

**MUNICIPALITY OF THE COUNTY OF GARABITO
ACT OF ORDINARY SESSION NO.45
MARCH 14, 2007
6:00 PM**

DIRECTORS:

REG. DAMARIS ARRIOLA COLES
President

REG. LUIS DIEGO CHAVES SOLIS
Vice President

PERMANENT COUNCILMEMBERS:

REINIER OBANDO ENRIQUEZ
FREDDY CASTRO AGUERO
BETTINA VALVERDE GOMEZ

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

SUBSTITUTE COUNCILMEMBERS:

YAMILETH JIMENEZ RANGEL
JOSE A. GONZALEZ BLANCO
ORLANDO CHINCHILLA PIEDRA

PERMANENT SYNDICATES:

GUIDO DELGADO ORDOÑEZ
ROY ARROYO MURILLO

SUBSTITUTE SYNDICATES:

VIRIA ALPIZAR RODRIGUEZ

MUNICIPAL OFFICIALS:

MARVIN ELIZONDO CORDERO
Mayor

XINIA ESPINOZA MORALES
Secretary

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

ARTICLE I: APPROVAL OF THE PREVIOUS ACTA

The Act of Ordinary Session No. 43, held on March 7, 2007, **IS APPROVED**, with the following Amendment made by Madame President.

Article III, Inscription D: The allotment designated for repairs to the Rural Police station at Quebrada Ganado is for the amount of ¢1.500.000.00.

ARTICLE II: HEARINGS

Does not apply.

ARTICLE III: RECEIVED MAIL

- A) MRS. HANNIA CAMPOS CAMPOS – SECRETARY OF THE MUNICIPAL COUNCIL, MUNICIPALITY OF COTO BRUS, OFFICIAL LETTER MCB-SC-041-2007**

Communicates that the Municipal Council of Coto Brus, in Ordinary Session 039, held on January 27, 2007, Article II, Inscription 9, agrees to give support to Official Letter S.G. – 15 – 2007, where the Agreement dictated by the Municipal Council of Garabito is transcribed; which states "support for the initiative by the Municipal Mayor of San José, Johnny Araya Monge, that authorizes the Municipalities to increase real property taxes for the purpose of financing the operation of the Municipal Police squads; law proposed during the previous Administration."

INFORMED.

B) MRS. VANESSA CAMACHO BADILLA, IDENTIFICATION NO. 1-743-208.

She states that she has been unable to attend the Commission of Environmental Affairs meetings on Tuesdays because she is taking a computer course on every Tuesday of the month. However, she would like to be informed of all of the doings of the commission, and is willing to collaborate with whatever is required. At the same time, she would like the commission to consider the possibility of holding the meetings earlier so that she may attend.

Regarding this matter, the report for the Commission of Environmental Affairs meeting held on Tuesday March 13, 2007, which reads as follows:

1. In light of the fact that some members of the Commission do not make the meetings and that it is important to get the Commission functioning:
Petition to name Mr. Guillermo Hernandez Castro, a person well-known as an environmental protectionist, in substitution of Mrs. Vanessa Camacho Badilla, who does not attend meetings.
2. Petition the Council to call for a meeting the following Tuesday March 27, with the time to be determined after verifying with Mr. Francisco Murillo at what time he can make the meeting.

Attached is the work plan which is comprised of: Environmental Management, recycling, residual waters, protection of aquifer layers, determine and propose categories of new protected areas in the county.

Having deliberated the matter, the Council **AGREES TO UNANIMOUSLY AND DEFINITELY:**

1. Communicate to Mrs. Vanessa Camacho Badilla that it is impossible to fulfil her petition made through a letter dated March 13, 2007, since the meeting time was set at 6:00 pm because the majority of the Commission's members cannot attend at a different time due to work hour conflicts.
2. Incorporate Mr. Roberto Molina Ugalde and Mr. Guillermo Hernandez Castro into the Commission of Environmental Affairs.
3. Call for a meeting of the Commission of Environmental Affairs for Tuesday March 27, 2007 at 6:00 pm, at the meeting hall of the Municipality.

C) LIC. MARIO RIOS ABARCA – INTERNAL AUDITOR – MUNICIPALITY OF GARABITO, OFFICIAL LETTER AI-11-07.

Submits "Report on the Results of the Study of Reasonableness of the Budget Liquidation for the 2006 Period of the Municipality of Garabito."

INFORMED.

D) CHRISTINA TRUITT AND GABRIELA ARIAS CHACON, CO-COORDINATORS, CENTRAL PACIFIC CHAMBER OF COMMERCE

Mayor Marvin Elizondo petitions to incorporate Mr. Juan Carlos Rodo, with identification number 1-10190712, as part of the Regulatory Plan Commission, in place of Mr. Peter Van Hussen, who can no longer participate due to his multiple duties in other commissions.

The Council approves the proposal made by the Chamber of Commerce to incorporate Mr. Juan Carlos Rodo into the Regulatory Plan Commission, in place of Mr. Peter Van Hussen.

Therefore, said Commission will be comprised as follows:

Marvin Elizondo Cordero
 Juan Carlos Rodó Monge
 Santiago Vargas Cerdas
 Franklin Vargas Mena
 Luis Alberto García Segura

José Miguel Villalobos
 Víctor Sáenz Alvarado
 Roy Castellón Sossa
 Jorge Johnny Ríos Solís
 Rosa Rivera Bejarano.

At the same time, they are called to hold a work meeting on Saturday March 24, 2007, beginning at 10:00 a.m. at the Municipal Headquarters, by petition of the Mayor.

E) MRS. SONIA ALVARADO MARIN – SECRETARY – GARABITO ECOLOGICAL PARTY.

Regarding the complaint made by the Garabito Ecological Party before the Ministry of Security and the Citizen's Ombudsman office, related to the little control over the Herradura Marina, they inform that they had a meeting on February 15 of the present year with the Office of Marinas and Ports, where the necessity to set a precedent was discussed with representatives of the health, agriculture, immigration, government, and security sectors, being that there are approximately 15 different marina permits being solicited throughout the country.

A small office with air conditioning, telephone line, computer and all the basics needed to work was given in Herradura.

She thanks the representatives of this Marina for following the law, and assures that they will keep asking the ministries for help in order to have the necessary workforce. Additionally, the Minister of Tourism promised help, as well as the Minister of Security and the Director of Immigration.

INFORMED.

F) MR. MARVIN ELIZONDO CORDERO – MAYOR – MUNICIPALITY OF GARABITO.

Submits copy of his official letter A.M. 270-2007, addressed to Mrs. Xinia Herrera Duran, Director of ARESEP. He responds with information that was requested, through Official Letter 551-DPU-2007, regarding the route number for the Jacó – Herradura line, in order to verify the route it takes. At the same time he informs that the Jacó – Quebrada Amarilla route does not exist.

INFORMED.

ARTICLE IV: SEVERAL PETITIONS

A) MR: MAURICIO ALFARO CONDE, SPECIAL PROXY OF THE CORPORATION MAGDI JACO CAFÉ NET, AND MR: MICHAEL DAVID CICCOTTO; GENERAL PROXY OF THE CORPORATION FOSTERICA MCF

They ask that the right of way that crosses the properties described as follows be declared public road:

“Registration of Folio Real number 6 – 081158 – 000, with cadastre plot plan number P – 0717408-2001, which is property of the company Fosterica MCF S.A., with corporate identification number 3-101-436891, and the property with Registration of Folio Real number 6-565304-000, with cadastre plot plan number P – 0888440-2003, which belongs to the company Magdi Jacó Café Net S.A., with corporate identification number 3-101-385714. This petition is to undertake the necessary procedures before the corresponding institutions with the end result being to develop a residential tourism project which both in its process of construction and in its future function will bring multiple benefits to the area and to the county as a whole. Also, this right of way is used by personnel of the Herradura aqueduct when their tanks are located on the first property.

It is important to point out that this right of way is only passable during the dry season, even though it is the street used by the Herradura aqueduct personnel during the whole year, which makes the need to make improvements necessary.

I will not hesitate to tell you that the company Magdi Jacó Café Net S.A. has all the intentions of participating in the construction of said street in whatever is necessary and at the same time commits to being the only one responsible for this construction, thus excluding the company Fosterica S.A., proprietary of one of the lots which the right of way crosses, from any responsibility as to the construction; said company would only be responsible for donating the corresponding land to the Municipality of Garabito for constructing the street. Both of us proxies sign this petition, reflecting our agreement to make this petition.

The representative of the company Fosterica S.A., who is present, adds that it was a very difficult negotiation; however they have accepted to donate a strip of 14 meters to the Municipality, as long as the company Magdi Jacó Café Net S.A. takes charge in constructing said street. That is the agreement which is reflected in this document that they present before the Municipal Council.

Mr. Vice President expresses that although it is within the Council's competence to declare a road to be public, it would be convenient to know the opinion of the Cadastre and Engineering departments, with regard to this declaration of a public street.

The Council agrees to hand Mayor Marvin Elizondo a copy of the letter dated February 28, 2007, signed by MR. MAURICIO ALFARO CONDE, SPECIAL PROXY OF THE CORPORATION MAGDI JACO CAFÉ NET AND MR. MICHAEL DAVID CICCOTTO, GENERAL PROXY OF THE CORPORATION FOSTERICA MCF, so that as Mayor he consult with the Departemnts of Cadastre and Engineering with respect to the proposed declaration of public street, and inform the Council as well as the interested parties. **UNANIMOUS AND DEFINITIVE AGREEMENT.**

B) MRS. FLOR DE MARIA UGALDE VALVERDE – PRESIDENT – INVERSIONES CORSEL DEL SUR S.A.

Retakes the petition made by letter dated February 23, 2005, whereby she states that on the public road that runs from Agujitas to Quebrada Ganado there are sections with a lot of slope and that in her property a road with two or three kilometers of less slope can be built.

Therefore, she, who is owner of the property with cadastre plot plan number 1-1-4680-1840, would like to donate to the Municipality a public access road that would solve the needs of progress and development of the area as well as being a lesser expense for the Municipality. She asks to be informed of the procedure in order to enable said road.

In his condition as Mayor, it is asked that he consult with the Departments of Cadastre and Engineering regarding this subject, and keep both the Council and Mrs. Flor de Maria Ugalde informed. **UNANIMOUS AND DEFINITIVE AGREEMENT.**

C) LUIS FERNANDO CESPEDES PRENDAS – COMPTROLLER – ASOCIACION PRODUCTORES DE CUARROS

Asks for permission to sell liquor during a fair scheduled for April 27, 28, 29, in the community of Cuarros.

Madame President state that it is important to collaborate with the community of Cuarros because they have many necessities, the biggest one being the roads, which is why they are interested in having a bulldozer supplied.

The Mayor takes note.

The Council **AGREES TO UNANIMOUSLY**: Grant permission for the sale of liquor asked for by the Asociacion de Productores de Cuarros during the fair scheduled for April 27, 28, and 29.

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.

D) MRS. SONIA ALVARDO MARIN – PRESIDENT OF THE PRO – BANDERA AZUL COMMITTEE OF JACO

States the following:

“The Pro – Bandera Azul Ecological Committee received a recognition from President Oscar Arias for its organization, effort and participation in the program.

This committee asked for a hearing in order to hand it to the Council, to the community, and to all those who have helped in one way or another. We want it to be clear that it was the Committee that won it and not Amigos de la Playa. Amigos de la Playa is a group of businessmen and people of the community that cooperate by giving contributions for the cleaning of the beach, which is greatly appreciated; as well as the developers who have always cooperated.

The project is not just to maintain the beaches clean, it is also to de-contaminate the rivers and springs because this is damaging the health of our inhabitants. It is for that reason that the highest percentage point of this is a result of the analysis of the beach water and the greatest effort of this committee should be geared towards that point.

A letter dated December 12, 2006 was sent to the council members regarding 7 basic points that can be resolved in less than one week, but we haven’t been able to resolve any one of them even though they were approved by you. We received a letter dated February 8 from the Municipality giving the Mayor a time period in order to present a report by February 21 but to this day we have not received a response. The fact of the matter is that this is a serious problem for your health, the community’s health, and the tourists’health, and ifteher is no cooperation in enforcing the laws then we will not achieve anything. We would greatly appreciate you let us know when the Council can receive our visit on its Wednesday meeting.”

The Mayor expresses surprise over the letter sent by Mrs. Sonia Alvarado, because the groups Amigos de Playa and Pro-Bandera Azul had fused, and the recognition is for Jacó, independently from who gets the merit.

Additionally, he explains that the report referred to was requested by Councilman Obando and that he has already presented it to the Council, and efforts are being made to combat contamination. One of the actions taken is the declaration of emergency in environmental and health sense. Also, in the Municipality’s extraordinary budget 12 million colones were included for the cleaning of the beach and there are two cleaning machines that were donated by the Chamber of Commerce to the Municipality.

He concludes that it is not necessary to stand out, rather to achieve results.

The petition for a hearing asked for by Mrs. Sonia Alvarado, President of the Pro-Bandera Azul Committee of Jacó.

ARTICLE V: MOTIONS

There are none.

ARTICLE VI: MAYOR'S REPORT

- A) In light of the constant problems that are present due to the fact that the public zone in Jacó is not properly marked, he proposes to petition for that demarcation to IGN, and to express to them that the Municipality cover the officials' eating expenses.

Councilman Reinier Obando expresses that he agrees with the mayor's proposal, as long as the demarcation works are done with resources of the Municipality, so that there are no commitments with particular people and everything is done transparently.

Madame President expresses that it can be done through the agreement method, just as it was done with the developers of the project "Marina Carara Bay".

The Mayor clears up that he has made no mention of a particular company, that the work will be done with municipal resources.

Mr. Vice President suggests that the demarcation work be undertaken throughout the whole county of Garabito, since the problem can be found in any of the beaches.

The decision was made to solicit the demarcation of District One first and then District Two, thus the Council **AGREES TO UNANIMOUSLY AND DEFINITELY:**

Solicit the National Geographic Institute the demarcation of the public zone of District One – Jacó, for which the Municipality agrees to contribute the eating expenses of the officials assigned to the job.

- B) Communicates that the asphaltting of the trajectory between Morales Bridge – Municipality – Madrigal Crossing will begin next week, through an agreement with the MOPT, the Chamber of Commerce and the Municipality. The idea is to create a model project with bicycle path, sidewalk, and drain curb. Also, La Clinica Street, Hidalgo Street, and Mora Street, all in Jacó, will be asphalted.

The pothole filling in Quebrada Ganado has begun, but the work had to be suspended because the MOPT machinery had mechanical problems.

There are three other projects through agreements with MOPT and others made by public contract bidding that are being prepared.

- C) Expresses that when he laboured as a Councilman he proposed a project for the concession of umbrellas and beach beds, and now the business community and the Chamber of Commerce want to take up the subject again so that there is such service in Jacó, as there is in the best beaches in the world.

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

Ask Mayor Marvin Elizondo to elaborate on a project properly outlined with the purpose of beginning the process of his initiative for the installation and rental of beach equipment.

Also, in his condition as mayor, that he name a Commission that would be in charge of the continuity of this project, which should be presented in writing before the Council within the next two weeks, along with a draft of bylaws that would regulate everything related to activities on the beach.

- D) This week he received a visit from representatives of the company Proyectos Viales, which was contracted by Correos de Costa Rica for the road signage on the main roads of the country, according to what was published in La Gaceta dated December 5, 2005. They offered their services to the Municipality and left a brochure with pictures of the projects they are working.

Madame President states that the proposal will be analyzed in a meeting, although she considers that the project is a good one and that the Mayor can begin the procedures with this company, then inform the Council on what was achieved in the negotiation.

ARTICLE VII: SEVERAL MATTERS:

A) LIC. LUIS DIEGO CHAVES SOLIS – MUNICIPAL VICE PRESIDENT.

He addresses the following matters:

- 1) The need to regulate the farmer's market, in terms of scheduling, payment of the municipal permit, and placement of stands.

Madame President asks Vice President Luis Diego Chavez, that in his position as member of the Commission of Judicial Matters, search for a Regulation of Farmer's Market Law used by other municipalities and that he present it to this Commission next week so that it can be adjusted to the necessities of this Municipality; and in less than one month it be presented to the Council for approval and publication on the official daily La Gaceta.

- 2) Approve a temporary license for the sale of liquor to the Integral Development Association of Lagunillas, for an activity scheduled for next Saturday March 17, 2007, with the purpose being to raise funds for the different needs of the Lagunillas School.

Regarding this, the Council **AGREES TO UNANIMOUSLY AND DEFINITELY:**

Grant said temporary license to sell liquor, **as an exception and in the spirit of collaboration with that entity**, since these kinds of petitions should be presented before the Secretariat of the Council with at least fifteen days anticipation, and count with the approval of licenses in order to assure that there is no other activity within the same district on the same date.

The preceding, subject to the presentation of the respective petition before the Secretariat of the Council, and the fulfilment of 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.

- 3) Received a proposal from Mrs. Silvia Rodriguez of the Young People's Council, Central Pacific Region, so that the naming of the County Committee be reformed and to proceed according to the guidelines established in the General Law of Youth No. 8261, since there are two representatives of the Municipality and the representatives of the student organizations and the religious organizations, respectively, are missing.

Immediately following, the Council **AGREES TO UNANIMOUSLY AND DEFINITELY:**

Modify the Agreements of Ordinary Session No. 23 held on October 11, 2006 (Official Document S.G. 671-2006) and of Ordinary Session No. 40, Article VII, held on February 7, 2007 (Official Document S.G. 63-2007), related to the naming of the County Committee of Youth, specifically with respect to the representation of its members, according to what is established by the General Law of Youth No. 8261. Also, they call for a meeting on March 27 at 6:00 pm.

Thus, Luis Diego Chaves Solis remains municipal representative, Maykall Quesada Adanis as representative of student organizations. At the same time, Feliz Segura Salas joins in representation of religious organizations.

Therefore, said Committee will be comprised as follows:

NAME	REPRESENTATION
Luis Diego Chaves Solís	Municipality de Garabito
Maykall Quesada Adanis	Student Organizations
Marcos Adanis Rojas	Scouts and Guides Group
Andrea Gutiérrez	Herradura Sport Committee
Karla Gutiérrez Mora	Women's Group
Felix Segura Salas	Religious Organizations

At the same time, a meeting with Mrs. Silvia Rodriguez of the Council of Youth is called for March 27, 2007 at 6:00 pm at the Municipal Headquarters.

E) MRS: DAMARIS ARRIOLA COLES – MUNICIPAL PRESIDENT.

Madame President ALTERS THE DAY'S ORDER, to receive the representatives of the Condominiums Vertical Vista Las Palmas project, property belonging to the company FAYETE PROPERTIES OF CR SOCIEDAD ANONIMA.

LIC. VICTOR LOBO – ATTORNEY – FAYETE PROPERTIES OF CR SOCIEDAD ANONIMA

States that on January 23 the representative formally presented the petition for construction permit for the project Condominiums Vertical Vista Las Palmas in Jacó, and after having remedied the four technical aspects that the Review Commission solicited and the time having elapsed, asks that permission be granted to continue construction, since the Municipal Commission has already recommended approval to the Council; also, they need to continue work because there are 160 of the county's workers waiting in order to bring home basic needs to their families.

LIC. LUIS DIEGO CHAVES SOLIS – MUNICIPAL VICE PRESIDENT

Points out that preliminarily the Commission recommended approval to the Council, but the Council did not approve it because it found it ironic that they were soliciting a construction permit when construction is at the phase of the second and third floors, and it is evident that these are not the foundations of the construction.

He explains that the idea is to have a workday next Saturday in the morning hours at the Commission level and on that same day in the afternoon by way of a meeting the Council will address the company with the decisions that are made.

MRS. DAMARIS ARRIOLA COLES – MUNICIPAL PRESIDENT

Points out that in the processing of the construction permits for the Condominium Vista Las Palmas project there are things that are unclear, such as the number of stories, environmental viability, location of the building; apparently what is established by law is not being respected. It is for this reason that it was agreed to hold a meeting in order to clear any doubts.

ARCHITECT LUIS RODRIGUEZ – VISTA LAS PALMAS PROJECT

Clarifies that the file reflects that the law regulations were followed, since the plans were approved by the INVU and by the Engineers and Architects Association of Costa Rica. He places himself at the disposal of the Council to go over any of the doubts that exist regarding this project, including that concerning the environmental effects study.

He adds that initially the project was to be ten stories high, and as the project advanced the proposal was made to make the tower 16 stories high to take more advantage of the property, with the understanding that the plans would be presented to the Engineers association again in order to re-approve the project, which, he affirms, is a normal procedure and there was never any bad intention.

MRS. DAMARIS ARRIOLA COLES – MUNICIPAL PRESIDENT

Points out that the idea was to discuss approval of the project in today's session, but the attorney had to travel out of the country and so then the idea was to hold the meeting next Saturday. He asks for understanding and mutual respect since it is the Council that can pay the consequences of a bad decision.

LIC. VICTOR LOBO – ATTORNEY – FAYETE PROPERTIES OF CR SOCIEDAD ANONIMA

Asks for courtesy from the Council regarding time, in the sense that next Saturday's meeting be held in morning hours to go over the documentation and in the afternoon that an Extraordinary Session be held to grant approval to the project, considering that the company has already fulfilled each and every point that was solicited and there one hundred sixty families that are being harmed because of failure to receive their salaries.

MAYOR MARVIN ELIZONDO

Emphasizes that the Council, in Ordinary Session No. 44, Article III, held on March 7, 2007, agreed to unanimously and definitively: Leave approval of the "CONDOMINIUM VERTICAL LAS PALMAS" pending, and ask Mayor Marvin Elizondo to confirm the actual state of the project, the purpose being to determine whether it has the requisite permit from the Municipality. In case it does not, that he proceed to immediately halt construction until the owner company FAYETTE PROPERTIES OF CR SOCIEDAD ANONIMA abides the law, and as Mayor he must meet the Agreement.

COUNCILMAN ORLANDO CHINCHILLA PIEDRA – SUBSTITUTE COUNCILMAN

Expresses that it is his understanding that the project consists of two phases, the first one consisting of ten stories and the second one of six. Thus, a good idea would be to separate the phases and approve the permits for the first phase, while it is determined if the second phase is meeting the law.

MRS. DAMARIS ARRIOLA COLES – MUNICIPAL PRESIDENT

Concludes that in the absence of Lic. Jose Miguel Villalobos, the Council cannot make a decision, but on next Saturday at 1:00 pm there will be a workday and if it is necessary there will be an extraordinary session the following Monday.

LIC. LUIS DIEFO CHAVES SOLIS – MUNICIPAL VICE PRESIDENT

Suggests that in next Saturday's meeting they should go ahead and revise the St. Regis project plans, and that the Secretariat send both the files of Vista Las Palmas and of this project to the Mayor's office.

SESSION ENDS AT TWENTY HOURS FIVE MINUTES.

DAMARIS ARRIOLA COLES

XINIA ESPINOZA MORALES

Municipal President

Municipal Secretary