

City of Guadalupe
Regular Meeting of the Guadalupe City Council
Tuesday, August 22, 2023, at 6:00 pm
City Hall, 918 Obispo Street, Council Chambers

1. ROLL CALL:

Council Member Christina Hernandez
Council Member Gilbert Robles
Council Member Megan Lizalde
Mayor Pro Tempore Eugene Costa Jr.
Mayor Ariston Julian

The mayor called the meeting to order at 6:00 p.m. All were present. (Note: The abbreviation, "CM", for "Council Member" will be used in the minutes.)

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF THANKS, APPRECIATION OR CONDOLENCES.

Mayor Julian offered condolences to the families and residents of West Maui and Lahaina. He said, "I can't comprehend the magnitude of the suffering and community needs. There are approximately 880+ missing and 115 confirmed dead.

The mayor also offered his appreciation to law enforcement for tracking down the killer of our local resident. It should be known that there were many law enforcement agencies involved in this apprehension and should be noted that the San Diego Law Enforcement thanked the Guadalupe PD for our Police Department's efforts in this arrest and their continued support for the family.

Mayor Julian then thanked the volunteers who painted, renovated and otherwise, improved the looks of the Royal Theatre on the outside/front of the Royal Theatre. Still looking for continued improvements and donations to ready the site for its upcoming renovations.

4. AGENDA REVIEW

There were no requests to make changes to the agenda.

5. COMMUNITY PARTICIPATION FORUM

George Alvarez: I was out there Saturday during the painting. Nice paint job [at the Royal Theatre]. The following day they were asking for donations. No money for the project was used from the

grant. What bothered me was if these guys are willing to volunteer and beautify the City, shouldn't the City have set aside money to help these guys out? You're not paying labor...they're doing something to beautify the City. We're not that poor...so, that really got me. I've talked to the City Administrator over that. We've clarified some things we needed to discuss. I appreciate Todd's openness in dealing with that issue.

As for the person who got caught, we had good news. The only problem I had was what did we do as a city before it was announced that whatever departments were assisting in financial assistance for the children of the deceased. I worked in social services for many years. Catholic Charities...homeless coordinator. Where were the other agencies in coordinating efforts to help these two (2) children? That really got messed up. No father, now the mother's gone. Now, the financial burden is going to be on all of us, the way it should be. Whether it be Catholic Charities, Red Cross, City of...whatever. Have full-fledged assault getting these kids help. That's going to be on you guys to find out what's going to occur. We can't sugarcoat tragedy.

There's nothing been done with the unit that's parked at the rodeo grounds. That may be County property, and you haven't contacted the County to find out what's going over there. Is it a registered vehicle? Who's responsible? We don't have the law enforcement....oh, and my best pet peeve is a lack of any form of law enforcement in this town. Everyone's running wild, making U-turns. Even the traffic guys working on the road are parking in the red on Fifth Street. People had to go around due to lack of visibility.

Mayor Julian said, "There's a lot going on regarding the family."

6. CONSENT CALENDAR

The following items are presented for City Council approval without discussion as a single agenda item in order to expedite the meeting. Should a Council Member wish to discuss or disapprove an item, it must be dropped from the blanket motion of approval and considered as a separate item.

- A. Waive the reading in full of all Ordinances and Resolutions. Ordinances on the Consent Calendar will be adopted by the same vote cast as the first meeting unless City Council indicates otherwise.
- B. Approve payment of warrants for the period ending August 14, 2023, and ratify payment of warrants for the period ending July 31, 2023.
- C. Approve the Minutes of the City Council regular meeting of August 8, 2023.
- D. Adopt Resolution No. 2023-69 acknowledging the authorization to open the Public Government Money Market Account (PGMMA).
- E. Approve the annual "Peace, Love, and Hope Around the World" holiday season parade scheduled for Saturday, December 9, 2023, by Kiwanis Club of Guadalupe.

F. MONTHLY REPORTS FROM DEPARTMENT HEADS

- 1. Public Safety Department:

- a. Police Department report for July 2023
- b. Fire Department report for July 2023
- c. Code Compliance report for July 2023
2. Human Resources report for July 2023
3. Recreation and Parks report for July 2023

Mayor Julian pulled Item #6.F.3.

Motion was made by Council Member Lizalde and seconded by Council Member Costa, Jr. to approve the balance of the Consent Calendar. 5-0 Motion passed.

Request to Speak:

George Alvarez: Re: Item #6.F.1. - As I mentioned before, we have a lack of law enforcement in this community. It's hard to have three (3) at a time...two (2) at a time. We're lucky, and I emphasize this again, that we don't have higher crime here. What are we doing, not us here? I've been pounding and not once have I got any elected official to say, "Let's shut George up and get something done for the City". Let's have a workshop to say that this is what is coming in, this is what we got, and this is what we're stuck with. So, we know. As soon as you can, please get the TV back for transparency's sake. This is ridiculous. That's all.

Re: Item #6.E.3 - Mayor Julian asked, "On open volleyball, the adult league, if a person is not on a team, are they still able to participate on open volleyball?" Hannah Sanchez said, "That would be in substitute for drop-in volleyball. The whole idea is that because so many people have it on their schedule already for Wednesday night, to keep it on Wednesday night. So, it would be in place of that. But if it ends up not being a league, then it'll continue to be drop-in volleyball." Ms. Sanchez mentioned that to date, there were no sign-ups for the league. The mayor commented with school starting, there may be more interest those of high school and college age here and surrounding areas.

The mayor then said, "At Le Roy Park, with what's going on over there, I'd like to be involved. USDA, they want to push Le Roy Park, Phase II. They want to be involved. This is going to be a big-ticket item, \$6M, so, they want to know what's going in there. Last thing, on pickletball, you have something about an email being sent out. Do you have another method, like a flyer going out?" Ms. Sanchez said something could be put in the September newsletter.

Motion was made by Council Member Hernandez and seconded by Council Member Robles to approve Item #6.E.3 of the Consent Calendar. 5-0 Motion passed.

7. CITY ADMINISTRATOR REPORT: (Information Only)

In talking to some city managers and different groups, it's tough recruiting now everywhere. We're not seeing any hits for the Public Works Director/City Engineer and the Associate Planner. I'm even talking about grant writers, project managers, IT people and Recreation Services Manager. It's not that we're not working at it hard, it's just that we're not seeing a lot. And I want to give kudos to staff filling in during times of uncertainty. We're working hard doing what we can.

An email went out about a joint special meeting between the City and the School District and a State of the City meeting. I think the Council would want the State of the City to be first and then the School District joint special meeting. The School District set up a tentative meeting, but we didn't get a full Council on that. So, nothing's been set up. I've sent an email to department heads for PowerPoint presentations for the State of the City. I'd be reaching out for dates with the Council for the State of the City. We'd be looking at early September with the Council, then the joint meeting with the School District.

Mayor Julian asked, "My concern with that is that I'd like to know what the School District wants to discuss so we know what to talk about." Mr. Bodem said, "Like before...they present their projects, and the City Council and department heads give updates." Mr. Bodem said that according to Dr. Handall, it was what their projects were and what they were doing. The mayor said, "I need specifics as there is so much information on what the City is doing now. Like the flood, the river, the Royal Theatre, Central Park...we could go on for days on this. There's the Escalante Project, housing, finance, the audit, etc. So, to me, let's get that done, then we can see."

Mr. Bodem said, "I know that you want to have the State of the City first. So, I'll have Juana [Escobar, Administrative Assistant] reach out to each of the council members for a special meeting and set something up." Mayor Julian emphasized, "To me, personally, as long as I know the specifics of what they want." Mr. Bodem said he'd get the specifics. CM Lizalde added, "If we do State of the City first, we wouldn't have to repeat ourselves at the joint meeting." The mayor said that the School Board could come to our State of the City meeting and then Council and department heads could go to the School District's meeting. CM Hernandez said, "I saw that Santa Barbara also had a joint meeting, and I was really interested in that. I would also want to see the State of the City first."

The mayor mentioned that the Escalante Meadows groundbreaking noted in the report was important and happening on Friday, August 25th. He also commented on FEMA and the 2023 floods. He said, "I spoke with Supervisor Lavagnino this past Thursday. I think Chief is working with the San Diego group. They all have the drone information. We're meeting on a monthly basis for updates. FEMA has provided some fixes to that whole stream, not only to the three (3) areas we're looking at, which includes just the County park-side. They're looking at our treatment plant. The engineers at FEMA have information on what to do. The County and State are asking them how to fund these fixes." Mr. Bodem then said, "The information in my report is just what the damage was, and what they're willing to reimburse. What you're talking about is a broader picture."

The last item in the report that Mayor Julian commented on was the Hwy 1 and Hwy 166 project. He said, "A week or two ago, Cal Trans met with Tayler Farms and District 5 representative. They toured the area. Priority is the safety of the residents regarding traffic. Looking at ways to mitigate Pasadera, Obispo, Flower and Hwy 166. They're really on top of it...SBCAG, D.J. Farms and Cal Trans."

Request to Speak

George Alvarez: I'm a little leery about the school board and you [City Council] having a joint meeting. Close to some 13 years ago, the discussion was about Pasadera. Last time the school board came here, they didn't want the City Council to give the green light on the development because the school wanted 7.5 extra acres. So, that project was held because of the needs of the school. And it negatively impacted the City because we needed the tax base on those homes to keep things going. Because of that, the children have suffered not having the school done. The superintendent at that time was Hugo Lara who developed that joint venture. Municipalities are municipalities. School boards are school boards. You can't mesh the two and do city business. Like you said, have them separate. They can come here but they have no jurisdiction to tell you what to do. Because of the idiots at that time, we lost about 15 years of tax base income for what they wanted. And the kids lost out.

Mayor Julian said, "The school had plans for a 17-acre site, as opposed to a 12-acre site. Five (5) acres belonged to the City. We negotiated with them, and they paid us \$700K, Quimbiac monies that's being used for our parks."

On a separate item, Mr. Bodem said, "Parking and No Parking signs have been ordered for City Hall. For Al's Union, parking is permitted on that lot but no parking from midnight to 6:00 a.m. We don't have an ordinance that allows for towing, only for citations. That's in the works. Probably 3-4 weeks for signs to be set up."

8. DIRECTOR OF PUBLIC SAFETY REPORT: (Information Only)

Fire rescue team...we got called by the State and the County to send a strike team to Crescent City for the Smith River Complex Fire.

Traffic – staying on top of issue. I just gave a citation for someone doing a U-turn.

Calls for service for our community – we're where we should be. We're still trying to work through the traffic at Mary Buren School. I'm out in mornings at school and in the afternoons giving out tickets.

I want to thank Human Resources. We have two (2) Police Officer applicants – backgrounds being done. One is starting the Police Academy soon. Two (2) will be put on our wait list. We're in the final stage of the Fire Captain recruiting. Human Resources has been pushing to get going on that.

Did a tour at 151 Obispo – saw security camera plans. Have been using camera on Hwy 1. No encroachment permit with Cal Trans – we moved camera. We're trying to take care of our traffic.

Thank you to the Mayor and City Council. I want to give a real nice 'shout out' to the entire Police Department regarding the recent homicide. The mother was trying to get a report of a missing person. Others wouldn't take the report. Our officers stepped up, did the report and got the information into the system. With that, that's how the hit came about. The person who found the vehicle notified the police department. Because of the hit on the vehicle, they were able to check the

cameras, and we were able to see the person crossing the border. That made things to be stepped up in the case to locate the person responsible. We worked hand-in-hand with San Diego PD, and they gave us some great kudos. That was the catalyst that put this whole thing together. Taking the report, getting it into the system, etc. I am extremely happy and proud of our officers. They all came back into the office and took a part putting together a nice package. So, when San Diego PD called, we were able to provide everything they needed. We kept in touch, and they let us know when the person was apprehended.

CM Lizalde said, "Really appreciate your report. What a great overview. Going above and beyond with short staff during difficult challenges lately. It's good that positive staffing is happening, and ground is being made to bring our staff up to par. Thank the staff for all the work that they're doing. We really feel that and want to send that sentiment to them."

On a separate note, Mayor Julian commented about a new person at the table with City staff members. Mr. Bodem said, "That's Robert Salinas, filling in and handling the situation with the computer at City Council meetings and monitoring events in our City facilities. He'll be transitioning into our meetings." The mayor said that Mr. Salinas had been on the Recreation and Parks Commission, so he knows the ropes.

CM Hernandez said, "I was reading that 'Red Ribbon Week' will be in October and, hopefully, some police officers will make site visits at Mary Buren and McKenzie."

REGULAR BUSINESS

9. Informational report from planning staff on the possibility of regulating food trucks and sales carts within the City limits.

Written report: Larry Appel, Contract Planning Director

Recommendation: That the City Council:

- a. Receive a presentation from staff; and
- b. Conduct an informational discussion with public input; and
- c. Direct staff to return with a draft ordinance; or
- d. Continue to a future meeting for further discussion; or
- e. File report.

Mr. Appel stated that the City has no regulations in place that would prohibit or restrict the use of food trucks and sales carts within the corporate boundaries of Guadalupe. We currently approve all business licenses for food trucks and food carts that come through. This topic has come up several times over the years. Tonight, we're giving you the opportunity of possibly starting an ordinance to regulate food trucks.

A memo had been sent out a couple weeks ago in anticipation of this meeting with a matrix and options to consider. After discussion of this item, there are couple options to consider: 1) File this report to be brought back in the future, or 2) Go forward with an ordinance. Food trucks are being

looked at in a different light now. So, maybe you want to look at the positive aspects of them and go forward.

A copy of the matrix had also been sent to the Guadalupe Business Association (GBA), but nothing had been returned. Mayor Julian said, "I read the information about what GBA stated. It looks like they aren't leaning towards going for an ordinance." Mr. Appel commented, "They (GBA) had a lively discussion, and I tried to summarize the different points that were made. It's clear to them who are the business owners are feeling that a food truck, if it could park on Guadalupe Street, could take away their business." The mayor also said, "We did talk about this many years ago. One of the reasons we did talk about it was that there had been a food truck on Olivera Street parked across the street from Masatani's. But they were moved to another area which didn't seem to be a problem. I know that Lompoc and Santa Maria have their events with food trucks, vendors, wine tasting, etc."

CM Lizalde commented, "We need some sort of mechanism. I don't know what that looks like yet but maybe something that should complement restaurants downtown. I think there's a way to collaborate and have them work together. Food trucks are good for engaging community. I love the events that Lompoc and Santa Maria put on. There are a lot of positive things...I don't think it's necessarily a negative. I'd want to deter that from happening and have something to complement downtown because we don't have limited parking downtown. So, if somebody parks downtown, I don't see a way for us to limit that. We would need clear guidelines."

Mayor Julian said, "We gave the Guadalupe Social Club permission to have a food truck there. Tayler Farms has a food truck. At one point, I thought it was basically informal to have people park their vehicles like that on private property. We need some standard...we don't need a major ordinance that's an overkill, but we do need something."

Request to Speak

George Alvarez: Having had my family, for generations, in restaurants downtown and La Pasadita, I'm familiar with business and food. Problem here is this – we have to safeguard the existing business we have now in the restaurant trade. We lost the Far Western...it moved to Orcutt. That was our draw – we were famous for the Far Western. We're well known for Mexican food. If we allow food trucks, they need to meet the same guidelines that our restaurants are required to have. They're treacherous when it comes to food. You have to have a license. Each person handling food has to go to school and get a certificate to make sure they can handle the food. Will it be cost effective to have about five (5) trucks to be in the City for the amount of money we're going to get? Our downtown businesses are going to lose money. They have to pay the mortgage, the rent...a truck doesn't. I'm not saying I'm totally against it. There are factors here that you have to take care of the existing business. We are in a regrowth situation in our community. What we're trying to do is have people come in and expand with totally different food, other than Spanish. Something that will spark interest. These are things we need to consider for well-being of the existing businesses.

Mayor Julian said, "The matrix was confusing. Personally, I wouldn't want the approval to go through the City Council. I think it needs to be an Administrative Use Permit. There needs to be a certain location. Like, if at the Veterans Memorial Plaza, they want to do a special event there. I

have no problem with private property having a food truck if they go through the proper approval process.”

CM Hernandez added, “The County Public Health Department has requirements. If there are events here with food trucks, they would have to go through that department.”

Mr. Appel said, “It seems having food trucks at events in parks is alright. What are your thoughts about issuing a permit for someone who just takes a parking space on Guadalupe Street? Is that something you don’t want to do?” CM Lizalde said, “We don’t want our restaurants to deter partnering with food trucks. We may have restaurants that want to partner with them. I do think that time should be limited...should not be infinite. There should be some sort of time limit. I don’t want to say, ‘never on Guadalupe Street’ because I do think there are opportunities for restaurants and businesses to partner with a variety of trucks.” Mayor Julian added, “Special events for them. But what if someone says, ‘I want to do a special event every week’ in front of one of our restaurants? There needs to be special language on frequency and length of time?”

Mr. Appel also mentioned that in Santa Maria, permits are given for garage sales. City Attorney Sinco said, “Four times per year...once each quarter. No fee.” Mayor Julian said, “In the past we had looked at that for garage/yard sales. No signs on posts. That never came to fruition.”

The mayor said that he didn’t want to deal with the little food carts, and that Santa Maria has issues with that. But Mr. Appel said that the number of food carts are already approved for business licenses. City Attorney then said, “If food carts, look at maximum number for the ordinance. You can prevent them from being stationary, but you can’t if they’re moving. They can’t stop and set up shop.”

CM Hernandez felt that food trucks might be a good economic boost. Sometimes you can drive down Guadalupe Street, and restaurants are closed. It might be nice to have that flexibility.” CM Lizalde said, “I think there’s an opportunity to complement, and not have one dominate one or the other.” The mayor said, “Fiestas have food trucks. We don’t have anything to control that.”

Mr. Matthew Goodman asked if he could speak on the subject. He said, “Make it a minor use permit. Collect an assessment fee for the road usage of these things to make money, and you provide some sort of license that’s a year’s fee to enter Guadalupe and do business, aside from a business license. They’re going to have to have a commissary, and the cleanliness already in their health department set before they’re going to come here. So, you’re not going to collect revenue. If you have a minor use permit that says you collect a road assessment fee because you’re a truck. Some restaurants can have a commissary for food truck usage and rent it out.” Hannah Sanchez said, “We can turn the city auditorium kitchen into a commissary.”

The City Council gave direction to move forward with an ordinance.

10. CalPERS California Employers Pension Prefunding Trust (CEPPT).

Written report: Janice Davis, Finance Department
Presentation: Lee Lo, Customer Outreach and Support Analyst

Recommendation: That the City Council adopt Resolution No. 2023-70 acknowledging the authorization to participate in the CalPERS California Employers Pension Prefunding Trust (CEPPT).

A brief background was given by Ms. Janice Davis prior to turning the presentation over to Mr. Lee Lo, an analyst at CalPERS, specializing in CEPPT pre-funding. Ms. Davis said that CalPERS established the California Employers Pension Prefunding Trust (CEPPT) in 2019. CEPPT is an IRC Section 115 Trust set up for the sole purpose of receiving employer contributions to pay for pension costs. Section 115 Trusts are used by cities and counties to reserve funds against pension liabilities, but they cannot be used for other purposes.

The following is a summary of points from Mr. Lo's zoom presentation:

--Currently, the City's PEPRA plans are over funded, and the Classic Miscellaneous and the Classic Safety are underfunded.

--The "Funded Status" was shown as a tool to measure the city's "debt-to-asset ratio".

--By the end of this fiscal year, the City's total contribution for FY 23/24 will be \$674,491.

--The City has normal pension costs and also "Unfunded Accrued Liability" or UAL. The City's UAL grows if the pension fund does not reach 6.8% interest. If not, then the City has to pick up that difference.

--CalPERS is projecting that costs are likely to increase for the next 5 to 15 years.

--Government employers are not allowed to use their budget and invest in assets/equity stocks. (Some employers are allowed to purchase stocks but there's a cap on investments.) The 115 Trust doesn't abide by those rules.

--CEPPT was recreated by legislation and put under the umbrella of CalPERS. These are independent programs and not tied to the CalPERS Pension Fund.

--CalPERS is the largest 115 trust provider in the United States. There are 91 employer CEPPT participants.

--Employers generally save monies for future pension payments (future meaning 'two years' out). Those monies generally are parked in the General Fund, in treasuries, LAIF, and others of the same nature. Those generally earn less than one percent (1.0%). The risk is low, and what you put in will always be in the black. It's short-term.

--If monies put into a CalPERS pension fund is in excess of what is required (over 100.0%), you can't get those monies back, no liquidity. But there is liquidity with CEPPT.

--With CEPPT, there are two (2) investment strategies: a) Strategy One: an expected rate of return of 4.5%, carrying an 8.8% risk factor, and b) Strategy Two: expected 3.5% rate of return with the 6.1% risk factor. Both strategies have liquidity factor. (By comparison to CalPERS Pension Plan, that

plan strives for a 6.8% return but with a 11.4% risk factor and no liquidity.) A city could participate in either or both strategies. (Staff recommended Strategy One due to potentially higher returns.)

--One of the purposes of CEPPT is to grow your pension assets. A hypothetical example was shown in Year 1: if \$296K were deposited, using Strategy One, invested over eight (8) years, in Year 8, with 4.5% compounded interest, there should be enough monies generated to fill the gap so the City can pay for the normal pension costs for that year.

--The other purpose of CEPPT is to establish a "rainy day fund". If there's a spike in pension costs, the City can use this fund to help pay those increased costs.

--You can pull out monies in CEPPT what you pay for pension costs, whether that's normal costs, UAL or additional discretionary payments.

--There is no fee to join CEPPT until a deposit is made, which will not occur without City Council's approval.

--Some advantages of the CEPPT: 1) Investment policy and management with most broadly diversified portfolios; 2) Lowest total participation cost; 3) Excellent customer service with direct access to 13 dedicated staff, and 4) Simple administration – join or leave anytime at no cost.

Mr. Lo finished his presentation and asked if there were any questions.

Mayor Julian had a question for Ms. Davis. He asked, "Give us an update. Where are you on this?" Ms. Davis said, "I'm for CalPERS. It doesn't cost us anything to start it up. As Mr. Lo said, when we start to put monies in it, then we'll start getting the 25 basis points. But now, we're only recommending that we open...get ready to start saving for our UAL now."

The mayor said, "We're not in as big a hole as some other institutions, but we want to start moving up out of that hole." Ms. Davis said, "One strategy is to go into a money market account which is really a savings account. Use that interest, those monies to start this but that's not until later. It's not something I'm proposing to you now. I'm just recommending we open up the account." The mayor added, "So we have some place to put it in the future."

CM Lizalde wanted clarification on the fee. She asked, "So, from the presentation, the fee is just on the monies in the account. There's no initial cost involved to start this. We can open the account with no deposit." Ms. Davis said, "Yes, there is no fee to open the account." CM Lizalde added, "I like the flexibility of this. And I like the idea that we're forward thinking, financially, for something that will be coming up, and something that the City will have to be dealing with."

The mayor then asked Mr. Bodem for his comments. Mr. Bodem said, "One of the City's goals is to increase its reserves. This is sort of a back way of doing it because you're investing where you would have been spending more on it. This way, you'll eventually be going to be saving more, getting a better return on the investment. So, your reserves will increase by virtue of the fact you're putting energy into this to pay more interest."

There were no other comments or questions from the Council or staff, so the mayor asked for a motion to approve Resolution No. 2023-69. At this point, City Attorney Sinco said, "The staff represented that no money would be deposited. The resolution is silent on that. There's a sentence in there that says 'There's a one-time deposit that can be made at this time. But there's nothing in here that says that the Council will approve. I didn't know if you wanted to add that. Can we just insert: 'One-time deposit can be made at this time. No deposits will be made without the City Council's approval.' Can we add that to the resolution? Then it's clear that we're not authorizing any money to go in right now?" All parties agreed with the added language cited by City Attorney Sinco.

Motion was made by Council Member Costa, Jr. and seconded by Council Member Lizalde to approve Resolution No. 2023-69, with amended language. Roll Call: Ayes: 5 Motion passed.

At this point, Mayor Julian requested that the agenda be changed with Item #13 going ahead of Item #11 and then following with Item #12. This change did occur at the meeting but for the minutes, the items will remain in sequential order.

11. City Facility and Parks Use Fee Schedule Update.

Written report: Hannah Sanchez, Recreation Services Manager

Recommendation: That the City Council review the proposed changes made to the fee schedule, provide direction to staff and adopt Resolution No. 2023-71.

Ms. Sanchez said, "There is no resolution with this. The format you're looking at would be what would be on the City website, not on the Master Fee Schedule. It's clearer and easier for the public to read with explanation and what all goes into the fees. There's no resolution so we'd have to come back. Is that clear?" City Attorney Sinco said, "The City Council can approve fees tonight by motion. Because we're amending the Master Fee Schedule, that will be done by motion at a separate meeting. If you change your mind on what you approve tonight, you can always change it later."

Ms. Sanchez then said, "My recommendation for this...I really didn't change the fees themselves. Rather than doing 'resident vs. non-resident', I changed it to 'during business hours and outside business hours'. That seems to be the difficulty here in terms of... If we were to encourage people to do it during business hours, it would be a lot easier on the staff. Now that we have a staff member working on Saturdays, it is still available to be rented out at the 'during business hours' rate on Saturdays. A lot of fees were not clear, and there were a lot of different uses for our facilities. I tried to cover as many uses as I could think of such as recreational use, non-profit use and private rentals.

The staff report shows the reasoning behind a lot of the change. But, again, I didn't change the actual rate but rather the format. Fees changed for parks. I personally think that the park fee schedule was excessive. We charged more than Waller Park, and they have more amenities than we have. There were other facilities where I think the rates were high. If we lower the fees, there'll actually be more revenue because there'll be more interest in renting those facilities and parks.

I'm looking for recommendations from the City Council. Any changes you want to make or talk about? I know you might want to talk about the Boys & Girls Club (B&GC) and compensating them for their staff coverage. Personally, I somewhat agree with compensating them because they are

staffing all of these events. I think it would be right to compensate them. I don't know if you want to compensate them as much as they want but it's up to you." Mayor Julian said, "The B&GC, they have to have staff there. So, better than our staff having to be there."

Mayor Julian said, "On the non-profit side, I don't have a problem with the actual costs. It would seem easier to me if non-profits had a flat 20% discount across-the-board. I don't think we need to get into the weeds with this. People need to know the standards, and I think you have that covered. Some cities use a flat 30% discount on whatever the fee is. That's just a recommendation. The other one I have is on Attachment Two when it comes to alcohol. I have some concerns with alcohol at our parks, or any of our facilities. When you start mixing alcohol, there are public safety issues, in terms of law enforcement." Ms. Sanchez said, "No alcohol allowed at parks. That's the law. It's hard to monitor that. But for our rentals, we tell them that alcohol is not permitted. Whether they comply or not...unfortunately, we just don't have the parks and rec staff or public safety staff to make sure that every single party that's going on has no alcohol. For our facilities, the only facility that I think where alcohol should be permitted is for city auditorium since we have policy and procedure in place to ensure use is done safely and correctly. For the Veterans Hall, there currently is no alcohol use there. It is still up-in-the-air with use of the bar there. For the Senior Center, I don't recommend alcohol."

The mayor then said, "On your Attachment Two, it talks about additional costs for all rentals, if applicable, such as alcohol permits, etc. The barbecue pit at O'Connell Park...there were several empty cases of bottles of booze. That's hard to control. You're right at this site [city auditorium] having control. For the Veterans Hall as we move forward, there will be the bar there, and one-day ABC permits will be needed. We'll be able to control that."

Ms. Sanchez then talked again about non-profits saying, "I'm completely fine with whatever direction the Council wants to go. I think what happens a lot, and I'm being frank, that we're not going to waive fees for non-profits, but what ends up happening is the fees are waived for a variety of reasons. Every time we do that, we're losing money. I would rather do it at a lower fee and know that that non-profit is going to be okay with and will pay that lower fee than give them a 20% discount and right away they're coming to the Council to waive or reduce that fee. If you're going to make sure that we're not doing that, then I'm okay with doing it."

CM Lizalde said, "I think the historical issue here is that this was never documented. We never had clear parameters showing an agreement with non-profits. Easier to uphold with written language regarding what constitutes non-profit, etc. or type of event. Like is the event for the community, a fundraiser, will there be alcohol? There are varying types of non-profit events, so we need to be very clear on the non-profit explanations." CM Hernandez said, "I would like to second what CM Lizalde said. I was the host for Viva el Arte for eight years, and I worked with a lot of city administrators. Now looking at these fees, if Viva el Arte would like to host, it would \$570.00 for the day." Ms. Sanchez said, "With the 20% discount, it would even be more than that." That's where the difficulty is that all of these are 501©3s. Every single one that we waived or reduced fees for do have documentation that they do have non-profit status. There's a huge list of non-profits here in Guadalupe. So, I'm not sure what direction the Council's wants to go."

Mr. Bodem said, "This is completely off topic, but what about fees if there were funerals for veterans at the Veterans Hall?" Mayor Julian said, "Veterans are free." Mr. Bodem questioned whether that

should be memorialized or stated within the document. The mayor said, "If they're veterans, it's free. No charge." Mr. Bodem then acknowledged that it is federal law.

CM Lizalde asked, "If people want to come in the night prior or earlier than the time of the event and set up their event, do we charge for that time?" Ms. Sanchez said, "That's why I changed to 'during business hours versus non-business hours'. We would encourage them to set up during business hours, but there would be an additional charge outside of business hours."

CM Lizalde also asked for clarification on Le Roy Park rentals. Ms. Sanchez said, "We don't rent the Community Center, but we do rent the barbecue areas but not the grass area." CM Hernandez asked, "So, for the grass area then, that's like no soccer. I know that we got grant monies from the State. Are there any parameters when you get State money that you cannot allow the use for? Like, can't be used for function/event on grass area, etc.?" Ms. Sanchez said, "I can make it more clear in the write-up but it's more the adults...their cleats and that's what ruins the grass. The grass area in the front was so new and ruined. Some of these soccer players are using the back area. If they still use that area, it will then just be ruined like the front." CM Hernandez then said, "It's hard because right now, Le Roy Park is the only area for them to play. I don't think they're allowed to use the school. And Jack O'Connell now has the football field." Mayor Julian said, "There's a lot of space out there. There's a baseball field there that can be used for soccer. So long as they move it around and don't cleat up the whole area."

CM Hernandez asked, "I don't remember what the fee was for the Boys & Girl's Club. What if someone only rented the Community Center for one (1) hour? Would we be eating that charge?" The clarification was made for usage outside the arrangement with the B&GC. Mr. Bodem then asked, "If the school wanted to use the auditorium for volleyball for five (5) days a week, they'd have a requested special outside agreement. Dr. Handall has asked us to use the facility for 100 days, \$50 per day. What are your thoughts about that? Using the auditorium or not."

Ms. Sanchez said, "Let me first answer Christina's question. The B&GC only wants \$40 per hour to compensate their staff for outside business hours. The B&GC would be fine with \$15 an hour during business hours, like renting out the arts & crafts room."

CM Costa, Jr. asked, "For the fees that we're asking, what are those covering? Are City employees being compensated for hours for being here to attend or like in years past, are keys given to the renters?" Ms. Sanchez said, "A building attendant would be needed. Keys are not given out to renters. The only people who have keys that I'm okay with, which is what Todd was touching on, is the school district. Outside of that, I think that moving forward, it shouldn't be... A lot of non-profits would say that in the past they didn't have to pay the building attendant because they were the ones staffing it. But what happens is that staff would be called to come to City Hall because of something that was/went wrong, etc. and there's no building attendant because they said, in the past, they just did it themselves. We need to provide a building attendant, regardless, to check the restrooms and take out the trash. Whoever the renter is, they are responsible for returning the facility as they found it."

CM Costa, Jr. then asked, "The deposits that are shown on the fee schedule, like \$250.00 and \$125.00 refundable for the Senior Center, those are cleaning deposits?" Ms. Sanchez said, "That covers the equipment because we allow them to use all the City's janitorial equipment, electricity, kitchen." CM

Costa had another question and asked, "That's a 'cleaning deposit' not a rental?" Ms. Sanchez said, "That's why I didn't put 'cleaning deposit' on the new schedule...it's just 'deposit' in general. I did this because... what they don't realize is that there are a lot of other costs involved besides just cleaning. There's staff time to meet and coordinate with the renters. There's setting up time with whomever the building attendant will be. There's just a lot of fees outside of that. If you want a full breakdown of those other costs, I can get that for you. But that's why I didn't put 'cleaning deposit' but just 'deposit', in general. If you go to any other facility, they charge a lot more for their deposits than what we're charging. And they have a lot more staff to be able to provide more services than what we do."

CM Costa, Jr. continued and said, "In the past, I have had residents ask why they're only getting half cleaning deposit refundable when the facility's left cleaner after their event." Ms. Sanchez said that that was debatable. CM Costa, Jr. then said, "I've seen it firsthand where one renter has left, and another renter has come in to set up. The floor has been sticky. So, I've actually seen it. Then if that's going to be everything that fee is going to be for, you should lay out what the deposit is covering as you said before. This is why only half the deposit is refundable." Mayor Julian added, "Another thing...there's no one, maybe a very few people, who use the facility who know how to clean. I see that all the time, almost all of the time."

Mr. Teg Butler, Human Resources Manager, "May I suggest that part of the contract agreement that they are required on the checklist that when they first arrive to take pictures. If they don't take pictures, they don't have proof." Mayor Julian said, "There's normally a walk-through." Ms. Sanchez said, "I've been the attendant for many events. I do a walk-through with the renters at the beginning of an event...the bathrooms, the kitchen, everything. I was just going over with Robert (Salinas) the checklist that I do. I go through that checklist. Whoever the building attendant is, if it's not me, it's Juan (Montero), and he's good about it, too. We write down everything that is already an issue, like something that's broken or needs to get fixed. At the end of the event, we know if something's new, and that it didn't happen before the event. By the time the end of the night comes, the renters think they can clean everything up in an hour. Standard for renters, in their mind, is that so long as they take the trash out, and as long as there isn't a big puddle on the ground, then things are fine. What they aren't thinking about is that the next day, we have volleyball coming in. The floor has to be cleaned for the players to play on the court. There's no miscommunication. The renters are told that the facility has to be left as found."

CM Hernandez asked, "Is it possible for us to provide more brooms and mops? It is very hard to clean this. Sometimes when I have a community event, it's a little hard. So, just looking at the materials that we have, it would make it so much easier. I love to clean. When there's a community event, there's only two brooms. We'd need a larger broom." Mayor Julian said, "That was my point. A lot of people don't know how to use a broom or a mop."

CM Lizalde asked, "The fee for the reservation lock-in date – is that refundable or not? Does it count towards the actual deposit?" Ms. Sanchez said, "The deposit is to lock in a date for the rental. If the event does not take place, the City keeps the full deposit, no refund. If the event does take place, that lock-in is applied to the applicable deposit amounts. To rent the auditorium for 60 guests, for example, the deposit on the fee schedule shows '\$250'. The lock-in deposit of \$100 would be applied, leaving the deposit '\$150' only."

Mayor Julian asked if the renters sign the checklist. Ms. Sanchez said, "Yes, there's an internal checklist that is more for the building attendant and for documentation purposes to show what was not broken pre-event, etc. There's another checklist that the renters are to sign at the very beginning of the event. The building attendant goes through with the renters to show what the expectations are, and how the facility needs to be returned. So, if there's no refund, the checklist with the renter's signature is shown them which says they understood how the facility needed to be returned, and that wasn't how it was returned, resulting in no refund."

CM Costa, Jr. asked, "Tables and chairs? Are we looking at replacing them for the renters to use rather than renting them?" Ms. Sanchez said, "We only have a budget of \$8,900 to fund that. That may sound like a large amount, but it isn't based on the number of chairs and table that we need. The cheapest option we found is through Costco. The problem, though, is that we don't have a credit card with that big of an amount to make a purchase on. I don't think Costco has the ability to do invoices like we usually do for large cost items. We're still trying to figure out the logistics of all of that. We do have quotes for tables and chairs. We're just trying to figure it all out." CM Costa, Jr. added that the school district recently bought tables and chairs and would look into pricing for comparisons.

CM Hernandez said, "Santa Maria Parks & Recreation donated a small stage. Will we ever use that for rentals?" The question Ms. Sanchez raised was because the stage was so small (about 20'x20'), what charge would we set for that stage? CM Hernandez said, "I feel that stages are so much needed, and it could make us some income."

Ms. Sanchez then asked if there were any changes to the draft fees. She asked, "Would you want me to bring this specific document back with those changes in addition to the Master Fee Schedule? What Philip (Sinco) and I were trying to explain is that the layout will be different. The resolution will be for the Master Fee Schedule to fit that format where this is more for the public to view. If there are changes to the fees, I'd like to know that now so when I present the resolution and Master Fee Schedule, I'll have the correct fees on there." Mayor Julian said, "I'm comfortable with what you have now, using a non-profit discount of a certain amount...sounds like you're close to it anyway." Ms. Sanchez asked, "Would you rather just have a 20% discount?" The mayor said, "That's my thought so they'll know what it is."

Ms. Sanchez said, "I do want to bring back up what Todd had mentioned before. The Recreation & Parks Commission would want an agreement with the school district. To be candid, Dr. Handall would want status quo, meaning not to have a written agreement. I'd be concerned about liability but also, who's doing what. I don't want there to be any miscommunication regarding who's in charge of what. We need a written document." The mayor said, "I talked to Dr. Handall for an MOU. You don't have to do a joint powers type of an agreement but an MOU regarding the auditorium is needed. We have to have a document." Ms. Sanchez asked, "If he stills says 'no', am I able to tell him that they're not allowed..." Several people spoke at once saying to just have an agreement written, call it whatever, but an agreement is needed to go forward.

There were no other comments regarding the proposed fee schedule. Ms. Sanchez said she would make changes and incorporate into the Master Fee Schedule which she'll bring back to the next meeting on September 12th.

12. Community Benefits Agreement between the City of Guadalupe and Element 7 Guadalupe LLC, dba Element 7.

Written report: Todd Bodem, City Administrator

Recommendation: That the City Council adopt Resolution No. 2023-72 approving the Community Benefit Agreement by and between the City of Guadalupe, a municipal corporation of the State of California ("City") and Element 7 Guadalupe LLC, dba Element 7, a California corporation ("Operator"), located at 859 Guadalupe Street, Guadalupe, CA 93434 (the "Site").

Mayor Julian mentioned that he had a request from Mr. Lupe Alvarez to table this item until a representative was able to attend the meeting. Mr. Bodem said, "I got an email from Mr. Moreno and talked to Josh Black, two (2) of the members. Josh is the one we negotiated with. Mr. Moreno wanted the item tabled, too, because nobody could be here. But at the same time after I talked to them, I said that I feel what they presented in the application and what they presented to the City Council at that time, somewhat mirrors what's in here. So, I indicated to them that...obviously you'd have to vote on this tonight, but in my mind and estimation, I think they might highly consider what's here after I give a brief presentation. If by chance you feel that it should come back, we could always take it back."

Mayor Julian said, "My feeling is we got dinged before for not doing this, not doing that and coming back. My feeling is to have somebody here." Mr. Bodem said, "Yes, they're offering to be a part of this process". The mayor said that we're looking at time here. Mr. Bodem said, "Yes, there's another one that I was planning on putting on September 12th meeting and the other group can go on the second meeting in September. I'd want to keep them separate. We have sort of a timeline where we have to approve these community agreements in September. So, there's some timing on this. All three (3) have submitted their Conditional Use Permits (CUP). Two (2) of them have come back and have been approved by the City Council, including Element 7. The SLO Roots One, they submitted their CUP application on June 1, 2023. They're working on that right now. So, we should have time on that, as well. We're moving along."

Mayor Julian asked, "Philip, what are your thoughts on tabling this?" City Attorney Sinco said, "I'm in favor of tabling it because of the request from the applicant. In case you decide to make a change and they're not here, that would be worse." The mayor asked if a motion to table was needed. City Attorney Sinco said, "Yes, or a motion to continue to the next meeting."

A motion had been made by CM Costa, Jr. and seconded by CM Robles. During discussion, CM Lizalde asked, "If they don't show up at the next meeting, we'll go forward?" City Attorney Sinco said, "Code required them to complete these six (6) months after the effective date of the ordinance since they were already approved before that which means September 30th. But there's flexibility if there's good cause to continue, though. It's not like they're going to lose the right. Two (2) of them already have their CUPs. The last one, SLO Roots One, has until December 31st, although that could be extended if the delay is on the part of the City."

Motion was made by Council Member Costa, Jr and seconded by Council Member Robles to continue this item to the next meeting. Roll Call: Ayes: 5 Motion passed.

13. Update on 866 Guadalupe Street, Code Compliance Case.

Written report: Philip F. Sinco, City Attorney
Recommendation: That the City receive an update on 866 Guadalupe Street, Code Compliance case.

City Attorney Sinco briefly recapped this case. On May 9, 2023, the appeal before the City Council was held. To summarize, it rose out of some unpermitted construction, specially, large amounts of concrete for a parking lot and construction of a retaining wall/fence. It's unknown whether the concrete and retaining wall were constructed in full compliance with the State and local code requirements...particularly, whether the correct amount of rebar was used or if it was installed incorrectly.

After a long period attempting to obtain compliance through code enforcement, a nuisance abatement order was finally issued by the City's Code Compliance Hearing Officer, Jack Owens. There were seven (7) total hearings. The first one was on September 9, 2021, and the final one was on February 8, 2023. At that final hearing, the ruling issued provided that "All violations shall be corrected and inspected on or before Monday, 5-1-2023"...otherwise, "daily Administrative Penalties of \$250.00 per day, will begin on 5-2-2023 until the maximum of \$10,000 is reached".

As authorized by the City's Municipal Code, an appeal was timely filed. The hearing went forward on May 9, 2023 with the responsible parties, who were represented by Matthew Goodman, who is here tonight. Mr. Goodman stated that he would help the responsible parties get through plan check process and the permit process, which is all the City wanted. At the suggestion of Assistant City Attorney, Wendy Stockton, who was advising the City Council on what to do, the Council continued the appeal with the understanding that staff would bring it back for an update, which is what we're doing tonight.

As stated in the staff report, an application was filed, soon after the hearing on May 19, 2023. City staff requested that a zoning clearance application be filed which it was on May 23, 2023. All application fees were paid with zoning clearance approved on June 6, 2023.

The main issue is that the City's Building Inspector rejected the photographs provided by the applicant as being insufficient for him to conclude that the correct amount of rebar and its placement is in full compliance with the Building Code. As he did in the beginning, he requested that an R-scan be done. ("R" is short for rebar-scan.) The applicant declined to do as they believed the photographs were sufficient. However, in the Building Inspector's opinion, he wasn't able to make a determination he's required to make based on the photographs. As a result, he was unwilling to issue the building permit.

An R-scan is like an x-ray or ground penetrating radar which can help show the amount of rebar used so the Building Inspector can make the necessary determination. The only issue is that there will be some excavation required resulting in additional expense. For the R-scan, the excavation or destruction of the wall will be required to get into to see the rebar. The email sent to me, at my request, by the Building Inspector stated that his opinion is that it's an unreasonable request because the price range for the R-scan is about in the \$1,200.00 range with additional costs for the excavating in the parking lot.

Mr. Goodman then spoke, saying, "What Mr. Rose is leaving out is the other expenses which will bring this to around \$20,000 on an estimate. If I was to give my opinion, I'd have them pay the \$10,000, not \$20,000 on the wall. This is a non-habitable area...it's not a balcony. It's a CMU wall that we've sent pictures of. In his report, Mr. Rose said that 'it just went up...the wall just appeared'. We have pictures of this, three (3) years of pictures showing the cement truck, showing the dumpster, the debris...everything he's alleging here that he didn't see, are in photographs that had been submitted to you in your agendas for these other meetings that I was not there for. He's asking for a 3'x2' trench for excavation to see that rebar which would cost \$20,000 to repair. The wall's built right. It's \$20,000 down the drain...because this guy says you can't look at pictures.

Mr. Goodman then referenced being in the Northridge earthquake back in 1994. He said, "Every CMU wall that was approved and permitted fell down. This is a 6-foot wall with a fence on it. It's not going to fall down. It's been there for three (3) years. We're asking for the City Council to accept the photographs because an R-scan is going to show you the exact same things the photographs have. There are a lot of things that aren't up-to-code that are habitable. The bathrooms in this place [City Hall] are not up-to-code yet, this is a habitable building. We're talking about a CMU wall that was built properly with the amount of rebar. The reason it was not permitted properly by the Building Department is because when Jose (Martinez) went to the Planning Department and explained he was building a wall, he explained it was 6 feet. The Building Department said a permit wasn't needed."

He continued saying, "If that instance was circumvented, we wouldn't be here right now. I wouldn't be here right now. We built it right. Huge amount of crew. A lot of money went into this thing. You're going to R-scan and see that everything's built up-to-code. It's not something that's going to take an engineering stamp. We're not having an engineering company assume liability. Let Jose assume liability. Let it be a 'as built permit' and let him assume liability. I've had that happen before in other instances with other things with these types of discrepancies. This is all I have to say when we're talking about almost an inanimate object. Especially with discrepancies and the size of the properties...a difference in 7 feet. There's nothing here. There're too many discrepancies to say he needs an R-scan when it's completely taken care of. This guy, Mr. Rose, is just sensationalizing everything. He's almost done with his job...he's going on vacation to Northern California in a month. He's just throwing things out there. It's not necessary. That's all I got to say."

CM Hernandez said, "We said we would like an R-scan the last time you were here. We asked that you work with us and give us an update. You have no new findings for us since the last time you were here?" Mr. Goodman said, "I don't recall that, to be honest with you. I was here to make sure we were able to comply and get everything into plan check."

CM Hernandez then said, "I think it was clear what we needed to move forward. I was just wondering if there was anything new." Mr. Goodman said, "No, I believe not...we were here to move forward with compliance so that, as you stated, get the zoning and planning. We did get approved by planning and zoning and paid the fees. If we didn't do that, an R-scan would basically be unnecessary because we didn't get approved by planning or zoning. So, that would be moot until this meeting anyway. It's Mr. Rose's opinion that an R-scan is needed. You're going to cause someone \$20,000 to do something that will show you it's been done well. All the pictures that we sent...any contractor who lays concrete can tell you the same thing that I am. I just design these things...but I can look at the pictures and see everything and all the horizontal and vertical rebar that's required. It's not a

safety hazard. It's not a two-story balcony that doesn't have the proper footings. It's not a habitable area that may cause a fire or something. If a seismic anomaly happens, yeah, maybe that wall will fall down in a 6.0 quake. That's what I have to say."

Mayor Julian then said, "We didn't see any pictures." Mr. Goodman interjected, "Yeah, they're there." The mayor continued, "Our consultant, the Building Inspector, did." Mr. Goodman questioned that. The mayor said, "That's his job." Mr. Goodman asked why the City Council never saw the pictures. City Attorney Sinco added, "You guys never gave us the pictures. You might have submitted them to the Building Department. We never saw them prior to your arrival on the scene. Just so it's clear. The City Council never saw them." Mr. Goodman mentioned that he had more pictures on his computer that he had with them. The mayor did acknowledge that the Council had the pictures at the meeting.

CM Lizalde said, "The last meeting you attended, we went outside our parameters and allowed this to be reviewed by staff which was at the direction of the Council. The pictures were to be reviewed by Mr. Rose to see if they were sufficient/ Looks like our Building Inspector determined that they were not sufficient. That's the way I see this...is that correct?" City Attorney Sinco said, "That is correct."

Mr. Goodman said, "In his opinion...here are the pictures. I can explain all of these." CM Lizalde interjected, "Mr. Rose is the professional who we contract with to make that determination. The determination he's made is that he is not willing to sign off on that because he feels, in his professional opinion, that this was insufficient to determine what is acceptable or not. I just want to make sure we're clear on that. Correct?" Again, City Attorney Sinco answered, "Correct. I have some more things to say about that, if necessary, but that is correct."

At this point, Mayor Julian asked City Attorney Sinco to continue, and he did say, "Normally, in a situation like this, Council doesn't have the authority to overrule the Building Inspector because it's a Building Code issue because the person has the expertise. There's supposed to be what's called a 'Board of Appeals' to...you normally would bring to the Building Official if there was an issue. If the Building Official was agreeable to the applicant, they could appeal to the Board of Appeals. We don't have a Board of Appeals. They're very rarely used. We do have a Building Official, though. If the City Council wants a second opinion, we could have our Building Official, which is JAS Pacific, take a look and speak with Mr. Goodman...review Mr. Rose. That would be something I'd be willing to recommend rather than having you feel that you need to make the decision, either Mr. Rose or Mr. Goodman. It might not be a bad idea to get a second opinion, just in case...I doubt very much that it's \$20,000 to excavate two 3'x2'..." Mr. Goodman said, "2'x3'...you have to excavate all that...then you have to dispose of all that. Then you have to do the re-concreting." City Attorney Sinco then said, "We would probably want to get an estimate on that, too." Mr. Goodman said, "We did" ...City Attorney Sinco added, "You didn't provide it to me before the meeting." Mr. Goodman quickly said, "Oh, you're right. I agree." City Attorney Sinco said, "I'd be willing to recommend that we appeal to the Building Official and then report back at either the next meeting or the one after, depending on how long it takes."

Mr. Goodman said, "Let's just say, for argument's sake, it costs \$17,000 total with the R-scan. Why wouldn't he take the \$10,000 fine? It's cheaper. I'm just throwing that out there...what makes that

not a better deal?" The mayor then said that there was another person who requested to speak. Mr. Goodman said he had other pictures he wanted to show and walked up to CM Robles.

Request to Speak

George Alvarez: It's like being in the middle of a circus. I've been part of the process observing. We have a (expletive) department in Building here. They can't give you the specific answers...I'm serious. I've gone through the process, and you don't get a straight answer. We don't have sufficient staff that are knowledgeable that know in the department when they're there. The letter submitted to Jose [Martinez], page 4, bottom, last paragraph where it specifically states that...Here's the thing that bothers me as a citizen of this community. We elected you guys to do the job. You have the power...in fact, you, Mr. Mayor, have ultimate power on a lot of things. You do...it's amazing. You can circumvent things on your own if you want. That's the power of the mayor. The point here is when does staff tell a person that applied for, not even for a variance, a hearing to come up with... What do you think? We don't want to do... Don't worry about the City Council. They have no authority. Fine, if that's the case. What a waste of time. If I was the recipient of this letter, I'd say, 'Really? You wasted my time knowing that, regardless of the people that represent me, the City, have no authority in this? What are you doing as a council, from that respect? Never, ever not question the integrity of your staff. They make mistakes...a lot of them have problems. A lot of them are biased. That happens...that's part of the human element. I've seen a lot of bias in the Fire Department in this situation. Of all people, do you want him... ? It's cheaper to tear down the fence and put up a wooden fence. Solve the problem. But then again, the message is clear: Why build in Guadalupe when we don't have appropriate staff to give the necessary direction to the person without dealing with this (expletive). That's my personal opinion being on the Planning Commission for four (4) years and seeing this (expletive) in front of my eyes."

CM Costa, Jr asked, "Mr. Alvarez, you're okay if your neighbors don't get an approval to put up something that requires a permit" Mr. Alvarez said, "No, no, I have to go back-and-forth on this. I'm talking about this case. It's solvable...either knock it down or decide what you want. It shouldn't have got to this point. Accept it. You're dealing with these people."

Mayor Julian said, "We've heard from sources...we've heard from our legal counsel. I recommend going to the next step and using JAS Pacific for a second opinion. City Attorney Sinco said, "I appreciate that. I want to avoid any appearance of bias. Having a second opinion look at it only helps us in the long run. I agree with your recommendation, or your decision."

Mr. Reuben Dorado, one of the responsible parties, spoke saying, "Like Mr. Goodman said, I looked at the report. What really bothered me was it said that the wall suddenly appeared. This wasn't a project that took a month, or a day, or two months. It was a project that took more than six (6) months. I don't know where Code Compliance was at the time. You can see the wall from back-to-back from Masatani's to over by the end of where the church is. Of course, we're not knowledgeable about building permits or knowledgeable about anything. Our intent was to create something we wanted to do, and that's what we did. Again, like I said, on our end it was our fault that we were ignorant to the facts that there might have been some permit that we needed to get. We came to the professionals to see if we needed a permit. They said it had to be no bigger than six feet, I believe. We thought we were in the right at that point. What bothers me is that you guys are professionals, that's there's Code Compliance, there's firefighters, and no one said anything to us. So, this wasn't

a project that suddenly appeared. It's almost a year to finish. And that's what bothers me the most is that all of a sudden, we're now being constantly hit, wasting time and effort. I've stressed about this since day one because of this. Honestly, it just isn't right. I hope you, City Council, have a clear view of what's going on. We're only human. We all make mistakes. Again, I think it's part of both sides of our faults. Not just us but probably the City's, as well. So, I want to know if you guys understand that."

Mayor Julian said, "Thank you and Mr. Alvarez mentioned that we're responsible. Our responsibility is hiring staff that keep us legally in line with engineering. I really don't know much about engineering. And we have some recommendations by our attorney." At this point, he asked Mr. Martinez if he wished to speak to come to the podium.

Mr. Martinez asked to clarify some things. He said, "The attorney said several times that in hearings, we didn't present evidence and can't accept any now because we didn't present in the beginning. Is that right?" City Attorney Sinco, "If I understand you, you didn't present any evidence at the seven (7) administrative hearings. By the time you filed an appeal and tried to present evidence, the code specifically prohibits introduction of new evidence at an appeal. Is that what you're saying?" Mr. Martinez agreed that was what he said. Then Mr. Martinez said, "Yes, I suggest if you check hearing #2 and your recordings, we wanted to present evidence. We had the pictures we're showing right now. The Hearing Officer rejected them as evidence. He said he didn't want to see those. Therefore, we didn't have any information to present. We didn't present anything after that because they were rejected at the beginning. We had all those pictures. You can ask Reuben. We had everything to present...it was rejected. Therefore, it wasn't presented."

City Attorney Sinco said, "I'd like to respond. The Hearing Officer is not a building technician, not a building inspector. If I remember correctly, I don't remember him rejecting that evidence. I'll doublecheck that myself. The Hearing Officer's point was that he wanted you to file permits and plans with the Building Division. That's what he wanted to see. He didn't want to make a decision about whether you had the right amount of rebar. The fact is that we've allowed you to present the evidence now after the conclusion of the hearings, in spite of what the code says. So, it's kind of a 'no harm, no foul', in my opinion. You're allowed to present those pictures now to the appropriate people, and you have done that. Unfortunately, for you, the Building Inspector has rejected that. So, as a further accommodation to you... You think we're so hard on you, but I've been bending over backwards trying to help you from the beginning. I recommended to the City Council that they ask the Building Official who's a higher-level person to hear your side of the story."

Mr. Martinez then said, "I appreciate that. However, I see that we're going to the beginning. We're just wasting time. Just might as well say it. Knock it down, and that's it. Since day one, you requested an R-scan or whoever requested an R-scan of the wall. We went through full hearings and everything. The only reason we haven't complied with the R-scan is because it costs \$20,000. I don't have \$20,000 to throw away just for the satisfaction of someone saying 'oh, yeah, it's done correctly, thank you. I don't have \$20,000, and that's the only reason we haven't complied. I'd rather, if it goes to that point, knock down the wall. It's cheaper for me to knock it down and not spend \$20,000 on it. This is the only reason why. It's not that we didn't want to comply or give you guys a hard time. It's just because of money...that's all. And again, we have pictures, also, that Patrick (Schmitz, Fire Captain) took of the chickens I have while the construction was going on. How come he never acknowledged that? We never tried to do this in a bad way...to say we're trying to get away with

something. We came here to ask for permission, like the rules say. We take some fault, not having the knowledge of all the stuff going on. And again, we did it in a good way. Thank you."

The mayor said that it sounds like the R-scan is for a portion of the wall, not the whole wall. Mr. Martinez said, "Correct. But they're going to make big holes. I have the crew coming to the property telling me that they're going to make a hole 3'x2', here, here, and it's going to cost about \$20,000." City Attorney Sinco said, "In all fairness, I didn't have the cost for the excavation of the concrete. Mr. Rose believed it wouldn't be that significant, but he didn't have a number. I think it's fair to provide that to you, as well, at the next hearing. We'll get our own estimate. Then we'll know the exact cost of what we're asking for." CM Lizalde said, "At this point, it looks like we're getting a second opinion, just to make sure we're honoring that and not just us saying 'well, staff said...' At that point, depending on how that goes, we'll go from there. Correct?" City Attorney said, "Correct."

Mr. Martinz asked, "The second opinion is coming from who? From somebody from the City or is it someone independent?" City Attorney Sinco said, "They are independent. They are the Building Official, who are independent under the law. The decision of the Building Official cannot be overruled by the City Administrator or the City Council. It's in the Building Code that they are the highest authority in the jurisdiction regarding Building Code questions. So, they outrank the Building Inspector. It's like their boss. We have a contractor now, JAS Pacific, highly qualified, and they are the ones, under the law, who are authorized to make this determination. If you don't like it, we'll figure out if there's a way for you to appeal it. But it won't be to the City Council because that isn't allowed under the Building Code." Mr. Martinez asked, "Can we get our own independent second opinion?" City Attorney Sinco said, "Sure, you can do whatever you want."

CM Robles said that he personally would like to see pictures. City Attorney Sinco said, "Sure. I was relying on the Building Inspector's opinion on the pictures that he wasn't satisfied with the pictures to make the determination that he is empowered to make under the law. I had to rely on his opinion. And, as I said, I couldn't overrule it, and the Council couldn't overrule it."

CM Lizalde added, "I'm not an engineer as the mayor has stated, too. I don't feel comfortable even giving an opinion on the pictures. My apologies if you don't agree with that. I would feel much more comfortable if a professional, who is certified, will give us a determination if we're being legal or not." CM Hernandez said, "I think after hearing Mr. Goodman saying that if there was a 6.0 earthquake, that wall would fall. We're seeing climate change on the rise. So, I do want to see due diligence working with the community."

Mayor Julian said, "We can't override the Building Inspector. So, the next step is to have JAS Pacific come in. What pays for that?" City Attorney Sinco said, "The responsible parties have complained about how much money this has cost them. It's cost us a lot and a lot of time, as well. We'll be paying for that along with everything else that we've been paying for in trying to get compliance."

Mayor Julian said, "You have direction?" City Attorney Sinco responded affirmatively. At this point, CM Robles asked, "Mr. Goodman, are there other pictures besides these?" Mr. Goodman attempted to explain about the pictures but was interrupted by Mayor Julian who said, "We've given direction to the city attorney and staff. Excuse me." Mr. Goodman said he'd email pictures. The mayor thanked him.

14. FUTURE AGENDA ITEMS

City Attorney Sinco: Remove "Sidewalk Vending Ordinance" from 'Other Unscheduled Items' "Tree Ordinance" – schedule for September 26th meeting

15. ANNOUNCEMENTS – COUNCIL ACTIVITY/COMMITTEE REPORTS

CM Costa, Jr.: Wednesday, August 23rd, is "Day of Hope" – fundraisers will be in front of the post office and Hwy 1 and Hwy 166. On Thursday, August 24th – fundraiser for McKenzie Middle School: tri-tip sandwich, chips and drink for \$10.00.

CM Robles: Bulldogs play Saturday, August 26th, at Nipomo Regional Park. The schedule is: Bantams at 9am; Juniors at 11am; Intermediates at 1pm, and Seniors at 3pm.

Mayor Julian: SBCAG and Cal Trans did a walk-through at Tayler Farms in the past several weeks. They're working through the "matrix" of truck flow as well as the traffic along Pasadera, Hwy 1/166 plus the potential traffic throughout Guadalupe as this planned construction, about \$13M, moves forward.

APCD announced that there is additional funding for cities, non-profit agencies, and businesses for upwards of 70% financial assistance in converting gasoline powered devices from weed whackers, to tractors through state funding and available to Santa Barbara County entities. Starting in January 2024, no gasoline powered devices will be sold in California.

CM Hernandez: There is the "Empty Bowls" fundraiser on Wednesday, October 18th, at the Santa Maria Fairpark.

16. ADJOURNMENT TO CLOSED SESSION MEETING

Items to be discussed in closed session are: 1) "Public Employee Performance Evaluation"; 2) "Public Employee Performance Evaluation", and 3) "Conference with Labor Negotiators".

Motion was made by Council Member Costa, Jr and seconded by Council Member Lizalde to adjourn the meeting to closed session. 5-0 Motion passed. The meeting adjourned to closed session at 8:21 p.m.

17. CLOSED SESSION AGENDA

Conference with Labor Negotiators

(Subdivision (a) of Gov. Code Section 54957.6)

Agency designated representatives: City Administrator and Human Resources Manager

Employee organizations: Service Employees International Union (SEIU), Local 620; Guadalupe Police Officers Association (POA); International Association of Fire Fighters (IAFF), Local 4403.

Public Employee Performance Evaluation
(Subdivision (b) of Gov. Code Section 54957)
Title: Director of Public Safety

Public Employee Performance Evaluation
(Subdivision (b) of Gov. Code Section 54957)
Title: City Attorney

18. ADJOURNMENT TO OPEN SESSION MEETING

Motion was made by Council Member Costa, Jr. and seconded by Council Member Lizalde to adjourn to open session. 5-0 Motion passed. Meeting adjourned to open session at 10:05 p.m.


19. CLOSED SESSION ANNOUNCEMENTS

There was "no reportable action".

20. ADJOURNMENT

Motion was made by Council Member Costa, Jr. and seconded by Council Member Lizalde to adjourn meeting. 5-0 Motion passed. Meeting adjourned at 10:06 p.m.

Prepared by:



Amelia M. Villegas, City Clerk

Approved by:



Ariston Julian, Mayor