanted to
12 not exclude large areas of the City from being impacted by
13 the --

14 COUNCILMEMBER SHORE: And especially for equity
15 purposes too, there are brief questions.

16 One is, as I understand it, Los Angeles -- and
17 they're in the midst of a similar effort right now with
18 their downtown redevelopment.

19 I meant to bring the article in the Times
20 yesterday. They're doing quite the same thing, but I
21 believe they have a Housing Trust Fund in the range of five
22 to six dollars a square foot, and in Los Angeles.

23 And I'm imagine their five, six dollars is -- it's
24 a higher amount because you have different land values at
25 play in Los Angeles.

1 Did the Housing Trust Fund -- or Committee -- look
2 at the concept of perhaps, instead of a set amount per
3 square foot, working with a percentage.

4 Because, arguably, L.A. -- it makes sense at five
5 dollars, because the land values are so much greater -- or
6 the cost of construction -- all those factors are so much
7 greater, that you have a different economic climate versus
8 Sacramento.

9 Yet, within Sacramento, you have ranges from
10 possibly 40 dollars a square foot to land values, I guess,
11 going over 130 and higher.

12 MR. MOLLOY: Kate Funk is here from Keyser Marston
13 and probably is the best person to answer that.

14 I can give you a quick answer that might satisfy
15 you.

16 And that is what we did on the Task Force when we
17 hired Keyser Marston to look at the nexus between new
18 development and the need for housing being generated from
19 that development, is we tried to be sensitive to the impact
20 on different types of commercial development.

21 For example, the fee on warehouse development, it's
22 much lower than the fee on hotel development, or commercial
23 development.

24 Overall, we looked at the impact on the ultimate
25 lease rates that that commercial property would have to

1 lease for, and tried to hold that impact at something less
2 than three percent.

3 So, as a result of the fee, if you were going to
4 lease something for a dollar, you might have to now lease
5 it for a dollar three in order to recoup your cost.

6 So, we tried to hold the lease rate impact at
7 something less than three percent overall.

8 COUNCILMEMBER SHORE: But, the point is, is that
9 land that now sells at, let's say, a hundred dollars a
10 square foot, five years from now, may be triple that or
11 whatever, because of the sit changing economic climate here
12 in Sacramento.

13 That leaves in a position of either revisiting the
14 issue on an annual basis --

15 MR. MOLLOY: Oh. I see.

16 COUNCILMEMBER SHORE: -- or (inaudible). Yeah.

17 MR. MOLLOY: Well, you could -- that would
18 certainly be the Council's discretion if you wanted to.

19 COUNCILMEMBER SHORE: And I haven't thought it out.
20 I'm just saying that that might -- the percentage might be
21 a concept worth looking at as far as -- One last question,
22 and it's -- this might -- maybe I shouldn't even ask this.

23 In the downtown area, we have the two percent art
24 fund, and I understand -- at least it's been -- I've been
25 advised that a lot of that money is now spent in the

1 buildings in such a way that -- because downtown developers
2 are trying to do something with their buildings, they'd
3 probably spend that money on the buildings regardless --
4 would you be willing to take a look at the concept of,
5 perhaps, taking that two percent art fund and maybe
6 redirecting one percent housing, one percent child care, or
7 some such concept.

8 Because -- I know it sounds controversial on the
9 surface, but if people are taking the art fund and spending
10 on the building structure itself -- the lobbies, the
11 interior -- it's almost like a subsidy be turned to the
12 private sector, and the money's not being -- we're not
13 really gaining anything out of it.

14 MR. MOLLOY: Yeah.

15 COUNCILMEMBER SHORE: I'm just going to lay it out
16 for a thought.

17 MR. MOLLOY: We're willing to visit taking money
18 from the zoo to --

19 COUNCILMEMBER SHORE: That was my next question.

20 COUNCILMEMBER CHINN: No, you won't.

21 MR. MOLLOY: -- (inaudible) housing, but the --

22 COUNCILMEMBER SHORE: I'd like to at least take a
23 look at that, because --

24 UNIDENTIFIED COUNCILMEMBER: I think that's
25 considered a (inaudible) question.

1 CHAIRPERSON ROBIE: No.

2 MR. MOLLOY: Yeah. Sure. We could look at that,
3 Dave.

4 COUNCILMEMBER SHORE: Okay. Looking at you
5 realizing that two percent, because that might be an area
6 where we could do something. Okay.

7 CHAIRPERSON ROBIE: Okay. Doug had one last
8 question.

9 COUNCILMEMBER POPE: John, I was trying to figure
10 in --

11 CHAIRPERSON ROBIE: Okay.

12 COUNCILMEMBER POPE: -- I've been trying to find
13 through thing where the fee is -- the amount of the fee. I
14 can't find it in two or this one.

15 MR. MOLLOY: It's in the City's --

16 MR. PETERSON: I'm looking for it.

17 MR. MOLLOY: Yeah.

18 MR. PETERSON: It's Appendix A to the Ordinance,
19 which is on page --

20 CHAIRPERSON ROBIE: Or, I think it's in the other
21 item.

22 MR. MOLLOY: It's in item --

23 CHAIRPERSON ROBIE: Yeah. It's in the other item.

24 MR. MOLLOY: -- two.

25 CHAIRPERSON ROBIE: Yeah. It's back at two.

1 COUNCILMEMBER POPE: I found budget amounts.

2 CHAIRPERSON ROBIE: Maybe we should move forward
3 with this, and then go into the Housing Trust Fund.

4 You want to do that?

5 COUNCILMEMBER POPE: So -- well -- I was just sort
6 of clarifying to John, if we -- when we go with this one,
7 we aren't adopting necessarily the amount of the fee
8 (inaudible)?

9 CHAIRPERSON ROBIE: No.

10 MR. MOLLOY: If you go with -- we would like the
11 issue of the development fee deferred to Item 2 altogether.

12 CHAIRPERSON ROBIE: Yeah.

13 MR. MOLLOY: The essence of Item 4 is the
14 public/private partnership and the other supportive
15 recommendations coming out of your Task Force, but not the
16 development fee which we consider to be a separate --

17 CHAIRPERSON ROBIE: Which is the next item.

18 MR. MOLLOY: -- matter.

19 CHAIRPERSON ROBIE: Okay.

20 COUNCILMEMBER POPE: John -- excuse me -- they
21 based this on -- they set this thousand goal of low income
22 units.

23 These aren't necessarily people that are just
24 sitting out in the street waiting in line for an apartment
25 right now, are they?

1 MR. MOLLOY: Oh, no. These are -- one component
2 that we wanted to address are those folks who are currently
3 in situations where they are extensively overpaying for
4 housing. These are the people that are, you know, the next
5 rent check could put them on the street.

6 That's the target group that we're trying to
7 provide for.

8 COUNCILMEMBER POPE: How did you identify that they
9 were overpaying?

10 MR. MOLLOY: With just looking at the aggregate
11 statistics for income, and then the statistics for rent
12 payments for that same group.

13 So, they have so much income and they're paying so
14 much for rent.

15 COUNCILMEMBER POPE: Was this -- the monies from
16 this Trust Fund, would they apply to new units only, or
17 would it apply to rehabilitation of units?

18 MR. MOLLOY: Our goal is to add net new units to
19 the inventory. If the rehab was such that the units were
20 currently out of service, or in such a state that they were
21 not serviceable at this time, then we would consider rehab
22 as a possibility.

23 We're trying to focus on rental units. We do not
24 think that home ownership is a viable option for the
25 majority of people in this income bracket. And we're

1 trying to add net new units.

2 COUNCILMEMBER POPE: With the thousand, now, are
3 you anticipating then they'll move out the existing units
4 they're in, and move into your units?

5 MR. MOLLOY: A portion of them may, and we fully
6 assume that the units that they move out of would be
7 occupied by others in similar or, hopefully, slightly
8 better income characteristics.

9 COUNCILMEMBER POPE: I -- if we're able to achieve
10 production of a thousand new units each year, did you
11 calculate the impact that would have on the general overall
12 rental rates?

13 MR. MOLLOY: Yeah. It's -- essentially, you've got
14 more than that number of multi-family units being produced
15 on the average in Sacramento County every year anyway.

16 COUNCILMEMBER POPE: Oh.

17 MR. MOLLOY: You're going to change the equation.
18 and try to skew what is being built more towards the
19 affordability side, than -- and so, a thousand units a year
20 is not a big figure for Sacramento County.

21 COUNCILMEMBER POPE: Right. That would be a
22 (inaudible) production.

23 MR. MOLLOY: Yeah. They're -- that's about right.

24 COUNCILMEMBER POPE: (Inaudible) figure.

25 MR. MOLLOY: But we're not getting enough of the

1 production amount in the affordability range for the
2 population we're trying to hit.

3 That's what we want to do with this, is we want to
4 make more units on the ground affordable to the very low
5 income. Right now, a new unit in Sacramento County is
6 going to come on the market at somewhere between 450, 500
7 dollars a month, on the average.

8 We want to get that rent range down to about 325,
9 or even 300 dollars a month, to reach the target population
10 that we're (inaudible).

11 COUNCILMEMBER POPE: Well, it's the feeling of the
12 people who did this study that there aren't units available
13 at that range?

14 MR. MOLLOY: Oh, we know that there are not
15 (inaudible).

16 COUNCILMEMBER POPE: Really?

17 MR. MOLLOY: Yes. We know -- going out into the
18 marketplace --

19 UNIDENTIFIED SPEAKER: (Inaudible).

20 MR. MOLLOY: Sure. That's fine.

21 UNIDENTIFIED SPEAKER: Now, I know -- I know of
22 several buildings that rent them at that range.

23 MR. MOLLOY: We're not saying there are none that
24 are not out there.

25 We're saying, looking at the -- we got the

1 statistics here somewhere. Right there.

2 Okay. A three person household earning 15,200
3 dollars a year, which would be 50 percent of the County
4 wide median.

5 At a 30 percent -- if they were to pay 30 percent
6 of their income for housing, they could pay 340 dollars a
7 month.

8 If they went out into the marketplace looking for a
9 two bedroom, one bath unit, what they would find is an
10 average rental rate of about 425, or a little less than a
11 100 dollars above what they could afford to pay.

12 They would find a range of rentals out there, going
13 from 200 to 700 dollars a month. There are some that are
14 outside of that, but that is the usable range that you
15 would find.

16 UNIDENTIFIED SPEAKER: Higher than that. As a
17 renter, I can tell you (inaudible).

18 MR. MOLLOY: Our statistics, provided through the
19 divine MIS study, indicate that about five percent of the
20 total universe of units would be available to that family,
21 at 340 or less.

22 So, you would find some -- very small number -- if
23 you were adept if your housing search, you might be able to
24 find some. But there's a very limited number in that
25 range.

1 UNIDENTIFIED SPEAKER: Units in that range are
2 going to generally be (inaudible).

3 UNIDENTIFIED SPEAKER: True.

4 CHAIRPERSON ROBIE: Okay. We need to move forward.
5 There is a study that was just completed by the
6 County, which points out not only our -- is our growth --
7 is really in this area, where we're not meeting the needs
8 of the people today, we're not going to possibly be able to
9 meet them in the future.

10 I think we probably need to move forward on this
11 particular item and then go to the Housing Trust Fund
12 itself.

13 And I notice, on your staff recommendations, if you
14 deal with Item 1, 2 and then skip 3, which is to endorse
15 the Housing Trust Fund, which we're going to do in just a
16 second -- take that Item up -- do Item 4 and Item 5, then I
17 think that that would meet our needs, and they will move
18 forward.

19 And one of those -- the first Item is just a
20 negative declaration.

21 The second is to adopt the assistance plan and the
22 financial strategy.

23 The fourth is just to direct staff to take the
24 steps necessary to implement the recommendations -- come
25 back to report in 30 days.

1 And the last is a very important item, and that is
2 to commend the City/County Task Force and all of the effort
3 which they have put forward.

4 So, if we could do that, then we can move to
5 Item 2.

6 UNIDENTIFIED COUNCILMEMBER: Do we -- is there
7 public -- do we public testimony?

8 CHAIRPERSON ROBIE: Well, I think most of the
9 people here really are on the next item.

10 THE CLERK: They're on the next --

11 UNIDENTIFIED COUNCILMEMBER: Well, maybe you ought
12 to ask them.

13 CHAIRPERSON ROBIE: Well, is there someone who
14 wants to talk about -- we have had the Task Force
15 recommendations before us before, as they've been moving
16 along. Good.

17 Let's have a recommendation for that -- those
18 items -- the staff's recommendation. Items 1, 2, 3 -- 1,
19 2, 4 and 5.

20 Do we have a motion?

21 COUNCILMEMBER FERRIS: I make a motion that we
22 approve the staff recommendation Items 1, 2, --

23 CHAIRPERSON ROBIE: We have a motion by --

24 COUNCILMEMBER FERRIS: -- 4 and 5.

25 CHAIRPERSON ROBIE: Yeah. By Council member --

1 COUNCILMEMBER POPE: I'll second it.

2 CHAIRPERSON ROBIE: -- Ferris and the second by
3 Council member Pope. Okay.

4 UNIDENTIFIED COUNCILMEMBER: I just have a --

5 CHAIRPERSON ROBIE: Yes?

6 UNIDENTIFIED COUNCILMEMBER: -- procedures
7 question. On that recommendations -- since I got myself a
8 little lost here -- is that include the recommendation --
9 the financing recommendations?

10 MR. MOLLOY: Other than the developer fee.

11 UNIDENTIFIED COUNCILMEMBER: Other than --

12 CHAIRPERSON ROBIE: Yeah.

13 UNIDENTIFIED COUNCILMEMBER: -- developer fee.

14 MR. MOLLOY: So, with this approval, we would go
15 forward to develop that State legislation on the employee
16 tax, and --

17 UNIDENTIFIED COUNCILMEMBER: Okay.

18 MR. MOLLOY: -- give it there -- our best shot
19 there.

20 UNIDENTIFIED COUNCILMEMBER: Could I register my --
21 I'm going to support it, but register a no vote on the
22 employee tax. I don't agree with it.

23 CHAIRPERSON ROBIE: You could -- I guess what you
24 could do is actually register a no vote on Item 2, but you
25 really wouldn't want to do that, because --

1 UNIDENTIFIED COUNCILMEMBER: Or maybe just a no as
2 to that one aspect --

3 CHAIRPERSON ROBIE: Okay.

4 UNIDENTIFIED COUNCILMEMBER: -- of it, because I
5 don't disagree with the rest of it.

6 CHAIRPERSON ROBIE: Fine. We can do that.

7 UNIDENTIFIED COUNCILMEMBER: Maybe just reflect in
8 the record.

9 CHAIRPERSON ROBIE: Good. Okay.

10 UNIDENTIFIED COUNCILMEMBER: I thought that was on
11 Item -- I thought that was the part we were going to talk
12 about next.

13 UNIDENTIFIED COUNCILMEMBER: Next is the Trust
14 Fund.

15 UNIDENTIFIED COUNCILMEMBER: Oh, it's not in the
16 developer fee -- the employee tax?

17 MR. MOLLOY: No. No.

18 CHAIRPERSON ROBIE: No. It's not.

19 MR. MOLLOY: It's a separate recommendation.

20 UNIDENTIFIED COUNCILMEMBER: Oh. Okay. Because I
21 want to register a no on it too.

22 CHAIRPERSON ROBIE: Okay.

23 COUNCILMEMBER CHINN: I have similar concerns. I
24 think your point of governmental employers is a big factor.
25 Big factor.

1 CHAIRPERSON ROBIE: Well, maybe, John, you want to
2 talk to this item. You're not -- we're not recommending
3 that you go forward with it.

4 We're recommending that you do some of the research
5 and come back to us --

6 MR. MOLLOY: Yeah.

7 CHAIRPERSON ROBIE: -- and then you --

8 MR. MOLLOY: What we could do on this -- I
9 understand the objections to the employee tax.

10 This was a recommendation of your Task Force.

11 CHAIRPERSON ROBIE: Yes.

12 MR. MOLLOY: There are other taxing options which
13 could be visited in this.

14 What we would intend to do on the tax issue is come
15 back to you prior to going forward to the State seeking
16 special legislation, with maybe a further analysis of
17 exactly how it would work, what it would be, and --

18 UNIDENTIFIED COUNCILMEMBER: I don't object to
19 exploring it further.

20 MR. MOLLOY: Yeah.

21 UNIDENTIFIED COUNCILMEMBER: And -- what I have --
22 I have a strong reservation on that area of the employee
23 tax of just hitting the private people.

24 Goodness knows, the government is the largest
25 employer in Sacramento. And by not charging the government

1 a fee, you're assuming that everybody who makes a low
2 income is in the private sector.

3 MR. MOLLOY: Which is not the case.

4 UNIDENTIFIED COUNCILMEMBER: Which is not the case.

5 CHAIRPERSON ROBIE: Not the case.

6 UNIDENTIFIED COUNCILMEMBER: And --

7 UNIDENTIFIED COUNCILMEMBER: The City Council.

8 UNIDENTIFIED COUNCILMEMBER: Yeah.

9 UNIDENTIFIED COUNCILMEMBER: -- I'm interested
10 (inaudible) show the equity in that. And, then, also I'm
11 just going to show the basic equity of it. I'm not --

12 MR. MOLLOY: Remember the impetus behind your Task
13 Force's recommendation on this.

14 They're trying to balance the ledger between new
15 employers and the need that they generate, and the existing
16 need, which is generated by existing employers.

17 So, some way of achieving that end.

18 UNIDENTIFIED COUNCILMEMBER: There's a perverse
19 irony there that we're going to charge new employers for
20 creating employment --

21 UNIDENTIFIED COUNCILMEMBER: Yeah.

22 UNIDENTIFIED COUNCILMEMBER: -- that I have a
23 little trouble with, because -- I mean, just -- I just have
24 trouble with that concept. So, I just --

25 CHAIRPERSON ROBIE: Well, maybe we can give some

1 sort of reassurance that it will come back in greater
2 detail and, at that time, I think we can give some more
3 input.

4 MR. MOLLOY: That's fine with us.

5 CHAIRPERSON ROBIE: Yeah.

6 UNIDENTIFIED COUNCILMEMBER: Okay. Well, if you
7 treat it as (inaudible) coming back with tax options.

8 CHAIRPERSON ROBIE: I think we can do that. Is
9 that acceptable?

10 UNIDENTIFIED COUNCILMEMBER: I just (Inaudible) my
11 reservations.

12 UNIDENTIFIED COUNCILMEMBER: Okay.

13 UNIDENTIFIED COUNCILMEMBER: (Inaudible) acceptable
14 (inaudible).

15 CHAIRPERSON ROBIE: It will -- we will come back
16 with more detail -- staff will come back with more detail,
17 and we can actually make some specific recommendations at
18 that time.

19 That they will go forward and investigate it, but
20 they will -- nothing will be done until they return to the
21 Committee and then to the Council.

22 And the Committee as a whole can accept that?
23 Okay.

24 Let's move to Item 2. Would you like to read
25 Item 2?

1 THE CLERK: Various matter regarding the Housing
2 Trust Fund Ordinance.

3 CHAIRPERSON ROBIE: John, would you like to walk
4 through this?

5 MR. MOLLOY: I think Steve's going to do that.

6 CHAIRPERSON ROBIE: Okay. Steve?

7 MR. PETERSON: Steve Peterson with the City
8 Planning and Development Department.

9 Item 2, the Housing Trust Fund Ordinance, is before
10 you today.

11 This Ordinance was generally prepared by staff for
12 the Sacramento Housing Redevelopment Agency and the City
13 Planning and Development Department.

14 The Draft Ordinance represents a merger of the two
15 separately conceived Trust Fund proposals.

16 The first one was the one that John referred to in
17 the City/County Housing Task Force report, which
18 recommended a commercial development fee to increase the
19 supply of housing affordable to low income households.

20 The second proposal emanated from the North Natomas
21 Settlement Agreement, which was an effort to combine the
22 objectives of affordable housing with air quality and
23 jobs/housing balance concepts.

24 A Housing Trust Fund was first approved by the City
25 Council in 1986 to implement policies contained in the

1 North Natomas Community Plan.

2 The North Natomas Community Plan Housing Trust Fund
3 is intended to stimulate the production of housing in
4 nearby North Sacramento, and mitigate the negative effects
5 of North Natomas development on those adjacent areas.

6 After that date, the City Council later approved,
7 on December 15th, 1987, the concept of a Housing Trust Fund
8 Ordinance to be applied City wide, as one of several air
9 quality mitigation measures adopted as part of the
10 Sacramento General Plan Environmental Impact Report.

11 Most recently, the City Council approved, on
12 March 29th, 1988, the North Natomas Settlement Agreement,
13 which specifically provided for consideration of a Housing
14 Trust Fund Ordinance.

15 Staff was directed to develop an Ordinance in
16 substantial compliance with Exhibit J to the Settlement
17 Agreement, which is included in your staff report. I think
18 it's Attachment number one.

19 The process that the City staff followed in
20 developing the Ordinance was, two public hearings were held
21 before the City Planning Commission.

22 The staff developed their first draft of the
23 Ordinance on July 1st, 1988, and circulated it to 350
24 persons and organizations for review and comment.

25 A public workshop was held before the City Planning

1 Commission on July 21st and comments were received.

2 Staff then held individual meetings. Two meetings
3 specifically with the building industry association, and
4 several meetings with residential builders throughout the
5 City and other interested parties.

6 As a result of comments received through September,
7 a second draft was prepared and circulated for review and
8 comment on October 10th of 1988.

9 Because the City's Draft Housing Trust Fund
10 Ordinance and the City/County Housing Task Force proposals
11 were similar in nature, a decision was made to have a joint
12 public hearing between the City Planning Commission and the
13 Sacramento Housing Redevelopment Commission for the purpose
14 of making a single proposal to the City Council.

15 The joint public hearing was held on October 24th
16 of 1988. And, as a result of that meeting, the two
17 Commissions unanimously approved the Draft Ordinance which
18 is before you today.

19 The Ordinance, as it's presently written, would
20 apply to all non-residential development projects that
21 propose to construct, add, or remodel buildings that
22 attract new employees in the City of Sacramento.

23 The requirements contained in the Ordinance are
24 designed to create a reasonable relationship between the
25 amount of housing need associated with the employment use

1 and the size of the fee of the housing construction
2 requirement.

3 Under the Ordinance, an applicant for a new
4 non-residential building permit may choose one of two
5 alternatives.

6 Under the first alternative, they would pay a low
7 income housing fee as defined in Appendix A of the
8 Ordinance. Appendix A defines fees by type of use of the
9 building.

10 As an alternative to payment of the fee, a
11 non-residential builder could elect to pay a combination 20
12 percent -- minimum 20 percent fee and also to cause to
13 construct housing units within in fill areas in the City of
14 Sacramento.

15 Appendix B of the Ordinance defines the 20 percent
16 fee amounts and the housing unit factors that would apply.

17 An economic consultant, Keyser Marston Associates,
18 was retained by the Redevelopment Agency to quantify the
19 nexus, or relationship, between employment, housing need,
20 and housing subsidy amounts necessary to divide for that
21 need.

22 Their report concluded that a clear nexus can be
23 established between the construction of various commercial
24 and industrial land use types, and the number of very low
25 income households associated with those land uses.

1 The actual fees that are included in the Ordinance,
2 in Appendix A, are significantly less than the maximum
3 amounts established in the nexus study.

4 The actual proposed fees in the Ordinance range
5 from 95 cents for office use, to 38 cents for warehouse
6 use, per square foot.

7 The way the Ordinance is structured, these fees are
8 to be collected by the Building Inspection Division and
9 deposited in a low income housing fund for use by the
10 Redevelopment Agency.

11 The Ordinance provides for approval of the fee at
12 the building permit stage when other fees -- when the other
13 fees are collected, and when compliance with all the
14 planning conditions can be assured.

15 There's also in the Ordinance a variance procedure
16 that encases a special circumstance or financial hardship
17 appeals, or variances, could be requested to the Planning
18 Commission and appealable to the City Council.

19 The second alternative under the Ordinance is the
20 housing construction alternative. This alternative would
21 provide that a developer, as I mentioned before, would pay
22 a 20 percent fee and directly participate in the
23 construction of housing.

24 The intent here is to stimulate housing production
25 in in fill areas, areas that have not enjoyed residential

1 development activity in the past, and also because these
2 areas are in close proximity to employment centers and
3 transit services. There's also an air quality, or traffic,
4 improvement by developing in these areas.

5 The applicant must commence construction within one
6 year and complete housing construction within two years of
7 the issuance of the building permit for the non-residential
8 use.

9 There's also provisions in the Ordinance for
10 extensions for good cause if the developer had difficulty
11 in obtaining approvals that, subject to the Planning
12 Director's approval, there could be an extension of the
13 time periods.

14 Also, you may note, in the staff recommendation,
15 the City Planning Commission -- that was approved by the
16 City Planning Commission and the Redevelopment Agency
17 Commission -- there's a recommendation to consider an
18 increase in the minimum under the build option from 20
19 percent to 40 percent to guarantee a minimally workable
20 revenue amount for the low income trust fund.

21 This is an advisory recommendation. It would
22 require modification to the North Natomas Settlement
23 Agreement by all the parties to the Settlement Agreement.

24 So, as I understand it, there's discussions going
25 on now with the parties to that Agreement, and John can

1 allude to that.

2 CHAIRPERSON ROBIE: Did it -- my understanding,
3 that both the Commissions, the Planning and the Housing
4 Authority, recommended that we move from 20 to 40 percent;
5 is that --

6 MR. PETERSON: That's correct.

7 CHAIRPERSON ROBIE: You might want to, maybe, give
8 us some of those conversations that both of the
9 Commissions -- why they decided to recommend that we
10 increase the fee. That might be helpful to us.

11 MR. PETERSON: Okay. John might to respond to that
12 after my -- I conclude my remarks.

13 There's also separate requirements throughout the
14 Ordinance for the North Natomas area. These separate
15 requirements are set aside to implement the policies and
16 objectives contained in the North Natomas Community Plan.

17 For North Natomas projects, developers would be
18 required either to pay a housing fee -- a hundred percent
19 housing fee, as defined in Appendix C of the Ordinance, or
20 cause to construct housing units in the North Sacramento
21 area, according to the housing factors also defined in
22 Appendix C of the Ordinance.

23 There's also attached to the staff report two
24 resolutions which would authorize processing fees for
25 recovering the administrative costs associated with the

1 implementation of the Ordinance.

2 So, if the staff recommendation today is to accept
3 testimony and forward to the City Council the Housing Trust
4 Fund Ordinance, which is shown as Attachment C to the staff
5 report, the negative declaration.

6 Third, the advisory recommendation for an increase
7 in the minimum low income fee for -- under the build option
8 from 20 percent to 40 percent.

9 Fourth, a resolution amending the fee chart -- fee
10 and charge report, which is shown as Attachment 2.

11 And the fifth item is a resolution amending the
12 City Budget, which is shown as Attachment 3 in the report.

13 We also have -- we did have Mark Mihaly here, who
14 was legal counsel, but I think he's left, so, to the
15 Redevelopment Agency.

16 Also, Kate Funk of Keyser Marston Associates is
17 here to answer any questions you might have about the nexus
18 study that was prepared that established the relationships
19 between the employment use and the housing needs and fee
20 amounts.

21 CHAIRPERSON ROBIE: Good. John, did you --

22 COUNCILMEMBER SERNA: I have a question.

23 CHAIRPERSON ROBIE: Oh, Go ahead Joe.

24 COUNCILMEMBER SERNA: No. I think the only
25 question I have for you is -- well, there are a couple.

1 One, did you take a look at other -- the per square
2 foot cost, or contribution, on other housing trust funds --
3 San Francisco, Los Angeles? Los Angeles has, I know, a
4 five dollar one.

5 San Francisco, I understand, also has a five dollar
6 charge.

7 And, as I read Appendix A for office, we're
8 charge -- our fee is under a dollar. Is that -- am I
9 reading that correctly?

10 Under a dollar for office. Ninety cents for a
11 hotel. R&D eighty cents. Commercial seventy-five and so
12 on. Is that --

13 MR. PETERSON: Yes.

14 COUNCILMEMBER SERNA: That's correct, okay.

15 Now, the other area that I have some concern about
16 is how you treated remodels.

17 Now, where you have a remodel that essentially just
18 make tenants improvements, do you -- are you suggesting
19 that we apply the Housing Trust Fund to -- in that
20 situation, or are we talking about conversion, when you go
21 from, let's say, warehouse to office space?

22 MR. PETERSON: We're talking about a conversion in
23 the occupancy use of the building, where there's a change
24 from a less intensive employment related use, like a
25 warehouse, to a more intensive employment related use, like

1 an office use.

2 In those cases, they would pay the difference
3 between the two fees --

4 COUNCILMEMBER SERNA: What if there is --

5 MR. PETERSON: -- (inaudible) remodel.

6 COUNCILMEMBER SERNA: What if there is no
7 conversion, but just expansion of a current use?

8 MR. PETERSON: Additional square footage would also
9 be subject to the fee.

10 COUNCILMEMBER SERNA: Okay. All right.

11 UNIDENTIFIED COUNCILMEMBER: But not just a pure
12 interior remodeling?

13 MR. PETERSON: Not a --

14 UNIDENTIFIED COUNCILMEMBER: Given the same use?

15 COUNCILMEMBER SERNA: Well, let me give you one
16 example here.

17 In the case of Arden Fair, for example, where the
18 use is not being changed, and you have essentially an
19 expansion. Are you still applying the Housing Trust Fund
20 because you're adding new employees, because of a larger
21 facility?

22 MR. PETERSON: Well, I think in the case of Arden
23 Fair Mall expansion, it has more to do with what the
24 effective date of the Ordinance is. As I understand --

25 COUNCILMEMBER SERNA: Well, I understand that. In

1 your report, that's clear, but --

2 MR. PETERSON: Yeah. They have -- if they've
3 received approval for building permits, for example, then
4 they're not subject to these requirements, if they're
5 building permit approval date pre-dates the effective date
6 of the Ordinance.

7 CHAIRPERSON ROBIE: What about future?

8 COUNCILMEMBER SERNA: That's clear to me. Yeah.
9 Same -- I have the same question Lynn does.

10 What about future conversions? There is an
11 economic stake for the City that, in fact, while we're --
12 we may have some extensive remodeling, I hope, with
13 downtown plaza. Okay.

14 What -- how do we treat that situation, and are
15 we -- you know, are we balancing the Trust Fund -- I fully
16 support the Trust Fund -- I mean -- I want to hear
17 testimony, but how are we going to treat something like
18 that, where there is not a choice between two negatives,
19 but a choice between two positives -- an increased sales
20 tax base and contribution to the general fund and also a
21 redevelopment strategy -- can't speak today --

22 MR. MOLLOY: Joe --

23 COUNCILMEMBER SERNA: -- that is important to the
24 downtown, and also generating funds for needed housing?

25 MR. MOLLOY: Yeah. You -- what our proposal is on

1 redevelopment projects, is that they would subject to the
2 development fee.

3 However, the Council, acting a redevelopment
4 agency, may decide to, through other means, to even further
5 subsidize that project to make it work, above and beyond
6 what they'd be liable for in the fee.

7 But, in the interest of parity between -- and we're
8 trying to get the County to go along with this. We're
9 trying not to exempt a lot of projects within the City,
10 because we need to present this same program to the County
11 and we're trying to get them to approve it as well.

12 So, that is essentially why we would impose the fee
13 on the redevelopment projects, but you way wish to help
14 them in other ways.

15 COUNCILMEMBER SERNA: That leads me to my third
16 question.

17 Why do we impose the Trust Fund in the City limits,
18 and then the County refuses to impose it in the
19 unincorporated area or in the County? What is going to be
20 staff's recommendation to us?

21 MR. MOLLOY: The -- from the Task -- let me give
22 you the Task Force perspective.

23 They would be with you on that. They want to see
24 it both in the City and the County.

25 I think because of the North Natomas requirements,

1 we would be required to essentially leave the fee structure
2 in place in the City, even if the County did not go along.

3 We are going to try every way we know how to get
4 the County to go along with that.

5 COUNCILMEMBER SERNA: That's imperative. I mean, I
6 think it's absolutely necessary.

7 CHAIRPERSON ROBIE: Can you update us as to where
8 we are with, actually the conversations that we're having
9 with the County?

10 UNIDENTIFIED SPEAKER: We've been doing the same
11 thing at the County level, Ms. Robie, as we've been doing
12 at the City level.

13 We've been briefing every Board member. We've
14 briefed all of their aides and so on. We've made
15 presentations, obviously, to the constituent groups in the
16 County, and they are fully aware of this.

17 The way this is going to work -- because, quite
18 frankly, of Toby Johnson's absence, this will not be coming
19 to the Board until after he gets back in mid-January.

20 So, we'll have a decision at the Council level,
21 basically, conditioned on the approval in the County.

22 Although this North Natomas thing, as John said, kind of --

23 CHAIRPERSON ROBIE: All right.

24 UNIDENTIFIED SPEAKER: -- makes that a little
25 different in the City, but we would then go to Policy

1 Planning and to the Board of Supervisors mid-January.

2 So, we should have a decision and, quite frankly,
3 we're very close. It'll be a very close vote at the County
4 as we -- as we're looking at it right now.

5 CHAIRPERSON ROBIE: But, it does look -- there does
6 look to be some positive responses to the Trust Fund --

7 UNIDENTIFIED SPEAKER: Yes.

8 CHAIRPERSON ROBIE: -- concept?

9 UNIDENTIFIED SPEAKER: Yes. We can't tell you that
10 there's a majority vote right now though.

11 CHAIRPERSON ROBIE: Okay. I think we'll move to --
12 Doug had a couple of questions.

13 COUNCILMEMBER POPE: Yeah. Bill, I just want to
14 make sure that if this were approved by the Council
15 today -- setting North Natomas aside, knowing that that's
16 going to go on regardless of what happens with this fee --
17 the fee for the rest of the City would be on the condition
18 that the County adopt a similar fee.

19 MR. EDGERS: I think the thing -- the reason I
20 hesitated there, Doug, is I think the way the North Natomas
21 Settlement says, is that you got to have it in the entire
22 City, as I understand it. Isn't that right?

23 CHAIRPERSON ROBIE: That's right.

24 MR. MOLLOY: That's right.

25 CHAIRPERSON ROBIE: As I remember. Yeah.

1 MR. MOLLOY: I think so.

2 CHAIRPERSON ROBIE: And the other thing, remember
3 we talked about the fact that we don't have just one area
4 subsidized housing throughout --

5 UNIDENTIFIED COUNCILMEMBER: That Settlement
6 says City/County.

7 UNIDENTIFIED COUNCILMEMBER: Pardon me?

8 UNIDENTIFIED COUNCILMEMBER: We don't have to adopt
9 it. We'd consider it.

10 UNIDENTIFIED COUNCILMEMBER: Not part -- it's
11 not -- it's my understanding it was part of the North
12 Natomas Agreement, as was -- for -- this was one of the
13 items that was agreed upon as was air quality, by the way.

14 CHAIRPERSON ROBIE: Let's ask staff.

15 UNIDENTIFIED COUNCILMEMBER: It has to be applied
16 City wide in most cases.

17 CHAIRPERSON ROBIE: Staff's here. Ted?

18 MR. KOBIE: Yeah. In the North Natomas Settlement
19 Agreement, it does provide -- it's not required that the
20 Council adopt the measures. If the Council doesn't adopt
21 the measures, certain things that were agreed to by ECOS
22 and the Natomas Community Association -- Sierra Club -- no
23 longer exists.

24 The chief of which being the promise not to bring
25 suits on -- in -- on North Natomas projects that are

1 consistent with the -- for a 10 year period, there
2 consistent with the provisions set out in the Settlement
3 Agreement on the North Natomas Community Plan. That's the
4 effect of it.

5 CHAIRPERSON ROBIE: Ted, speak to the County issue
6 in the Settlement. How the County fits into this.

7 MR. KOBIE: They don't.

8 CHAIRPERSON ROBIE: No.

9 MR. KOBIE: The City --

10 CHAIRPERSON ROBIE: Doug was at --

11 COUNCILMEMBER POPE: Yeah, I was.

12 CHAIRPERSON ROBIE: Yeah. Doug was asking the
13 question if the City adopts it and the County does not, how
14 does that affect the lawsuit?

15 I think -- he -- Doug was giving his --

16 UNIDENTIFIED SPEAKER: Well, how --

17 CHAIRPERSON ROBIE: -- understanding, was that the
18 County had to adopt it also.

19 UNIDENTIFIED SPEAKER: The City adopts
20 conditionally (inaudible).

21 CHAIRPERSON ROBIE: The City --

22 MR. KOBIE: No. As I recall, that provision was --
23 is not in the Settlement. It was at one point and then I
24 think it was -- in any event, it's not there now.

25 That the County does not have to adopt the

1 Ordinance -- I understand what you're getting at. I didn't
2 understand --

3 CHAIRPERSON ROBIE: Yeah. That's the answer to the
4 question. Okay, Doug.

5 UNIDENTIFIED COUNCILMEMBER: Well -- I'm not
6 finished.

7 CHAIRPERSON ROBIE: Yeah. That's fine. He has
8 another question.

9 UNIDENTIFIED COUNCILMEMBER: I'm not whining. Go
10 ahead David. If you have a question.

11 COUNCILMEMBER SHORE: Well, just to follow up on
12 that, on Doug's point.

13 If the City adopts conditionally on the County's
14 adoption, and the County doesn't, so the City's doesn't go
15 into effect, does that violate North Natomas?

16 UNIDENTIFIED SPEAKER: Well, I -- yeah. I would
17 say that it -- well, I wouldn't use the term violate.

18 Because the Agreement, again, does not require the
19 City to adopt the Housing Trust Fund Ordinance, but it
20 would remove the bar to law suits, for instance, on the
21 North Natomas projects, if the City didn't adopt it.

22 COUNCILMEMBER POPE: My other question -- Bill, or
23 maybe it's John -- I don't know who answers -- applies to
24 the timing.

25 I mean, you discussed it, but I missed half -- some

1 of your discussion regarding the implementation of the fee.

2 Would it, in terms of projects in the mill, in the
3 planning process or what have you -- how does it apply to
4 those?

5 MR. PETERSON: I think I can answer that. Projects
6 that have received approved building permits by the
7 effective date of the Ordinance --

8 COUNCILMEMBER POPE: Uh-huh.

9 MR. PETERSON: -- have vested rights and would be
10 exempt from any fee payment or housing requirement under
11 the Ordinance.

12 There is language in the Ordinance that says,
13 however, that if all discretionary entitlements have not
14 been approved by March 29th, 1988, which was the effective
15 date of the Settlement Agreement, and they have not
16 received approved building permits, and they would be
17 subject to the fees and the housing requirements.

18 COUNCILMEMBER POPE: (Inaudible) -- and so, I know
19 in one case, that they're probably going to get up here and
20 talk -- where the project in Lila's district out there,
21 we've been really trying to get some economic development
22 activity going in areas out there.

23 Where developers have made, and are making,
24 substantial contributions to the basic infra structure,
25 which we can't afford, and they've unreliance in that and

1 they've purchased land and gone ahead with the development,
2 given us money.

3 We're still going to charge them the fee, even if
4 they haven't pulled their building permits yet?

5 MR. PETERSON: Yeah. I think it has to do with
6 whether they have a vested right, and I'm not an attorney
7 on that point.

8 COUNCILMEMBER POPE: No. It'd just be -- let's
9 just say they have plain zoning.

10 MR. PETERSON: Yeah.

11 COUNCILMEMBER POPE: And they've got a tentative
12 map and -- or even a final map. And they're just getting
13 the partials ready for construction. And so it would apply
14 in those situations?

15 MR. PETERSON: The way the Ordinance is written
16 right now, yes, it would apply if they had not received
17 approval for the building permits.

18 MR. EDGERS: Is that in the redevelopment area,
19 Doug?

20 COUNCILMEMBER POPE: No, Bill.

21 MR. EDGERS: It's (inaudible) to the freeway?

22 COUNCILMEMBER POPE: Yeah.

23 MR. EDGERS: Okay.

24 COUNCILMEMBER POPE: Is there any way we can exempt
25 those areas?

1 Because -- I mean, frankly, it's really onerous on
2 a lot of projects, and it's quite unfair to a lot of
3 projects.

4 And especially in areas where we tried to get
5 people to do in fill and stuff like that. It's just kind
6 of stretching them.

7 MR. EDGERS: Here's my problem, Doug --and we ran
8 into this with enterprise zones, redevelopment areas, CDBG
9 target areas -- should the fee be imposed or exempted in
10 those areas where, obviously, we are trying to encourage
11 economic growth.

12 That is obviously (inaudible) and what we're trying
13 to do here.

14 But, we're having a hard time selling this to the
15 County. And the more we exempt out of the City, or the
16 more we exclude from the City, the less chances we have in
17 the County for getting this through, quite honestly.

18 COUNCILMEMBER POPE: But, Bill, how do you answer
19 when our staff twists people's arms to get other things out
20 of them, such as infra structure, like sewers and they bust
21 their arms and get it out of them, and they kick their --
22 and they put their money into the pot. And then we come
23 along and hit them with this.

24 MR. EDGERS: Yeah. And --

25 COUNCILMEMBER POPE: How do you answer then?

1 MR. EDGERS: And our response --

2 COUNCILMEMBER POPE: Say, tough luck?

3 MR. EDGERS: No. And our response in the
4 redevelopment areas, for example, and the project areas, is
5 that we need to come in with tax increments --

6 COUNCILMEMBER POPE: But, it's not a redevelopment
7 area.

8 MR. EDGERS: -- and they can either pay the fee or
9 something. But it is an enterprise zone.

10 COUNCILMEMBER POPE: No. It's not enterprise
11 either.

12 MR. EDGERS: It isn't? Well --

13 COUNCILMEMBER POPE: They're just out of luck?

14 MR. PETERSON: Under the variance procedure in the
15 Ordinance, the Council could, if they met the criteria,
16 including special circumstances.

17 COUNCILMEMBER POPE: Uh-huh.

18 MR. PETERSON: Perhaps this might meet the
19 criteria. The situation that you're suggesting, a variance
20 could be granted to the provisions of the Ordinance.
21 That's defined on page 27.

22 COUNCILMEMBER POPE: So, there's a variance
23 procedure in the Ordinance?

24 MR. PETERSON: There is a variance procedure in the
25 Ordinance, and there is criteria in the Ordinance that

1 evaluates that.

2 MR. MOLLOY: There was a question asked earlier
3 about the 20 percent versus 40 percent, under the build or
4 pay option.

5 On page 49 of your report, there is an analysis
6 based on historic building permit activity over the past
7 three years, I believe it was.

8 MR. PETERSON: What page? 49?

9 MR. MOLLOY: Which indicates what would be
10 generated under various options, and one of the criteria
11 that would be applied would be an individual decision by
12 that developer as to whether or not they wanted to build or
13 pay.

14 And some developers who know little about housing
15 and aren't -- have no expertise in that area, may wish to
16 just pay the fee, and have done with it.

17 Whereas others, who have some expertise or some
18 connections into the housing arena, may wish to build or
19 enter into agreements with others which causes housing to
20 be built.

21 And, so, part of the uncertainty is how those
22 independent decisions would be made.

23 Under one scenario, in the City, if the -- if you
24 stayed with the 20 percent pay and 80 percent of your
25 responsibility could be met by building, you could generate

1 as little as 209,000 dollars annually.

2 And our response to that is, we may as well not
3 proceed with the program, if we're only going to generate
4 200,000 dollars in housing subsidies annually.

5 So, that, we view as not worth the effort. So,
6 that was the impetus behind our recommendation to at least
7 go to the 40 percent fee level. And which, in the City,
8 you would generate at least 418,000.

9 Now, remember on our chart over here, we had
10 targeted a figure of 3.6 million County wide.

11 And, if you went as the Task Force recommended,
12 with an all pay and no build option, you would come close
13 to that figure. You'd generate a little over a million in
14 the City and then a couple million in the County.

15 But the -- under the 20 percent option, we could
16 end up with as little as 200,000 dollars a year, which we
17 didn't see as --

18 COUNCILMEMBER POPE: (Inaudible) question
19 (inaudible).

20 CHAIRPERSON ROBIE: Doug?

21 COUNCILMEMBER POPE: How do you deal with the --I
22 know you gave us the date of March 29th, 1988 as the
23 threshold date for the exemption program.

24 How do you deal with on-going remodel projects that
25 are multi-phased or continue to expand? How do you handle

1 those programs?

2 Which may be the case in downtown plaza, or may be
3 the case at Arden Fair, again, especially when they're
4 still a host of discretionary permits to be granted.

5 UNIDENTIFIED SPEAKER: Yeah.

6 MR. VAN DUYN: Good. Well, that's part of the
7 point. If there are additional discretionary permits, then
8 any projects that required additional discretionary permits
9 would be subject to the fees, in addition to what they
10 might have paid on prior phases.

11 It -- this is a good example, was one and I think
12 there's a letter from attorney Bill Abbot referencing
13 problems that they have with the Ordinance, and how it
14 would apply to the Arden Fair phasing.

15 The way it would basically work, in the simplified
16 form, is that if the permits came in and the project was
17 submitted and approved as a phased project claim.

18 And there were three phases, as an example, and
19 they started on one phase, but second and third phase were
20 coming months, and maybe several months later on, if they
21 were all submitted at one time, and that was prior to the
22 effective date of the Ordinance, then they have vested.

23 In other words, they have plans in, they have
24 building permits issued on the basis that there will be a
25 phased program, and so on.

1 However, if there are any parts of those phases
2 that didn't come into that program -- say, there were any
3 changes, or any new additions -- then they would be subject
4 to the Ordinance.

5 COUNCILMEMBER POPE: So, let me make sure I
6 understand that. If they did not submit as a phase project
7 prior to the March 29th date, okay, then they're subject to
8 the Ordinance?

9 MR. VAN DUYN: That's correct.

10 COUNCILMEMBER POPE: Well, the only problem I have
11 with that is, they would have had to have known that this
12 Ordinance was in the workings.

13 MR. VAN DUYN: Well, in -- at least the example
14 that I cited with Arden Fair Shopping Center, I know that
15 they were aware of that, but -- I mean, I can't speak to
16 any, you know, other project applicants at the moment.

17 There may be circumstances where that comes up.
18 And, again, if that's the case, I suspect, then, we'll have
19 to evaluate those as they come in.

20 And I think the Ordinance is -- given the
21 complexities that we're dealing with here, and the fact
22 that we're trying to establish fees based on additional
23 employees, it's difficult to say, "Well, we're going to
24 take --

25 COUNCILMEMBER POPE: I understand.

1 MR. VAN DUYN: -- this 20 acre shopping center and
2 just because we knew the shopping center was going to
3 built, we're going to allow that to be exempted by some --

4 COUNCILMEMBER POPE: Hey, Marty, is the -- in the
5 case such as this, is there a -- does the variance
6 provision in the Ordinance qualify a project like this to
7 come in and ask for a variance?

8 MR. VAN DUYN: Oh, I think so.

9 COUNCILMEMBER POPE: In the --

10 MR. VAN DUYN: Yes.

11 COUNCILMEMBER POPE: In a multi-phased type
12 program?

13 MR. VAN DUYN: Yes. It -- actually, the variance
14 procedures are pretty liberal.

15 The way the Ordinance is structured is that the
16 Planning Director makes a decision and, if there's a
17 dispute on that decision, they have 10 days in which to
18 file an appeal to the Planning Commission.

19 In any event, all appeals eventually can end up at
20 the Council level, so, presumably, if they're dissatisfied
21 with what happened at the Commission level, they can come
22 on to the Council and --

23 COUNCILMEMBER POPE: That gives us -- gives the
24 Commission and the Council, then, the case by case review,
25 and --

1 MR. VAN DUYN: But --

2 COUNCILMEMBER POPE: If there's variances applied
3 for, right, or appeals applied for?

4 MR. VAN DUYN: That's correct. Yes.

5 UNIDENTIFIED SPEAKER: Is that a Planning --

6 MR. VAN DUYN: (Inaudible) case by case review, and
7 I think part of it is going to be, you know, an evolution
8 of what we consider to be substantial justification for
9 variances. Are there good causes?

10 COUNCILMEMBER POPE: Right.

11 MR. VAN DUYN: I mean, I think there are cases
12 where there would be extenuating circumstances, and I don't
13 see the City acting unreasonable on those examples.

14 I mean, we haven't had a history in the past of
15 being unreasonable when there has been projects caught in
16 the process.

17 COUNCILMEMBER POPE: Yes.

18 MR. VAN DUYN: Maybe we've been unreasonable other
19 times, but we run into this quite often. Where we run into
20 ordinances that affect projects that are mid-stream.

21 UNIDENTIFIED COUNCILMEMBER: Are -- but, is this a
22 Planning Directors' variance?

23 MR. VAN DUYN: Initially, the determination is at
24 the Director's level.

25 In other words, if the Director's -- says, "No, we

1 don't feel that this application has met the criteria for a
2 special exception, or a variance", then you have to file an
3 appeal through the --

4 UNIDENTIFIED COUNCILMEMBER: But you could --

5 MR. VAN DUYN: -- Planning Commission.

6 UNIDENTIFIED COUNCILMEMBER: -- look at it and say,
7 "Yeah. It warrants a variance."

8 MR. VAN DUYN: Well, we would have to look at it
9 in -- I mean, the Director's authority here is vested with
10 the Ordinance itself. The interpretation of the Ordinance
11 would have to be consistent and applied consistently.

12 And, if we found that the Ordinance interpretation
13 met the circumstance, then correct. We would --

14 UNIDENTIFIED COUNCILMEMBER: You'd --

15 MR. VAN DUYN: -- grant it that way.

16 UNIDENTIFIED COUNCILMEMBER: So, the variance can
17 be granted at the Director level.

18 MR. VAN DUYN: Actually, it wouldn't be a variance.
19 It would be a -- we would making a finding of consistency,
20 so to speak.

21 UNIDENTIFIED COUNCILMEMBER: But they would modify
22 the fee at your level? And, if they disagree with your
23 decision, they can appeal it?

24 MR. VAN DUYN: That's correct. And those -- and
25 that could very well happen when you have uses that are,

1 you know, undefined by the Ordinance right now.

2 COUNCILMEMBER CHINN: Marty, I'm glad that, one, we
3 do have a variance procedure. However, having said that,
4 I'm a little bit concerned about two things.

5 One is, you're going to get so many applications
6 for variances, we're going to be deluged with many, many,
7 many things.

8 Secondly, any time you have variances, it becomes
9 very, very subjective, rather than objective.

10 It would be better -- it would be far better if we
11 could isolate some of those circumstances and exempt them
12 right off the bat. And try to isolate some of those
13 circumstances first and leave the minimum for variance --

14 MR. VAN DUYN: Well, that --

15 COUNCILMEMBER CHINN: -- arguments (inaudible).

16 MR. VAN DUYN: -- might be a good way to go about
17 it. Obviously, if we knew all the circumstances ahead of
18 time, that might --

19 COUNCILMEMBER CHINN: Sure.

20 MR. VAN DUYN: -- be a valuable approach.
21 Unfortunately, there has to be some discretion on --

22 COUNCILMEMBER CHINN: Oh, I know.

23 MR. VAN DUYN: -- the part of interpretation here
24 relative to consistency with the objectives of the
25 Ordinance.

1 And I think the variance procedures that are
2 indicated in the draft basically speak to extenuating
3 circumstances.

4 Now, if the Council finds in a very specific sense,
5 that Mr. Pope's example of a developer coming in,
6 underwriting some certain public improvements that would
7 otherwise prevent either the development or prevent the
8 City from receiving some sort of a major benefit on a
9 development that they wouldn't get without that private
10 participation, then maybe that's an extenuating
11 circumstance that ought to be discussed.

12 I don't think, at our level -- just to kind of set
13 the tone straight -- that we would suggest that that be an
14 extenuating circumstance for which we, at our level, would
15 grant exception to.

16 We think that's something that deserves some
17 discussion at the Planning Commission level, and definitely
18 discussion at the Council level.

19 Because there may be circumstances where that may
20 happen again. And, because of the vagaries of how these
21 things may be approached by different development
22 applications, you don't want to stretch the interpretations
23 too far.

24 And I think what we would want to do is come to the
25 Council for direction here. Because, remember, the primary

1 objective here is to get some housing that meets the
2 initial -- excuse me -- the anticipated employee growth.

3 And, in addition to that, some monies that are
4 going to go to low to moderate income housing needs in the
5 community and I don't -- and we take that very seriously, I
6 think.

7 And we also know, going into it that there's a --
8 and John Molloy's already discussed that, and you've heard
9 that from Bill Edgers.

10 Well, there's a substantial difference in what
11 we're asking for here and what our need is. So, I think
12 you can expect the staff to be very rigid, if you might, in
13 how our interpretations of this will be.

14 Because we think the objective here is to generate
15 the housing, and that's where -- that's the side that we're
16 going to come down on.

17 But, again, I think -- I don't want to downplay the
18 fact that hardships do happen. If there are legitimate
19 reasons and we feel that those warrant Council's attention,
20 we'll bring those up and I think that's at least how we're
21 administratively going to approach it.

22 CHAIRPERSON ROBIE: Okay. I think we need to make
23 a procedure policy.

24 How many people in the audience want to testify?
25 Okay. One, two, three, four, five, six, seven, eight.

1 Okay.

2 COUNCILMEMBER CHINN: (Inaudible) consider Toby --

3 CHAIRPERSON ROBIE: Let's roll. I think -- let's
4 do it as quickly as we possibly can.

5 I'm sorry about the hour, and I really commend all
6 of you for your patience and I'm sorry it's so late. It
7 just seemed that we had so many important items today. So,
8 let's just kind of come forward.

9 Christy, do you want to get started?

10 UNIDENTIFIED SPEAKER: Lynn, if I may first. Is
11 budget staff here? Ken, I'm looking at our B&F agenda.
12 None of these items seem critical to me. You want to
13 postpone B&F for today?

14 UNIDENTIFIED SPEAKER: Why don't we save these
15 items for (inaudible). (Inaudible sentence.)

16 UNIDENTIFIED SPEAKER: Okay. That's fine with me.
17 Is that all right?

18 All right. For those of you that are here --
19 not -- which is mostly staff -- for Budget and Finance,
20 let's cancel Budget and Finance for today, and move the --
21 these items for next week's agenda.

22 UNIDENTIFIED SPEAKER: There's one item that'll be
23 going directly to --

24 UNIDENTIFIED SPEAKER: To the Council? That's
25 fine. Okay.

1 CHAIRPERSON ROBIE: Okay.

2 UNIDENTIFIED SPEAKER: Good.

3 CHAIRPERSON ROBIE: Good. Let's go.

4 MS. SAVAGE: Members of the Council, for the
5 record, my name is Christy Savage and I'm here today
6 representing the Commercial Builders' Council of the BIA of
7 Superior, California.

8 This organization includes most of the
9 non-residential builders and developers that would be
10 subject to this Ordinance.

11 The Commercial Builders' Council strongly opposes
12 the Draft Ordinance.

13 We have met, on numerous occasions with staff. And
14 I'd like to say, at the outset, that staff has been very,
15 very good about trying to meet outside of the formal
16 hearing process and educate the Builders' Council with
17 respect to the incidence of the Ordinance.

18 But, this is a case where there is a fundamental,
19 conceptual, philosophical problem.

20 And the reasons for the opposition are, first of
21 all, that it's unfair and illegal because there's an
22 insufficient nexus between the fee and the in lieu housing
23 construction requirement and the burdens on society caused
24 by new non-residential development.

25 A recent United States Supreme Court case, the

1 Nolan case, firmly held that new development conditions
2 must be proportionally related to impacts by that new
3 development.

4 Quite simply stated, providing new jobs or, even
5 more precisely, providing simply structures for new jobs,
6 does not make anyone's housing situation worse and,
7 therefore, the housing fee is inappropriate.

8 The Agency commissioned Keyser Marston study and
9 that did try to quantify a nexus. But the Pacific Legal
10 Foundation has submitted a letter, which I believe is
11 included in your packet, which contests the sufficiency of
12 that study.

13 There has been no nexus study or no data, to the
14 best of my knowledge, submitted showing a nexus between the
15 in fill housing requirement, which is a big part of this
16 Ordinance. Therefore, the nexus study is really only to
17 one of the two parts of the Ordinance.

18 And, indeed, the findings and the recitals in the
19 Ordinance indicate very much that they're simply
20 speculative.

21 In other words, if you can -- new non-residential
22 construction may be benefitted by housing, may, could,
23 there's no data. There's simply -- you're far short of the
24 Supreme Court test, in terms of having data to support the
25 nexus of the fee.

1 Were such a study done, I believe that in fill
2 residential -- in fill non-residential, in fact, encourages
3 in fill housing, which is the very object -- a part of the
4 Ordinance.

5 And the corollary of that is that heavy fees on in
6 fill and, indeed, every non-residential development in the
7 City is in fill, when you look at the region, and how air
8 quality and transportation and so forth -- heavy fees on in
9 fill, i.e., City, non-residential development will
10 discourage in fill housing.

11 Examples, North Sacramento, which has already been
12 discussed; the Nelson Rogers; I-80 Industrial.

13 If you would discourage that very development, you
14 would be discouraging housing, because that development is
15 extending infra structure over a mile to the west, making
16 possible for the first time residential development in
17 those very targeted in fill sites that you're concerned
18 about.

19 So, in other words, if you discourage that
20 development, you're going to discourage in fill housing.
21 You're going to increase trip length. You're going to
22 increase air quality deterioration. The whole thing
23 doesn't make any sense.

24 Another example is Delta Shores. Delta Shores has
25 all kinds of vacant, residential land around it, which has

1 remained vacant waiting for Delta Shores to happen.

2 I can say, because I represent that client, that if
3 you impose a fee, which, in the case of Delta Shores,
4 amounts to a 3.5 million dollar fee, which is basically
5 three-quarters of a freeway interchange, he will not build
6 it.

7 And so you will not get all that in fill housing
8 that's been waiting to happen, because it needs an
9 interchange.

10 Second reason for opposition is -- and I've already
11 mentioned this a little bit -- is that it's simply
12 counterproductive.

13 It will produce results directly contrary to the
14 purpose of the Ordinance. It will -- it has a tendency to
15 increase rather decrease sprawl.

16 Right now, City non-residential sites compete
17 for -- with West Sacramento -- are competing heavily now
18 with Woodland. None of those jurisdictions, to the best of
19 my knowledge, are considering imposing a heavy fee like
20 this.

21 And, in fact, they are encouraging non-residential
22 development, because of the fact that they are sorely
23 lacking a tax base.

24 Yolo County is doing everything it can -- it's
25 curtailed by Davis -- but they're doing everything they can

1 do encourage the kind of development which you will be
2 punishing or discouraging by this very onerous Ordinance.

3 Certainly, when you look at the Nelson Rogers
4 project, and you think about the fact that it's competing
5 for users with sites such as West Sacramento near the
6 Highway Patrol Academy, which is a site that doesn't have
7 blight next to it, you can see the problem.

8 You've already touched on the fact that what if the
9 County doesn't adopt the Ordinance. It seems to me it's
10 quite clear that development would be tempted to go into
11 the unincorporated areas rather than within the City
12 limits.

13 The farther from the core, the greater the trip
14 lengths, the less the transit usage, the lower the density,
15 the worse the air quality.

16 The Ordinance is also counterproductive in that it
17 seems to me it would encourage the migration into
18 Sacramento of people who need low income housing. Simply
19 because the prices here would be lower than in other areas.

20 And those people will compete with the needy that
21 we already have here, that -- for which we don't have
22 sufficient funds to provide housing.

23 The analogy comes to mind of the welfare situation
24 that occurred in the '60's, where welfare benefits in
25 Mississippi were dramatically different than those in

1 California.

2 Right now, we have people migrating to Sacramento
3 precisely because the housing prices are lower here than in
4 the Bay Area.

5 My mother works on a housing track and about
6 one-half of the people that come into that track, which is
7 at the 60, 70 thousand dollar range -- which is very
8 affordable -- you can't buy anything like that in the Bay
9 Area -- are here because the prices are lower.

10 So, it seems to me that we could, by this
11 Ordinance, make our situation for the need for low income
12 housing, much, much greater because it would encourage
13 migration of people here.

14 I think the point of all this, is I'm speculating,
15 too. I'm saying these are possible impacts from the
16 Ordinance.

17 But you have not prepared an EIR. You have done a
18 negative dec which very cursorily simply checks no on 25 or
19 30 boxes.

20 It very cavalierly says that -- it concludes that
21 it will have no impact on driving non-residential
22 development out of the City.

23 It -- by a simple check of a no box, says it will
24 have no traffic impacts, no air quality impacts, no impacts
25 on the general fund, which is part of the funding source

1 for providing housing for the needy right now in the City.

2 I respectfully request that this Ordinance cannot
3 be further considered until a Environmental Impact Report
4 is prepared to study those possible environmental impacts.

5 At prior hearings, and also today, the Council has
6 had some discussion with respect to the variance and how
7 the variance procedure is at once -- would be liberally
8 construed by Planning Director Marty Van Duyn.

9 And, then, in the next breath, Marty announced that
10 he will very rigid because, after all, we do need to
11 provide housing.

12 I think that states really the chilling effect that
13 the Ordinance has, and the lack of confidence that people
14 have, that they can count on a variance.

15 The variance standards, from my perspective as a
16 legal perspective, are very, very stringent. And if
17 anybody wanted to challenge them, legally, it would be
18 very -- you would have to come up with all kinds of
19 evidence in the record in order to justify that there was
20 sufficient evidence to sustain the variance.

21 And just think again about the burden of coming up
22 with the evidence. What do you have to do with the
23 developer to show that your development simply will not
24 fly, which is the standard you have to meet pursuant to the
25 draft language. It will not -- you cannot build it. It is

1 not feasible, if you have to build a fee.

2 What kind of findings. What kind of economists do
3 you have come in. What other kind of consultants do you
4 have to pay in order that that evidence be adequate in the
5 record.

6 A variance is not something that the Council -- by
7 its very nature, by its very term -- it's not something
8 which you have a lot of legislative discretion on. It's an
9 exception to the rule. It's a variance.

10 And, therefore, the burden is on the applicant, or
11 the person, requesting a variance.

12 Furthermore, the variance would be granted,
13 presumably, near the building permit stage, which would
14 have already had an incredibly chilling effect on the early
15 stages of the development, in which you have to come up
16 with all those heavy up front costs for infra structure
17 such as, again, the North Sacramento example, where you had
18 to come up with millions of dollars, fronting the cost for
19 Bell Avenue extension, sewer, water, etc., etc.

20 You have to go to your lender and say, "Oh, by the
21 way, we are -- now also have to come up with a couple
22 million dollars for -- prior to building construction, for
23 the Housing Trust Fund".

24 There's a fairness question. Again, if you would
25 grant your variances -- if variances are granted routinely

1 in North Sacramento because of, again, the heavy infra
2 structure load, or the fact that it's got -- it's next to
3 existing blight.

4 If you decide to exempt out Delta Shores -- if you
5 exempt out redevelopment projects, then you have a smaller
6 and smaller amount of land in which to spread this burden.

7 If the County doesn't go along with it, just think
8 of how small the number of non-residential building permits
9 you have to pay this fee.

10 I think you also have to look at how much bang you
11 get for you buck, compared to the hardship on particular
12 projects.

13 A relatively small project would have to pay an 80
14 or 100 thousand dollar fee and, yet, that fee which would
15 be -- make it very difficult to finance a small project --
16 and yet that fee would pay for how many housing units?

17 How many housing units can you -- how many people
18 can you house for 80,000 dollars?

19 I think there's a question also about fairness in
20 terms of North Natomas versus the rest of the City.

21 It's not clear to me why North Natomas gets 100
22 percent fee waiver option whereas the rest of the City has
23 a maximum of 80 percent fee waiver option.

24 Why North Natomas pays 78 cents per office square
25 foot, but the rest of the City pays 90 cents. Why North

1 Natomas R&D pays 60 cents per square foot, and the rest of
2 the City pays 80 cents per square foot. That's a pretty
3 big difference.

4 I know there's a lot of history, but none of the
5 rest of the non-residential community was involved in the
6 North Natomas Settlement Agreement and, therefore, we have
7 questions.

8 In conclusion, I would urge the Council to look for
9 other incentives.

10 Certainly, housing is an important goal, but
11 looking at a very small part of the City -- in fill part of
12 the City -- and putting a dis-incentive on non-residential
13 development is going to be counter-productive to your
14 goals.

15 The Council should prepare an EIR to study and get
16 guidance with respect to all the possible environmental
17 impacts, which I previously articulated.

18 Certainly, if the Council does adopt the Ordinance,
19 they should make it conditional on County adoption of an
20 identical Ordinance.

21 In fact, that's probably an EIR mitigation measure,
22 because otherwise, you're going to be definitely
23 encouraging sprawl.

24 And, furthermore, if you decide to adopt it, the
25 variance provision should be greatly expanded. Councilman

1 Chinn's idea of actually putting in a specific
2 circumstances that are deemed tantamount for a variance, I
3 think is one that needs to be explored.

4 As Ted Kobie said, the North Natomas Settlement
5 Agreement does not mandate you to adopt this Ordinance.

6 And I certainly -- well, the builders are very
7 serious about fighting it. So, between the lines.

8 UNIDENTIFIED COUNCILMEMBER: (Inaudible).

9 MS. SAVAGE: With that, I'll conclude.

10 UNIDENTIFIED COUNCILMEMBER: (Inaudible) SOCA here.

11 CHAIRPERSON ROBIE: Any questions of Christy?

12 Thank you for your testimony. Next.

13 UNIDENTIFIED COUNCILMEMBER: That's right. We're
14 sued if do. We're sued if we don't. That's true.

15 MR. THATCH: Gregory Thatch, representing two North
16 Natomas land owners, Mr. Shumaker and Mr. Paine.

17 I'll try to be brief. I have three issues which
18 I'd like to -- the Committee to address with respect to
19 this Ordinance. These are obviously issues which are
20 unique to North Natomas.

21 The first issue is that the Ordinance does not
22 address the fact that once the goal of 4,340 dwelling units
23 in North Sacramento has been reached, that the obligation
24 for participation in the Trust Fund for North Natomas
25 developers also ceases.

1 I discussed this with staff, and it's my
2 understanding that we may need to look at that number a
3 bit, because of possible changes in the Community Plan.

4 But, that staff agrees that once that threshold
5 number of dwelling units in North Sacramento has been
6 reached, that the obligation ceases.

7 I'm sure they'll correct me if I'm wrong, but I
8 believe that we agree on that point. It is not, however,
9 in the current draft of the Ordinance before you.

10 The second element deals with the definition of
11 gross square feet, the basis upon which the calculation is
12 going to be made.

13 This has been changed somewhat from the first
14 draft, and now it talks about wall to wall computation of
15 gross square feet.

16 I would caution, however, that in dealing with a
17 very similar issue with the school districts, in looking at
18 Sterling Act fees, we addressed a problem of parking
19 garages, for instance, which can comprise a considerable
20 amount of square feet, but are obviously not employee
21 generating.

22 And I think we need to look at that definition a
23 bit. Again, I've talked with Marty Van Duyn about that,
24 and I believe that it is staff's intent that it would be
25 the habitable area that we should address.

1 For instance, with an office building and a parking
2 garage, we would deal with the office part and not with the
3 parking garage.

4 That definition, I believe, should be changed
5 within the Ordinance.

6 The last issue is one that has been a topic of
7 considerable correspondence and discussion over the course
8 of probably a year or more, and this deals with the issue
9 of a developer within North Natomas that builds a balanced
10 development.

11 A developer that comes in and builds non-
12 residential facilities, but in conjunction with that, is
13 building residential dwelling units.

14 It has been my position, throughout the North
15 Natomas Community Plan debates, and at the adoption stage,
16 that a developer that builds a balanced community should
17 not be subject to this fee.

18 Someone that would build to achieve the
19 jobs/housing balance required in North Natomas should be
20 exempt.

21 There is considerable correspondence in your
22 packet, in which we have addressed this issue.

23 I can also tell you -- and it's interesting that
24 Mr. Abbott wanted to sneak in here so he could be next --
25 he was one of the gentlemen that argued the SEQA case in

1 North Natomas, along with me and Dave McMurchery.

2 It was my fortune, or misfortune, to argue the
3 jobs/housing balance portion, and the Housing Trust Fund.

4 I can tell you that the manner in which that was
5 argued in that lawsuit is consistent with my
6 correspondence. It is not consistent with the position of
7 staff, and not consistent with the language contained
8 within the Ordinance.

9 It simply seems to be inappropriate to suggest that
10 one who does not create a jobs/housing imbalance -- who
11 actually goes in and builds dwelling units -- should, in
12 addition, be obligated to participate in the Housing Trust
13 Fund to build additional dwelling units in North
14 Sacramento.

15 Our position is that one who builds balanced
16 community should be exempt.

17 CHAIRPERSON ROBIE: Good. Thank you, Greg. Any
18 questions of Greg?

19 We have a problem here. And I think that we need
20 to discuss it.

21 We are not going to be able to finish today. I
22 mean, that is just becoming more and more clear.

23 And I'm -- I apologize to each of you that are
24 here and have sat through these many hearings.

25 But I also think that it's terribly important that

1 the public -- we have the amount of public input on
2 anything that we do that is this important to the future of
3 the City.

4 And the other problem is that Mark Mihaly left
5 because he had to go back to the City. And he would have
6 answered some of these questions.

7 Now, we can decide that we will go until 5:30.
8 That's a -- and we can get as much of the testimony out
9 now.

10 Or, we can go ahead and close our hearing today
11 with the idea that we will come back again next week, and
12 that we will have more staff -- the appropriate staff here.

13 What is kind of the feeling of those of you who
14 still want --

15 COUNCILMEMBER CHINN: Let me comment, if I may,
16 Lynn?

17 CHAIRPERSON ROBIE: All right.

18 COUNCILMEMBER CHINN: I think a good suggestion
19 that, one, a good observation we're not going to --

20 CHAIRPERSON ROBIE: We're not going (inaudible).

21 COUNCILMEMBER CHINN: -- today. Secondly, however,
22 I don't think we're ready either. I think there's a number
23 of questions being raised and so forth.

24 CHAIRPERSON ROBIE: Absolutely.

25 COUNCILMEMBER CHINN: Maybe the point right now

1 would be something like this, that additional comments, or
2 additional direction can be given to staff, so they can go
3 back and do more work and come back --

4 CHAIRPERSON ROBIE: We are having --

5 COUNCILMEMBER CHINN: -- at the proper time.

6 CHAIRPERSON ROBIE: Yeah.

7 COUNCILMEMBER CHINN: So that they can, at that
8 particular time, address the total comment rather than just
9 a partial.

10 CHAIRPERSON ROBIE: And we've lost some of our
11 staff --

12 COUNCILMEMBER CHINN: Yeah.

13 CHAIRPERSON ROBIE: -- right now. Not because we
14 wanted to, because we have. So, let's -- what's the
15 feeling of those of you? Would you mind waiting -- until
16 next week?

17 UNIDENTIFIED SPEAKER: We're going (inaudible).

18 COUNCILMEMBER CHINN: As long as we don't pass it.

19 COUNCILMEMBER POPE: I'd like to hear some of the
20 comments though --

21 CHAIRPERSON ROBIE: Well, we could go until 5:30 on
22 comments. That would be something I think would be
23 important, so that staff could be -- get back to us.

24 And that probably is a good idea. Let's go to
25 5:30. Let's continue to take testimony, and then we will

1 resume the hearing next week.

2 We're not going to make it through all, even if you
3 go to 5:30. And I think this is important. I don't think
4 we should really hurry with this.

5 MR. VAN DUYN: Because I definitely want to hear
6 from Nelson Rogers, and -- because I think staff's got to
7 address that. I don't think there's equity in that one. I
8 think there really sticking it to them.

9 UNIDENTIFIED COUNCILMEMBER: Also, you want --

10 CHAIRPERSON ROBIE: Doug, we're going to hear from
11 everybody period.

12 COUNCILMEMBER POPE: Okay.

13 CHAIRPERSON ROBIE: I think this is important.

14 Let's go until 5:30. How's that?

15 UNIDENTIFIED COUNCILMEMBER: I just -- I'm
16 concerned that Mark is not here.

17 CHAIRPERSON ROBIE: Yeah. I'm concerned too.

18 UNIDENTIFIED SPEAKER: Okay. So, (inaudible) the
19 testimony, Joe. You mean, you're going to hear the
20 testimony?

21 CHAIRPERSON ROBIE: Yes.

22 UNIDENTIFIED COUNCILMEMBER: I don't mind hearing
23 the rest of the testimony. We're -- we won't be able to
24 take action --

25 CHAIRPERSON ROBIE: No.

1 UNIDENTIFIED COUNCILMEMBER: -- I suspect. And get
2 the public testimony out of the way.

3 But, in order to, I think, to do justice to the
4 people that are testifying, I think Mr. Mihaly, who was
5 very instrumental in putting this all together --

6 CHAIRPERSON ROBIE: Has to be here.

7 UNIDENTIFIED COUNCILMEMBER: I think Mark really
8 does need to be here before we cast our final vote.

9 UNIDENTIFIED COUNCILMEMBER: He almost should be
10 here to respond to the testimony.

11 UNIDENTIFIED COUNCILMEMBER: Right.

12 UNIDENTIFIED COUNCILMEMBER: Right.

13 CHAIRPERSON ROBIE: Okay. If that's the case --

14 COUNCILMEMBER CHINN: One more testimony. Bill.

15 CHAIRPERSON ROBIE: Bill, you go ahead, and then
16 let's -- is -- well, we just have to make a decision.

17 The decision is that Bill will go ahead and make
18 his testimony. That we will resume with our testimony next
19 week. And, then, that we will have full staff here to
20 answer those questions.

21 It gives staff, during that week, some time to
22 start to think about some of their responses. Okay.

23 UNIDENTIFIED SPEAKER: Mark is going to have to
24 listen to the tape, I'll tell you.

25 CHAIRPERSON ROBIE: Mark will have to listen to the

1 tape and, also, he will have to listen to --

2 UNIDENTIFIED COUNCILMEMBER: Good luck.

3 CHAIRPERSON ROBIE: -- other testimony. There are
4 other people here who want --

5 UNIDENTIFIED SPEAKER: Well, he got paid for
6 leaving early.

7 CHAIRPERSON ROBIE: Yeah. There are other people
8 here who want appropriate time and appropriate attention.
9 So, go ahead Bill.

10 MR. ABBOTT: Thank you. Bill Abbott for Arden Fair
11 Associates, developers of the Arden Fair Mall.

12 I'll be extremely brief in my comments. I have to
13 pick up my daughter at child care, and they almost charge
14 as much as lawyers do on a minute-by-minute --

15 CHAIRPERSON ROBIE: That's right.

16 MR. ABBOTT: -- basis, so I have an incentive to
17 hurry.

18 UNIDENTIFIED SPEAKER: You'll still profit.

19 MR. ABBOTT: We have submitted comments earlier.
20 Staff has accommodated the bulk of our comments and, so,
21 there's very little issue, as far as I'm concerned, insofar
22 as the application of the proposed Ordinance to Arden Fair
23 Mall.

24 Based upon the current draft of the Ordinance, I'd
25 like to clarify some of the points.

1 First of all, this Mall is -- really has about five
2 phases to it.

3 The First phase is the existing -- or the new Sears
4 store, which is under construction. I don't think there's
5 any question that that is exempted from the Ordinance,
6 because the rights are vested.

7 Phase two would be Nordstrum's. There's no
8 question that has been vested.

9 Phase three is the double decking of the existing
10 small tenant Mall towards the Weinstock's end. Again, I
11 believe, because we've got the foundation permits, that
12 portion of the Mall expansion has vested and is not subject
13 to the Ordinance.

14 Phase four, which I will come back to, will be the
15 demolition of the existing Sears and the then extension of
16 the two story Mall down towards the new Sears store.

17 And Phase five is the future phases. And Phase
18 five was really what many people thought my letter was
19 addressed to earlier.

20 It is not the applicant's intent to request
21 exemption for future Mall expansion. That has never been
22 requested. It has never been submitted to staff.

23 So, I want to make sure that Council understands
24 that we are not requesting an exemption or clarification as
25 it applies to future phases.

1 What it really comes down to is that, under the
2 terms of the Ordinance, you either have to have your
3 building permit and a vested right by the effective date of
4 the -- in effect, you have to have a vested right based
5 upon a building permit.

6 The last phase, Phase four, which is the demolition
7 of the Sears store and Mall expansion, simply will not
8 occur for many months down the line. And that phase of the
9 project is at financial risk to this Ordinance.

10 And I guess the point I'm trying to make is that
11 this developer, while not legally vested in the project,
12 has been financially vested in this project for months,
13 going back to almost a year ago when the decision was made
14 to start demolishing the first existing Sears store.

15 I mean, the money was put on the table. It was
16 invested in that project, and has been at risk for a
17 considerable period of time.

18 Basically, the March 29th cutoff date, I don't
19 think realistically accommodates a project such as Arden
20 Fair.

21 There may be others. I don't know. This is the
22 only one that I'm here to speak to the Council to.

23 So, I guess we are still seeking some recognition
24 in the Ordinance for projects like Arden Fair, where the
25 last discretionary entitlement came after March 29th, but

1 before the -- before this Ordinance went out for public
2 review.

3 And I don't think it's unrealistic to at least hold
4 a developer accountable to a Draft Ordinance after it's
5 gone out for public review. Not simply the Settlement
6 Agreement -- that was certainly -- the Council was privy
7 to, but not the remainder of the development community.

8 Certainly we all knew that it was coming down the
9 line. But we still don't know what the final form of the
10 Ordinance will be.

11 And every developer's been at risk in this
12 community. So, we're really only dealing with a small
13 phase of the project and it may be a question of the cutoff
14 date. Maybe a recognition of something unique about the
15 Mall.

16 We certainly are free to work with staff, if the
17 Council so desires.

18 CHAIRPERSON ROBIE: But, what you're telling us,
19 you want something up front before the Ordinance.

20 UNIDENTIFIED COUNCILMEMBER: That was exactly my
21 point. And that -- in the -- that Bill cites. And that
22 is --

23 CHAIRPERSON ROBIE: Maybe --

24 UNIDENTIFIED COUNCILMEMBER: -- when the Ordinance
25 went out to public review, at that point, I think you -- I

1 think there is a -- there's a public noticing problem.

2 And we can't -- to me, not being an attorney, it's
3 a little ipso facto, and it doesn't quite fit the situation
4 that we're trying to hunt for here.

5 So, I need to have staff also clarify that for us
6 before we finally take action on this Ordinance.

7 CHAIRPERSON ROBIE: And you want some sort of a
8 policy before we actually pass the Ordinance; is that
9 what --

10 UNIDENTIFIED COUNCILMEMBER: Well --

11 CHAIRPERSON ROBIE: Or at least a discussion before
12 we pass the Ordinance.

13 UNIDENTIFIED COUNCILMEMBER: Well, yes.

14 CHAIRPERSON ROBIE: If the Ordinance is passed.

15 UNIDENTIFIED COUNCILMEMBER: Correct.

16 CHAIRPERSON ROBIE: Yeah.

17 MR. ABBOTT: Just as a final point, I would echo
18 Christy's remarks that I don't think that the variance
19 provisions offer much relief.

20 Legally, they are very difficult to obtain. Every
21 developer in town, to have to hire a lawyer to go apply for
22 one, because of the substantial evidence requirements and
23 the findings that are required.

24 It's good business for the land use lawyers in
25 town, but I'm not sure that's the policy direction that the

1 Council necessarily intends to take.

2 So, I guess I would disagree with staff. I don't
3 think the variance provisions really address the problem as
4 it affects Arden Fair, and I think that really is -- a
5 restructuring of the Ordinance would be the more
6 appropriate direct route. Thank you.

7 CHAIRPERSON ROBIE: Thank you, Bill. Okay. I
8 think that we will continue this hearing until next
9 Tuesday, at a time we will have Budget Finance and
10 Transportation and Community Development Committees
11 together.

12 COUNCILMEMBER CHINN: Better give a couple of hours
13 to that, though.

14 CHAIRPERSON ROBIE: Well, I think we're going to
15 have to. And I do apologize that there were some major
16 items on this agenda, all of which were very important.
17 Thank you all for your patience.

18 Okay. We're going to continue.

19 (End of proceedings at 5:15 p.m.)

20 --oOo--

21

22

23

24

25

REPORTER'S CERTIFICATE

---o0o---

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF CALIFORNIA)
) SS.
COUNTY OF SACRAMENTO)

I, JAN BENEDETTI, Certified Shorthand Court Reporter for a Superior Court in the State of California, listened to the taped recording from which the foregoing transcript was prepared, and find it to be a complete and accurate record of the proceedings within the limits of the recording provided for the purpose of transcribing into typewritten form, and to the extent that the record reflects omissions and inaccuracies regarding names of speakers or parties, these may be corrected by stipulation of the parties, who are more familiar with the principles.

IN RE THE MATTER OF: Various matters regarding the Housing Trust Fund (HTF) Ordinance: (D-All); and Resolution Adopting the Housing Assistance Plan, Program and Financing Strategy

DATE: November 29, 1988

Dated this 10th day of May, 1989, at Sacramento, California.

Jan Benedetti
JAN BENEDETTI, CSR #4643
Certified Shorthand Court Reporter in the State of California