

**MUNICIPALITY OF THE COUNTY OF GARABITO
ACT OF ORDINARY SESSION NO.44
MARCH 7, 2007
6:00 PM**

DIRECTORS:

REG. DAMARIS ARRIOLA COLES
President

REG. LUIS DIEGO CHAVES SOLIS
Vice President

PERMANENT COUNCIL MEMBERS:

FREDDY CASTRO AGUERO
BETTINA ALVAREZ GOMEZ

Acting as a permanent member, in place of Mr. Marvin Elizondo Cordero.

ALVARO GONZALEZ VALERIO

Acting as a permanent member, due to the absence of Reg. Reinier Obando Enríquez

SUBSTITUTE COUNCIL MEMBERS:

YAMILETH JIMENEZ RANGEL
JOSE A. GONZALEZ BLANCO
ORLANDO CHINCHILLA PIEDRA

PERMANENT SYNDICATES:

GUIDO DELGADO ORDOÑEZ
ROY ARROYO MURILLO

SUBSTITUTE SYNIDICATES:

VIRIA ALPIZAR RODRIGUEZ

MUNICIPAL OFFICIALS:

MARVIN ELIZONDO CORDERO
Mayor

XINIA ESPINOZA MORALES
Secretary

COLLABORATOR:

LIC. JOSE MIGUEL VILLALOBOS

HAVING ACHIEVED QUORUM AND THE DAY'S ORDER APPROVED, THE SESSION
BEGINS,

THE DAY'S ORDER IS ALTERED

In order to swear in Mister Rafael Tobías Monge Monge, of the Social Christian Unity Party, as a permanent member of the Council of District I – Jacó, for the legal period that began on February 5, 2007 and concludes on February 6, 2011, according to the declaration made by the Supreme Electoral Tribunal, through Resolution No. 0245=E=2006.

THE DAY'S ORDER CONTINUES

ARTICLE I: APPROVAL OF THE PREVIOUS ACTA

The Act of Ordinary Session No. 43, held on February 28, 2007, **IS APPROVED**, with the following Amendment:

Article V, point, Interjection A, point No. 2: Reg. Bettina Valverde expresses that her Motion No. 2 was that for construction permit requirements, it be included that the petitioner have paid the real property taxes and to maintain a control between this department and the department of constructions; at no point did she request an audit.

Lic. Jose Miguel Villalobos explains that in situations such as these the following should be determined:

- 1 - If what is stated in the Act is what the Council approved.
- 2 - If the agreement is briefed correctly, upon approval of the act there can be no modification, instead an amendment to the Agreement.
- 3 - On another occasion, Reg. Bettina Valverde will be able to solicit a modification to this agreement.

Mr. Marvin Elizondo declares that the audit was solicited by himself, and for a period of three years.

The Council **AGREES TO UNANIMOUSLY AND DEFINITELY:**

Amend the Agreement dictated in Ordinary Session No. 43, Article V, Point No. 2, held on February 28, 2007 (S.G. 97-2007), in regard to the lengthening of the time period of the audit solicited, from two years to **three years**, and to postpone until **Wednesday June 6, 2007** the time allowed for the presentation of the final report. The rest of what was established in the Agreement will remain unchanged.

Therefore, said Agreement shall be read correctly in the following manner:

“Petition Lic. Mario Ríos Abarca, Internal Auditor of this Municipality, to undertake an audit in order to certify all of the construction permits approved in the last **three** years, and implement internal control norms that will allow for the sharing of information between the Departments of Constructions, Real Property, and Accounting, in order to guarantee optimum functioning of the tax system.

Likewise, **Wednesday June 6, 2007** is set as the final date for presentation of the final report of this audit.”

ARTICLE II: HEARINGS

A. MSC. DAISY MORA FLORES – PRINCIPAL, HERRADURA ELEMENTARY SCHOOL

States that Herradura Educational Center has an enrollment of six hundred eighty students that need to receive physical education and need to attend civic activities, the situation becomes difficult when the rainy season begins, because there are many students and they do not fit in any space. Also, there is no place adequate to hold meetings, bingos, or any other activity. It is for this reason that she goes before the Council, so that the ten million colones that have been included in previous budgets for the construction of a multifunction hall for the Herradura School be preserved; this due to the fact that it was impossible to use the money allocated last year, since by virtue of the project being under a “contract job”, it was difficult to execute because no constructor would agree to build the multifunction hall at that amount of money.

Concretely, she solicits that the money be transferred to the Education Board of the Herradura Educational Center, or that it be given in materials, purchased by the Municipality itself from provider hardware stores, since the student population urgently needs to be able to undertake the project, which according to estimates of the MOPT amount to ¢ 59.000.000 (fifty million colones), an amount of money which is not easy to assign in a municipal budget.

The School, with the support of parents, students, employees, institutions, and private enterprise, commits itself to the construction of the first phase of this project.

Madame President expresses that she does not understand the fear of losing this allocation, but, that it is better that the works be concluded and not that the allocations be passed on from budget to budget. It is for that reason that in the meeting of the Budget Commission she made reference to a meeting with Herradura School to determine how much it can contribute to the multifunction hall, how much private enterprise can contribute, and how much the Municipality

can contribute in order to see the project finished, since one of the policies of this Administration is that projects be finished. Thus, she urges the School to present a project properly outlined to determine what the Municipality will contribute, since there is great will on the part of the Council to collaborate on the project, as long as it is done in this manner.

The Principal of Herradura School believes that the money that is budgeted by the Municipality is enough to construct the building for basic needs, then with the ordinary budget which the school receives, which ranges between 6 and 7 million colones, and with the contributions from the community, the details will be made.

Mayor Marivin Elizondo backs the position of Madame President, in the sense that the projects need to be completed. He adds that in the extraordinary budget that is being put together there is an allocation for the multifunction hall for Herradura School, and possibly that budget allocation can be increased.

He affirms that the developers of the St. Regis project in Herradura offered help for a social project.

In another matter, he mentions that he will call on the Subcommittee of Sports of Herradura so that the field be opened before 3:00 in the afternoon, so that the schoolchildren can enjoy recreation.

Madame President concludes that she will await on the meeting with the Herradura School in order to analyze the project.

B. MR. CARLOS GOGHI GOMEZ – HOGARES CREA ASSOCIATION OF COSTA RICA.

We welcome Mr. Max Murillo, on behalf of Mr. Carlos Goghi, who states that Hogares Crea Association has 23 locations throughout Costa Rica, in places where there is a high degree of drug problems, and Jacó is one of them.

The specific proposal is that the Municipality designate a representative to coordinate a crusade of faith and hope in our county and refer any addicted persons that require help to an attention center. Also, to analyze the possibility of constructing an Hogar Crea rehabilitation home with the participation of I.A.F.A. and other institutions that are involved with helping people with drug addiction problems, for which they have a properly elaborated project.

Madame President expresses that its is important that said project be presented in written form, so that the Commission of Social Affairs can analyze it and set a meeting with representatives of Hogares Crea so that they can back their project. Additionally, she informs them that in our county there are churches interested in helping with drug addiction problems.

Mr. Max Murillo appreciates the time given and states that he will follow the instructions given by Madame President.

C) MR. ALBINO VARGAS BARRANTES – SECRETARY GENERAL OF THE NATIONAL ASSOCIATION OF PUBLIC AND PRIVATE EMPLOYEES (ANEP)

Madame President informs that the objective of the hearing was to turn in the proposals for the collective work conventions of this Municipality, which were turned in by Mr. Albino Vargas in a meeting that took place today at 2:00 p.m., with the attendance of members of the Council, the Mayor, Legal Consultant José Miguel Villalobos, and representatives of the Municipality Worker's Association.

Hands over the document to Lic. Jose Miguel Villalobos, for him to analyze and give his legal opinion in the following days.

ARTICLE III: RECEIVED MAIL

A) LIC. ROSA RIVERA BEJARANO – LEGAL DEPARTMENT, MUNICIPALITY OF GARABITO.

Presents copy of the memorandum DL-51-2007, addressed to Mayor Marvin Elizondo Cordero; regarding official letter S.G. 01-2007, in which there is notification of the Agreement dictated by the Municipal Council in the Ordinary Session No. 34, Article VII, Interjection A, held on December 27, 2006, through which: “ The Appeal solicited by the corporation LIQUID KITTY, corporate identification number three- one hundred one- four hundred twenty-two thousand five hundred forty-four, against Resolution DL – 397-2006, is approved, and Mayor Luis Fernando Villalobos Vasquez is ordered to urge the Department of Engineering and Constructions to approve the draft of the property cadastre plot plan P- 176657 – 1994” , states the following:

“It is clear that there is an incorrect registration of the property cadastre plot plan No. P – 175557 – 94, for which:

- 1) The present file should be taken to the Solicitor General’s Office to exert the judicial control that corresponds.
- 2) Present to the Public Ministry the accusation of usurping public domain property
- 3) If all of the legal requirements for the issuing of the draft of the plot plan are met, once the Municipality approves it the interested party should be notified, in written form and jointly with the approval, its questioning of the legality of title, expressing the reasons in a clear manner, warning that the works authorized will be solely under their responsibility, with the principle of good faith that ought to govern the relationship with the Public Administration and subject to the results of the judicial proceedings that are held regarding the nullity of title.

That being said, Mr. Mayor, I reiterate that in my own belief a certified copy of the respective file should be presented in the timeliest fashion to both the Solicitor General’s Office as well as the Prosecutor’s Office”.

Lic. Jose Miguel Villalobos expresses that due to the repetitiveness of the subject, it is important to point out certain important aspects regarding the principle of obedience:

He explains that in the present case an attorney for the Municipality disagrees with an Agreement of the Municipality. The attorney and the topographer of the Municipality considers that the plot plans for the corporation Liquid Kitty should not be approved because the property is within the 50 meters of the public zone, but, the company has title to that property and the municipality cannot change the property title; it is for that reason that the recourse presented by the company is given standing.

Lic. Rosa Rivera presented her position on this subject, and since it is reiterated, it is important that the officials of this Municipality know up to what point they can disregard and order given by their hierarchical superiors, since there are officials who believe that they can disobey an order because of illegality, however it is not so, according to what is stipulated in the General Law of Public Administration regarding obedience of orders. The official can express his or his disagreement to the superior, but must obey the order. Thus, in this case the Attorney can express her point of view, but she must execute the order, likewise the topographer; if they fail to they can be terminated for failure to perform their duties. Therefore the Council and the Mayor have the authority to advise the municipal employees about this Law.

Mayor Marvin Elizondo asks the Council to analyze the possibility of initiating and administrative proceeding against Lic. Rosa Rivera Bejarano, because she is being sent on vacation due to her having a lot of vacation time accumulated and she appeals because she says she has no money to go on vacation.

Madame President states that regarding the proposal made by the Mayor no agreement will be taken because it is purely and administrative process.

Mr. Vice President Luis Diego Chaves, asks that a memorandum be sent to all employees regarding the duty to obey a superior.

In light of maintaining a harmonious hierarchical structure and to strictly adhere to the norms that govern, the Council **AGREES UNANIMOUSLY AND DEFINITELY:**

Instruct all of the Municipality's employees that Articles 107, 108, and 109 of the General Law of Public Administration, with regards to the **Duty of Obedience**, stipulates the following:

Article 107.

1. Every public servant shall be obliged to obey particular orders, instructions or memorandums given by a superior, with the limitations established in this Chapter.
2. The public servant is not obliged to obey when the order does not come from a hierarchical superior, be he or she the immediate superior or not.

Article 108.

1. The public servant shall disobey when any of the following circumstances are present:
 - a) *That the order have as its objective the undertaking of acts evidently foreign to the competence of the public servant; and*
 - b) *That the order be obviously arbitrary, because its execution would be abuse of authority or any other crime.*
2. Obedience in any of these circumstances will produce personal responsibility of the official, both administrative and civil responsibilities, without prejudice to the criminal responsibility that may fit.

Article 109.

1. When none of the circumstances enumerated in the two previous articles are present, the public servant shall obey even if the order by the superior is contrary to legislation for any other reason, but in this case the public servant shall present his or her objections to the superior in written form, who shall have the obligation to demonstrate having received this.
2. The presentation of the objections in written form shall free the public servant of responsibility, but he or she shall still be subject to immediate execution of the order.
3. When the immediate execution can lead to grave damages that are impossible or difficult to repair, the public servant can suspend it, subject to disciplinary responsibility and eventually to civil or criminal responsibility if the justifying causes result nonexistent in a definitive manner.
4. That which is stipulated by Article 81.2 of the Law Regulating Contentious Administrative Jurisdiction shall remain in place.

B) LIC. JOSE BALDIOCEDA CASTRO – GENERAL DIRECTOR OF SOCIAL DEVELOPMENT AND FAMILY ASSIGNMENTS, DESAF.

Submits copy of his Official Letter DG- No. 109-07, addressed to Mayor Marvin Elizondo Cordero, informs him of the requirements that the projects for the Central School of Jacó and the School of Herradura need to meet, in order to be executed in 2007.

INFORMED.

C) INTEGRAL DEVELOPMENT ASSOCIATION OF QUEBRADA GANADO.

Submits copy of notice addressed to Lic. Francisco Murillo Espinoza, soliciting an inspection of the community of Quebrada Ganado, with the purpose that that Ministry take measures pertinent to the dumping of sewage water into the streets; specifically in Calle Cementerio, Guillermo Quiros Urbanizations, INVU Punta Leona, Discoteque Lucil's Sector to Victoria Hardware Store. Community Hall Sector to Daniela Supermarket.

INFORMED.

D) INTEGRAL DEVELOPMENT ASSOCIATION OF QUEBRADA GANADO

Submits copy of notice addressed to the Commission of Taxing and Budget, in which they are soliciting a monetary contribution for the sum of ¢30.000.000 (thirty million colones), for the remodelling of the community hall, remodelling of the bull ring, construction of classrooms for the Quebrada Ganado High School, and improvements to the Rural Police quarters.

By suggestion of Madame President, it is agreed to petition the Development Association of Quebrada Ganado to present before the Commission of Taxing and Budget the project for the remodelling of the community hall and the remodelling of the bull ring, so that this commission can analyze including an allotment for said works, taking into account that for the improvements to the quarters of the Rural Police there exists an allotment of ¢500.000 since two years ago, and that the construction of classrooms for the Quebrada Ganado High School is being processed through Community Works of the MOPT. **UNANIMOUS AGREEMENT.**

E) MR: FRANCISCO FLORES ZUÑIGA – DIRECTOR OF DISPATCH – NATIONAL LEARNING INSTITUTE, OFFICIAL LETTER PE.338-2007.

Submits copy of official letter to Luis Fernando Ramirez Arguedas - Assistant Technical Manager National Learning Institute, whereby he forwards official letter S.G. 53-2007 of the Municipality of Garabito, in which Mr. Carlos Segura, President of the National Learning Institute, is invited to a meeting in order to analyze the possibility of constructing a Regional Branch of the INA on property owned by the Municipality.

INFORMED.

F) LIC. WALTER ULATE CALDERON – SECRETARY GENERAL OF THE BOARD OF DIRECTORS – INSTITUTE OF AGRARIAN DEVELOPMENT.

In response to official letter S.G 52-2007, in which the Board of Directors of the Institute of Agrarian Development is invited to a meeting with the Municipality, to expose the need of the County of Garabito to legalize, with the help of IDA, some properties that this county needs for the completion of certain works; said meeting is scheduled for March 21, 2007.

Mr. Hubert Madrigal, Presidential Delegate, indicates that representatives of IDA will be here at 8:00 to make a trip throughout the whole county.

INFORMED.

G) LIC. JOSE RODOLFO CAMBRONERO ALPIZAR – ASSISTANT MANAGER OF SOCIAL DEVELOPMENT, INSTITUTE OF MIXED SOCIAL ASSISTANCE, OFFICIAL LETTER SGDS-129-03-07.

Communicates that the petition made through official letter S.G. 41-2007 has been forwarded to Lic. Maria Teresa Guzman Diaz, Regional Manager for Puntarenas, in order to proceed with the proper socioeconomic studies.

INFORMED.

H) MRS. FLOR DE MARIA UGALDE VALVERDE – PRESIDENT – JOSEFINA UGALDE CESPEDES DAY CENTER, OFFICIAL LETTER JD-17-07.

Submits copy of notice dated March 2, 2007, addressed to Mayor Marvin Elizondo, which states the following:

- 1- We are presenting the construction plot plans for the specialties hall to see if you can help us with the exoneration of the construction tax.
- 2- Our association is confident that you will accept what the previous MUNICIPAL COUNCIL planned for our Day Center, a budget which was then 3 million colones, resources that represent 15% of our yearly fixed expenses, which has been a relief to us and we hope that you will maintain the annual increases as was originally planned.
- 3- Solicit maintaining the Commission of senior Citizens and fund it in order to do works in association with CONAPAM Association, Municipal Commission of Senior Citizens, for senior citizens at social risk in the County of Garabito that do not attend our Day Center but that we may better their quality of life through their won means.

Councilwoman Bettina Valverde explains that the idea is to obtain the exoneration by the Municipality for the construction of the specialties hall, and that the annual contributions for the Day Center be maintained, and that in the extraordinary budget that is being prepared consider an allotment of three million colones for the center's expenses.

I) DR. ANDREA GARITA CASTRO – DIRECTOR – HEALTH AREA FOR OROTINA, SAN MATEO AND GARABITO, OFFICIAL LETTER DARSO-032.

Regarding official letter S.G. 101-2007, addressed to Lic. Francisco Murillo Espinoza, in which he is informed that the meetings of the Commission of Environmental Affairs are set for the first Tuesday of every month at 6:00 p.m. in the Sessions Hall of the Municipality of Garabito. He expresses that it is of great interest to that Ministry to participate in said commission, however due to the fact that Lic. Murillo lives in Atenas and travels with public transportation, it is difficult for him to attend the meetings at that time; he suggests rescheduling the meetings to Wednesdays, Thursdays, or Fridays at 2:00 p.m. or in the morning hours.

Were it impossible to make the proposed changes, he asks that he be informed as soon as possible in order to look for other alternatives.

It is agreed to communicate to Dr. Andrea Garita that the schedule for the meetings of the Commission of Environmental Affairs was chosen by petition of the majority of the members of the Commission, due to the fact that because of work schedules they could not attend at different times. **UNANIMOUS AGREEMENT.**

J) MRS. KATIA CASTAÑÓN GRANDA, GENERAL MANAGER OF HOTEL COPACABANA – JACO

Submits notice addressed to Mr. Mayor and to the Municipal Council. In light of avoiding the proliferation of mosquitoes, health hazards and losses, ask that machinery be sent for the purpose of unclogging the entrance canal for the sewage waters of the Anita pond, or otherwise, to authorize the unclogging of said waters by the company itself, as well as to give it the necessary maintenance and attempt to solve this problem in the quickest manner.

In regard, Mayor Marvin Elizondo states that the administration has no problem in cleaning the mouths of the rivers, but that today, in a meeting with representatives of the Central Pacific Chamber of Commerce, great worry was expressed regarding the aquifer levels in Jacó due to the contamination of companies such as Copacabana, Jacó Fiesta, Cabinas Alice and Bancosta, among others.

For this reason, the Mayor asks for an agreement to oblige all of these companies to install their own treatment plants. He mentions that another reason to adopt this measure is that Jacó is involved in the Blue Flag Environmental Program, and 35% of the score is directed at the quality of water.

Madame President states that effectively in today's meeting the representatives of the Chamber of Commerce expressed their interest in searching solutions to the water contamination problems; considering that many hotels deposit their waters into the sea, generating grave problems to the tourism industry, and that this contamination generates many health hazards, besides the fact that Jacó needs to achieve the honor of having a Blue Flag, a solution to the water contamination problem needs to be found. It is for that reason that the Municipality needs to begin a campaign to demand that hotels and businesses install water treatment plants, both in new buildings and in already existing ones.

Syndicate Roy Arroyo Murillo asks that the measure be applied in all of the county's beaches.

Lic. Jose Miguel Villalobos explains that the Health Law of 1973 stipulated connecting the internal tubing to the sewage system, but that the law has holes, because when there is no sewage the effect is null.

That is why in 1992 the Law of Wildlife Conservation No. 7317 was approved, which prohibits depositing contaminated waters into springs, rivers, brooks, permanent and nonpermanent streams, lakes, marshes, natural and artificial dams, estuaries, bogs, reservoirs, fresh waters, brackish waters, salt waters, and at the same time obliges all businesses to have a water treatment plant. In Provision III this law gives a time period of two years to meet such disposition; in other words, since 1994 these businesses should each have their respective treatment plants.

In conclusion, for thirteen years it is a requirement that hotels and other businesses have a treatment plant and the obligation for the State to construct water treatment plants ends with Law No. 7317. Additionally it is obligatory for residential homes to do so, but apparently the Municipality ignores its obligation to demand that this law is fulfilled, and it continues to extend permits solely with health permit. Therefore, the Mayor's proposal is backed by this law and it may be demanded of all those businesses existing since 1994.

Basing it on recommendation by Lic. Jose Miguel Villalobos, the Council asks that Mayor Marvin Elizondo initiate a campaign to demand that hotels and businesses of the county install water treatment plants for sewage waters and any other contaminated waters, both in new buildings and in buildings existing since 1994; this based on Article 132 of the Law of Wildlife Conservation No. 7317 of December 7, 1992, which prohibits depositing contaminated waters into springs, rivers, brooks, permanent and nonpermanent streams, lakes, marshes, natural and artificial dams, estuaries, bogs, reservoirs, fresh waters, brackish waters, salt waters, and at the same time obliges agroindustrial and industrial installations, and other installations to have treatment plants and warns that those businesses that do not meet what is stipulated in this article shall be fined in amounts ranging between fifty thousand colones (¢50.000) to one hundred thousand colones (¢100.000), which can be converted into prison terms of one to two years. By the same token, Provision III this law gives a time period of two years to install their respective water treatment systems. Said time period expired in 1994. **UNANIMOUS AGREEMENT.**

**K) REG. LUIS DIEGO CHAVES SOLIS AND TOP. LUIS ALBERTO GARCIA SEGURA,
MASTER PLAN REVIEWING COMMISSION, MUNICIPALITY OF GARABITO,
OFFICIAL LETTER CAP.003-2007**

Once having reviewed the project for Condominiums Vista Las Palmas, Jaco, Garabito, state the following:

- The documents have the approvals of institutions that endorse the project.
- That the interested party has presented a copy of the Environmental Evaluation document, and the respective Plan of Environmental Management (Environmental Administration)

- That the difference in area of construction has been rectified, by presentation of approval by the Engineer and Architect Association, increasing the area of construction processed originally by 4890 square meters.
- A display of mailing addresses for the condominiums was presented.
- The Workplace Risk Insurance policies from INS were presented.

THEREFORE

We recommend

Give the Council's endorsement to this project and have the respective construction taxes paid for a construction area of 17,690 square meters, under the responsibility of meeting respective laws of the Municipal Engineer."

Vice President Luis Diego Chaves Solis expresses his displeasure with the manner in which the processing of these type of permits have been undertaken, be it that the work is begun first and afterwards is when the endorsement by the Council is sought. He also believes it is important to define the number of stories allowed for the buildings.

Mr. Mayor explains that he gave a ten day permission to continue construction to Condominium Vista Las Palmas, while they fulfilled legal obligations, since the work had already begun when he took power as mayor.

Regarding the subject, Lic. Jose Miguel Villalobos advises the following:

- Final responsibility to approve the project lies on the Municipal Council.
- The Council is not obliged to give approval of the work merely because it is approved by other institutions. However, just as the Council is irreplaceable when making decisions, it also has no substitute when assuming the consequences of its decisions. Thus there ought to be great care to avoid situations such as what happened with Marbella where all of the Council officials are in prison because of authorization of construction permits that were illegal.
- The Municipality's engineer is terminated because, among other things, he failed to halt construction projects that did not meet what is required by law, and it is contradictory that this disposition not be applied to the particular ones. If the work does not with the municipal permit, what is proper is to halt it.
- In this specific case there is a situation that is not completely clear, since in the file it is two projects that are cited, firstly Vista Mar, afterwards Vista Las Palmas.
- An executive summary of this project should be presented so that the Council knows exactly what it is approving.
- The establishing of the maximum heights of the buildings is a political decision that should come from the Municipal Council.
- He recommends that the green light on the Vista Las Palmas project should be halted for this week, until there is concrete confirmation what stage the construction is at. Also, that Mr. Mayor investigate whether it has the municipal permit; if not, he should order the site closed down immediately.

Madame President Damaris Arriola appreciates and endorses the recommendation given by Lic. Jose Miguel Villalobos.

Following the recommendation given by Lic. Jose Miguel Villalobos, the Council **APPROVES UNANIMOUSLY AND DEFINITELY:**

Leave the approval of the project "Condominios Vertical Vista Las Palmas", and ask Mayor Marvin Elizondo establish actual state of the project, with the objective being to determine whether it has permission from the Municipality. Otherwise, he shall immediately close down the work until the company FAYETTE PROPERTIES OF CR SOCIEDAD ANONIMA meets its legal obligations.

Note: At 9:04 p.m. Madame President calls for a recess.
At 9:22 the Session continues.

L) MR: MARVIN ELIZONDO CORDERO – MAYOR, MUNICIPALITY OF GARABITO

1. **Official Letter AM.203-2007:** Invites the persons interested to a meeting that will take place on Thursday, March 8, 2007. at his office at 2 pm, the purpose being to address the following issues:
 - The shantytowns.
 - Easter Week operatives
 - Other issues of great interest.

The Mayor adds that the meeting will count with the participation of representatives of the Police and that the support from the Council is needed.

2. **Official Letter AM 211-2077:** Asks for the naming or modification the new Commission of the Regulatory Plan. The objective is that said commission be responsible for analyzing the contractual execution of the Regulatory Plan.

Mr. Mayor states that Mr. Santiago Vargas is willing to continue as a collaborator with this Commission, for which he suggests that he be re-incorporated, likewise for Mr. Peter Van Hussen and Engineer Victor Saenz Alvarado (engineer of the Control Board and Environmental Commissioner).

The Council **AGREES UNANIMOUSLY:**

To modify the Agreement dictated in Ordinary Session No. 9 Article Vii, Inscription E, held on June 28, 2006, regarding the naming of the Regulatory Plan Commission, in which Engineer Victor Saenz Alvarado is named in replacement of Manuel Guerrero Gomez, and the naming of Peter Van Hussen, in replacement of Fernando Villalobos Vasquez.

Therefore, said Commission is comprised in the following manner:

REGULATORY PLAN COMMISSION

Marvin Elizondo Cordero
Peter Van Hussen
Santiago Vargas Cerdas
Franklin Vargas Mena
Luis Alberto García Segura
Rosa Rivera Bejarano
Jorge Johnny Ríos Solís
Víctor Sáenz Alvarado
Roy Castellón Sossa
Víctor Sáenz Alvarado
José Miguel Villalobos

- 3 – **Official Letter AM.212-2007:** Submits copy of Official Letter DM-058-07, signed by the Minister of Tourism, Mr. Carlos Ricardo Benavides Jimenez, in which they are asking whether there is a Tourism Commission within the Municipal Council. The reason would be to establish joint efforts for the proper development of tourism activity in our community.

Madame President states that at first the idea was that the Environmental Affairs Commission could handle tourism related matters, but the Minister of Tourism, Mr. Carlos Ricardo Benavides would like that commission to include representatives of the commercial community and the health community. Thus, the naming of said commission shall be pending.

M) ING. DAVID HERRERA GUERRERO – DEPT. OF ENGINEERING AND CONSTRUCTIONS, MUNICIPALITY OF GARABITO, OFFICIAL LETTER DI-094-2007.

Submits for approval the plans and file of the ST. REGIS HOTEL PLAYA COYOL project, which already has approval by the Department of Engineering and Constructions.

He explains that the difference in the amount valued by the Municipality is due to the fact that the pool area and plaza were included, which were omitted by the Engineers and Architects Association of Costa Rica.

Vice President Luis Diego Chaves Solis (member of the Plan Review Commission) is asked to coordinate the meeting and present the recommendation with respect to this project, to be presented in the next Session held on March 14.

Mr. Mayor expresses that before approval is given to this project it would be a good idea for the Plan Review Commission to perform a field inspection.

N) LIC. MARIO RIOS ABARCA – INTERNAL AUDITOR, MUNICIPALITY OF GARABITO, OFFICIAL LETTER AI-10-07.

For analysis and approval by the Council, he attaches a draft of the Regulation for the Functioning of the Small Expense Fund of the Municipality of Garabito.

A copy of this Regulation is handed to each Council member, the purpose being that they each analyze it and present their points of view in the next Session on Wednesday March 14.

O) MR: CARLOS HERNANDEZ VILLALOBOS – PRESIDENT – GARABITO COUNTY COMMITTEE OF SPORTS AND RECREATION, OFFICIAL LETTER CCDRG-002-0-03-07.

States that acting in conformity with the Municipal Code and with the Autonomous Regulation of Organization of the County Committee of Sports and Recreation, the Garabito County Committee of Sports and Recreation in Ordinary Session 63, held on Monday February 26, 2007 at 5:00 p.m., proceeded to elect its board of directors in the following manner:

President	Carlos H. Hernández Villalobos.
Vice President	Alba Luz Mora Flores.
Secretary	Randall Solís Salas.
Treasurer	José J. Adanis Castillo.
Comptroller	Marco Petersen Dotti.

INFORMED.

ARTICLE IV: SEVERAL PETITIONS

A) MRS. MARTHA LUZ ALVARADO – SECRETARY – INTEGRAL DEVELOPMENT ASSOCIATION OF HERRADURA.

Solicits permission to sell liquor in the Fiestas scheduled for the 25th through the 28th of May, 2007 in Herradura for the purpose of raising funds for costs related to the multifunction hall.

The Council **UNANIMOUSLY AGREES:** To grant the Integral Development Association of Herradura permission to sell liquor at the Fiestas scheduled for the 25th through the 28th of May, 2007, for the purpose of raising funds for costs related to the multifunction hall.

Subject to the following guidelines:

- Perform the rest of the procedures before the Department of Licenses.

- The sale of liquor should be done in a closed area and be in charge solely of adults.
- Coordinate with the Police so as to maintain security at the site and control the non staying and sale of liquor to minors.
- Present before the Council an official copy given by an Accountant reflecting the money amount raised at each activity, specifying the manner in which the funds will be distributed.
- Present before the Department of Licenses a liability insurance policy that covers the activity.

B) MARTHA LUZ ALVARADO – SECRETARY INTEGRAL DEVELOPMENT ASSOCIATION OF HERRADURA.

Solicits permission for the sale of liquor during the dance scheduled for Saturday March 31, 2007, in Herradura, with the purpose of raising funds for costs related to the multifunction hall.

The Council **APPROVES UNANIMOUSLY:** To grant the Integral Development Association of Herradura permission to sell liquor during the dance scheduled for Saturday March 31, 2007, for the purpose of raising funds for costs related to the multifunction hall.

Subject to the following guidelines:

- Perform the rest of the procedures before the Department of Licenses.
- The sale of liquor should be done in a closed area and be in charge solely of adults.
- Coordinate with the Police so as to maintain security at the site and control the non staying and sale of liquor to minors.
- Present before the Council an official copy given by an Accountant reflecting the money amount raised at each activity, specifying the manner in which the funds will be distributed.
- Present before the Department of Licenses a liability insurance policy that covers the activity.

C) ING. OSCAR VILLALOBOS CHARPENTIER – TECHNICAL SECRETARY –INTER – INSTITUTION COMMISSION OF TOURISTIC MARINAS AND PIERS – COSTA RICAN INSTITUTE OF TOURISM, OFFICIAL LETTER CIMAT 094-07.

Solicits a meeting with the Municipal Council on Thursday March 22, 2007, to expose the state of those projects which are being processed by this Commission under Law No. 7744, Concession and Operation of Tourism Marinas and its Regulations.

The Council **APPROVES UNANIMOUSLY AND DEFINITELY:**

Confirm for Thursday March 22, 2007 at 3:00 p.m. in the sessions room of this Municipality, the meeting solicited by the Marinas Commission, through official letter CIMAT 094-07, in order to expose the state of the projects that are being processed before that Commission under Law No. 7744 Concession and Operation of Touristic Marinas and its Regulations.

ARTICLE V: MOTIONS

None.

ARTICLE VI: MAYOR'S ADDRESS

A) Solicits the naming of a Pro-Marina Commission of Jacó, in order to follow up with the "Our Marina Jaco" Project. Said Commission would be formed by the following persons:

NAME	REPRESENTATION
Tobias Murillo.....	Mayor´s Adviser
Damaris Arriola.....	Municipal Council
Dr. Luis Edo. Sanabria.....	Health Community
Hubert Madrigal.....	Community
John Schumacher.....	Developers

Douglas MacfarlaneDevelopers.

Additionally, a representative of MINAE and a representative of CIMAT, to be determined later.

Lic. Jose Miguel Villalobos considers that the Municipality should not name said Commission , and should not include representatives of the project in it, so as to not feel compromise coming form the developers and not the community; the businesses say that they will benefit the community but it is not known precisely just how.

Concretely, his recommendation is that the Municipality stay at the margins, without giving premature criteria because later on they will have to make a decision; also, the Inter institutional Commission of Tourist Marinas and Piers.

Mr. Mayor states that the developers of “Our Marina Jacó” will present the project before the Council and have given it a focus centered on the community, including an aquarium, pool, parking for buses, etc.

The Council accepts the recommendation given by Lic. Jose Miguel Villalobos and REJECTS the proposal by the Mayor to name said commission.

B) States that tomorrow the filling of the potholes will end in Jacó and begin in Quebrada Ganado.

Also, this month will see the beginning of the work on the street that runs in front of the Municipality building. The work will be financed through an agreement with the Chamber of Commerce of Jacó, so there will be no public contract bidding.

C) With regard to the subject addressed in Article III, Inscription E of the act of the Ordinary Session No. 43 of February 28, referring to the problems present with the exiting of waters coming from the treatment plant at the Plaza Herradura shopping center, submits official letter Ing. 1-03-2007, issued by Ing. Victor Saenz Alvarado, states the following:

“The exit of that project is the ditch close to Sandoval Street, which goes through the main highway through a rain sewer that is located close to the entrance to Sandoval Street. In that exit the waters do not go directly to the ditch, instead they go through a lower level which leads to an accumulation of waters that are inconvenient to the community, which has expressed its discomfort with the way the water is draining.

The project engineers have presented lab test results, whereby the quality of the fluids is certified, but there have been situations where residuals that are not permitted by the Regulation of the Handling of Residual Waters have been discharged.

He adds that tomorrow he will coordinate what is necessary to solve the problem. Lic. Francisco Murillo of the Health Ministry conditioned the permit on that the company meet a series of requirements, which is why it is necessary to investigate together with Lic. Murillo if the company met all the requirements in the totality.

D) With attention to what was solicited by Reg. Freddy Castro in Article VI, Inscription E of the Act of Ordinary Session No. 43 of February 28, regarding the process of demolition of the sidewalk built in front of the old La Hacienda restaurant, presents Official Letter DI-

099-2007, signed by Municipal Engineer David Herrera Guerrero, who states the following:

“By petition of the Mayor an inspection was carried out by this department on March 6, 2007, at the site where Grettel Hernandez Nelly was given permission to construct a parking zone, which is registered under No. PC982-2006.

At the parking zone’s construction site it was verified that a concrete slab was built, which connects the sidewalk with the pavement at the same level; the drainage curb was covered by this structure and tubing and manholes to drain the water were left in place. The main problem is that when cars park there, some part of the sidewalk is used, which blocks pedestrian traffic.

If we would want to use an alternative route to solve this problem, it would be to ask the owner to build a flower bed between the pavement and the sidewalk of some 50 cm wide. This would avoid the vehicles entering the pedestrian zone; it would be over the drainage curb, which the pavement would not be constructing either.

If the previous suggestion were not approved, what would need to be done is to revoke the permit given and initiate an administrative process to reconstitute the sidewalk and pavement to the corresponding levels.”

Mr. Mayor emphasizes that the sidewalk was constructed with permission from the Municipality, which will be revoked, and an administrative process will begin to reconstitute the sidewalk and pavement to the corresponding levels; this according to the second proposal made by the Municipal Engineer, since the flower bed is not a good alternative for aesthetic reasons.

E) Informs that today, accompanied by MINAE officials, he undertook the inspection of the ten hectare property belonging to the Municipality located next to Tucan Calvo in Jacó, where a social welfare housing project is planned. Apparently, though, only three hectares are usable, so MINAE will carry out the corresponding study.

F) He also informs that today he received a visit from Banco Nacional officials, who are interested in putting into place the “Conectividad” project at this Municipality.

G) Presents the agreement to be made between the Municipality of Garabito and the company Marina Carara Bay, for the execution of a land use regulation plan for the Agujas Beach area, according to what was authorized by the Municipal Council of Garabito’s Ordinary Session No. 41, Article VI, held on February 14, 2007, Official Letter S.G. 69-2007.

ARTICLE VII: SEVERAL MATTERS

A) MR. ROY ARROYO MURILLO – PERMANENT SYNDICATE

Presents the report for the meeting called for Tuesday March 6, which transcribed as follows:

“We arrived punctually at 6:00 pm and by 6:40 we had not obtained the necessary quorum to initiate the meeting.

Those of us who attended agreed to ask the Municipal Council to re-convene this commission for a meeting on Tuesday March 13, 2007 at 6:00 pm at the sessions hall of the Municipality of Garabito. If a quorum is not obtained that day, we ask to immediately initiate the procedure for substituting inactive members in the municipal meeting of March 14, 2007.

With respect to that, the Council

CONSIDERING:

1. That through memorandum S.G. 101-2007 it was communicated to all members of the Commission of Environmental Affairs that the meetings were held on the first Tuesdays of each month at 6:00 pm at the meetings hall of the Municipality.
2. That according to the report presented by Mr. Roy Arroyo Murillo, at the first meeting held on Tuesday March 6, only Mr. Reinier Obando Enriquez, Victor Manuel Chinchilla Solano, and himself attended, which made it impossible to complete the quorum.
3. That Mr. Luis Fonseca Alvarado communicated via telephone to the Council Secretary that he would possibly not be able to attend the meeting of March 6, due to the fact that he had several commitments on that date; at the same time, he expressed his willingness to collaborate with this Commission.
4. That official letter DARSO – 032-07 was received, whereby Dr. Andrea Garita, Director of the Health Area of Orotina, San Mateo and Garabito, suggests that the date and time of the meetings of the Commission of Environmental Affairs be changed since on Tuesdays at 6:00 pm it is very difficult for Mr. Murillo to attend.
5. That the other three members of the Commission did not attend the meeting nor did they express anything with respect to that.

AGREES TO UNANIMOUSLY AND DEFINITELY:

Approve the recommendation made by Mr. Roy Arroyo, in the sense that:

“Re-convene the Commission for Environmental Affairs for a meeting on Tuesday March 13, 2007 at 6:00 pm at the meetings hall of the Municipality of Garabito. If a quorum is not obtained that day, we ask to immediately initiate the procedure for substituting inactive members in the municipal meeting of March 14, 2007.

B) MRS. BETTINA VALVERDE GOMEZ – SUBSTITUTE COUNCILWOMAN (Functions as a permanent member)

Presents the following initiative:

“Invite Mr. Fernando Pusey Hall, Principal of Jacó Technical Professional High School, to a meeting with the Mayor to discuss the issue of the presence of students of that high school in a nighttime private activity.”

The Council approves the initiative presented by Reg. Bettina Valverde Gomez. Said meeting will be scheduled for Wednesday March 14, 2007 at 4:00 pm, at the Municipal Building.

UNANIMOUS AND DEFINITIVE AGREEMENT.

Related to this same subject and by suggestion of the Mayor, the Council **AGREES TO UNANIMOUSLY AND DEFINITELY:**

Petition the Costa Rican Tourism Institute to investigate the license which is being exploited currently at the business named Bar Rock-n-olas, located diagonally from the Best Western Jaco Beach Hotel, in Jaco, to determine whether it is backed by a declaration of tourism incentives.

SESSION ENDS AT THE TWENTY-FIRST HOUR AND TWENTY MINUTES.

DAMARIS ARRIOLA COLES
Municipal President

XINIA ESPINOZA MORALES
Municipal Secretary