

**CALIFORNIA COASTAL COMMISSION**

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Hearing Date: 8/8/07-8/10/07  
Commission Action: 2/14/07

**W20a****STAFF REPORT: REVISED FINDINGS**

**APPLICATION NUMBER:** 5-06-396

**APPLICANT:** AVP Pro Beach Volleyball Tour, Inc.

**PROJECT LOCATION:** Beach area north of the Hermosa Beach Pier (between the 1200 and 1300 blocks of The Strand), Hermosa Beach, Los Angeles County.

**PROJECT DESCRIPTION:** 4-day beach volleyball tournament, which includes concession booths and approximately 16 courts (includes 3,500-seat stadium court), on beach.

**COMMISSION ACTION:** February 14, 2007

**COMMISSIONERS ON PREVAILING SIDE:** Clark, Kram, Wright, Potter, Achadjian, Burke

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission adopt the following revised findings in support of the Commission's action on February 14, 2007. At the public hearing on February 14, 2007, the applicant presented persuasive evidence that their proposed project was consistent with the public access and recreation policies of the Coastal Act. In response to this, the Commission amended Special Condition No. 2, to require that at least 10% of the total seating capacity at each court (including bleachers, sand areas and viewing platforms/risers surrounding each court) shall be available to the general public for free on a first-come, first-served basis and that the remaining 90% (or less) of the total seating capacity at each court (including bleachers, sand areas and viewing platforms/risers surrounding each court) may be subject to an admission fee. The Commission also deleted Special Condition No. 10, which would have required the applicant to indemnify the Commission if it were sued based on its approval of this permit. The following revised findings reflect the Commission's action and staff recommends adoption of these findings. **See Page 4 for the motion and resolution** necessary to carry out the staff recommendation.

**STAFF NOTE:** The proposed event is located in the City of Hermosa Beach, which cannot issue local coastal development permits because it does not have a certified Local Coastal Program (LCP). Therefore, the standard of review for this coastal development permit is the Chapter 3 policies of the Coastal Act. Special Condition No. 2, the Public

Access and Recreation findings beginning on page 11, and the Water Quality findings beginning on page 14 have been modified to reflect the Commission's actions on February 14, 2007 (additions are shown as **bold, underlined text** and deletions are shown as ~~strike out text~~).

**SUBSTANTIVE FILE DOCUMENTS:**

1. Coastal Commission Guidelines for the Exclusion of Temporary Events from Coastal Development Permit Requirements, Adopted 5/12/93 (Exhibit #3).
2. Coastal Development Permit No. 5-96-082 (1996 AVP Beach Volleyball Tournament), 5/21/96.
3. Coastal Development Permit No. 5-97-062 (1997 AVP Beach Volleyball Tournament), Revised Findings 4/28/97.
4. Coastal Development Permit No. 5-06-040 (2006 AVP Beach Volleyball Tournament, 3/23/06.
5. City of Manhattan Beach LCP Amendment Request No. 1A-97, Rejected 5/13/97.
6. City of Manhattan Beach LCP Amendment Request No. 3-97, Not Certified.
7. Appeal/Permit No. A-5-MNB-97-84 (1997 Manhattan Beach Open), 5/13/97.
8. Appeal No. A-5-MNB-99-111 (1999 Manhattan Beach Open), NSI 6/11/99.
9. Appeal No. A-5-MNB-01-343 (2001 Manhattan Beach Open), NSI 10/8/01.
10. Appeal/Permit No. A-5-MNB-03-075 (2003 Manhattan Beach Open), 6/11/03.
11. City of Manhattan Beach Local Coastal Development Permit No. CA 03-42 (2004 Manhattan Beach Open).
12. Coastal Commission Substantial Issue Determination for Appeal No. A-5-MNB-04-108 (2004 Manhattan Beach Open), Staff Report dated 3/25/04.
13. Appeal/Permit No. A-5-MNB-04-108 (2004 Manhattan Beach Open), 5/14/04.
14. City of Hermosa Beach Multi-Year Agreement with the AVP, October 25, 2005 (Exhibit #4).

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the Revised Findings:

**I. MOTION, STAFF RECOMMENDATION AND RESOLUTION FOR 5-06-396:**

**MOTION:**     *I move that the Commission adopt the revised findings in support of the Commission's action on February 14, 2007 concerning Coastal Development Permit No.5-06-396.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the February 14, 2007 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

**RESOLUTION TO ADOPT REVISED FINDINGS:**

The Commission hereby adopts the findings set forth below for approval of Coastal Development Permit No.5-06-396 on the ground that the findings support the Commission's decision made on February 14, 2007 and accurately reflects the reasons for it.

Commissioners eligible to Vote on Revised Findings for Coastal Development Permit No. 5-06-396: Clark, Kram, Wright, Potter, Achadjian, Burke

**II. Standard Conditions**

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

**III. Special Conditions**

1. Permit Compliance

Coastal Development Permit 5-06-396 permits the 2007 Hermosa Beach Open Volleyball Tournament on July 19-22, 2007, and associated development, with set-up commencing no sooner than Thursday, July 12, 2007. Any proposed change in the approved event, site plan, parking plan, shuttle bus plan, or any other deviation from the approved development as conditioned, shall be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. If the Executive Director determines that an amendment is necessary, no changes shall be made until the Commission amends the permit issued by the Executive Director.

2. Admission Fees

The general public shall be provided with free public access to viewing and seating areas within the event area for each match as specified herein. At least ~~76~~ **10**% of the total seating capacity at each court (including bleachers, sand areas and viewing platforms/risers surrounding each court) shall be available to the general public for free on a first-come, first-served basis. The remaining ~~24~~ **90**% (or less) of the total seating capacity at each court (including bleachers, sand areas and viewing platforms/risers surrounding each court) may be subject to an admission fee. The applicant is permitted to collect fees to access these seating areas. On Friday, Saturday and Sunday (July 20, 21 & 22 of the 2007 event) of each year's event, the applicant shall count and record the number of persons in seating subject to an admission fee within the event area, and shall provide the Commission with the data no later than 25 calendar days after the conclusion of the competition.

3. Parking and Traffic Management and Beach Shuttle Bus Plan

The applicant shall implement a traffic and parking management plan and free beach shuttle bus plan consistent with the terms of this condition and as proposed and described in the applicant's agreement with the City of Hermosa Beach, dated October 25, 2005 and attached as Exhibit #4 of this staff report. In the event of any conflict between the applicant's proposed plans and the terms of this condition, the terms of this condition shall prevail. The applicant shall implement the traffic and parking plan and shuttle bus plan as follows:

- a) **Handicapped Parking.** All of the existing handicapped (HC) parking spaces in the public beach parking lots, and along Pier Avenue and Hermosa Avenue, are reserved for use by persons with vehicles displaying valid handicapped placards. Vehicles associated with the applicant or the event shall not reserve or occupy any handicapped parking spaces unless such vehicle displays a valid handicapped placard.
- b) **Public Beach Parking Lots.** Commencing on seven calendar days before the start of competition, and continuing through the third day following the conclusion of the competition, the applicant shall be permitted exclusive use of only 40 stalls; not including HC stalls, in Lot B. All other public parking spaces located in the public beach parking lots, and along Pier Avenue and Hermosa Avenue shall be reserved for the general public on a first-come, first served basis.
- c) **Remote Parking Supply.** On Saturday and Sunday (July 21 & 22 of the 2007 event) of each year's event, the applicant shall provide the free remote parking supply at the Mira Costa High School parking lot for the general public (i.e., beachgoers, event spectators and AVP guests). The applicant shall monitor and record the number of persons and cars using the remote parking lot on each day and provide the City and the Commission with the data by August 16, 2007.

- d) **Free Shuttle Bus Service.** On Saturday and Sunday (July 21 & 22 of the 2007 event) of each year's event, the applicant shall provide a free shuttle bus service to transport people (i.e., beachgoers, event spectators and AVP guests) between the remote parking lot (Mira Costa High School parking lot) and the downtown drop-off point (14<sup>th</sup> Street Circle at Beach Drive). This service shall provide a minimum of three buses (holding at least 25 persons) running at no less than fifteen-minute intervals to and from the event, continuously between the drop-off point and the remote parking lot each day, one hour prior to the event's starting time and ending one hour after the completion of the last daily match. Shuttle buses shall accommodate wheelchairs and handicapped persons.
- e) **Signage.** Commencing no later than three calendar days before the start of the competition, the applicant shall provide conspicuously posted on-street informational signs and banners to direct visitors to the free remote parking lot and inform them of the free beach shuttle bus stops. The signs and banners shall also inform the public of the availability of a free bus shuttle for both event spectators and the general public. No fewer than ten informational signs shall be placed along major intersections leading into the City (i.e., I-405 Crenshaw exit, 190<sup>th</sup> Street, Hermosa Avenue, Highland Avenue, Valley Drive, Ardmore Avenue, and Aviation Boulevard). The signs and banners shall be no smaller than 2' x 3'. All signage shall be retrieved and properly disposed of within one calendar day following the conclusion of the competition.
- f) **Advertisements.** Commencing no later than three calendar days before the start of competition, the applicant shall provide no fewer than eight radio announcements and three newspaper advertisement within the Los Angeles County area informing the public of the availability of the free remote parking supply and the free beach shuttle bus service. These stations shall represent all diverse ethnic and cultural Los Angeles radio markets and shall include Spanish language, youth and news stations. The applicant shall provide copies of each print advertisement to the City and the Commission no later than 25 calendar days after the conclusion of the competition.

4. Hermosa Beach Pier

The event shall not interfere with the public's access to and use of the Hermosa Beach Pier. Pedestrian access to and from the pier shall remain open and unobstructed at all times. No tents, vehicles (except for emergency vehicles), fences, barriers or other similar structures shall be placed on the pier. The applicant shall monitor the pier in order to prevent any unpermitted encroachments by event sponsors and vendors.

5. The Strand

The event shall not interfere with the public's use of The Strand, a public walkway and bicycle path that parallels the beach. The Strand shall remain open and unobstructed. No fences, vehicles, materials or structures shall be parked or

placed on The Strand. The applicant shall monitor The Strand in order to prevent any encroachments by event sponsors and vendors.

6. Public Access to and Along the Water

The proposed event, and all associated development, shall not encroach any closer to the shoreline than fifty feet (50'), measured from the highest water mark.

7. Removal of Temporary Improvements

All temporary improvements permitted herein shall be removed in their entirety and the site restored to its pre-existing condition by no later than 6:00 p.m. on the third calendar day following the conclusion of the competition.

8. Protection of Water Quality

By acceptance of this coastal development permit, the applicant agrees to remove and legally dispose of all trash, waste, oil, grease, and other materials that may be deposited on-site incidental to the volleyball tournament, associated activities, and the general public's use of the event site, pier and adjacent parking facilities. Such clean-up and disposal shall be completed at the end of each day's activities, with a final clean-up and inspection on the third calendar day following the conclusion of the competition.

9. Terms of Permit

This coastal development permit is valid only for the Hermosa Beach Open, as described in the project description unless modified by the special conditions of this permit and shall expire on December 31, 2011. The applicant shall submit on an annual basis, for the review and approval of the Executive Director, the following: evidence of local approval, updated project plans (depicting all physical improvements and footprint of the event), event dates, parking plan and shuttle bus plan, and evidence that the previous year's event complied with all special conditions.

Any proposed change in the approved event, site plan, parking plan, shuttle bus plan, admission charge policy, or any other deviation from the approved development as conditioned, shall be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. If the Executive Director determines that an amendment is necessary, no changes shall be made until the Commission amends the permit issued by the Executive Director.

10. Indemnification by Applicant

~~Liability for Costs and Attorneys Fees: By acceptance of this permit, the Applicant/Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.~~

**IV. Findings and Declarations**

The Commission hereby finds and declares:

**A. Project Description and Event History**

The applicant, AVP Pro Beach Volleyball Tour, Inc. (AVP) proposes to conduct the 2007 Hermosa Beach Open Volleyball Tournament on the public beach area situated on the north side of the Hermosa Beach Pier (Exhibits #1 & #2) from Thursday, July 19<sup>th</sup> through Sunday, July 22<sup>nd</sup>. Set-up for the tournament would begin on Thursday, July 12<sup>th</sup> and the breakdown and load-out would begin immediately after competition concludes on Sunday, July 22<sup>nd</sup> and would continue until Wednesday, July 25<sup>th</sup>. The applicant is also requesting approval to reserve and use a portion of the public beach parking facilities that are situated at Lot B, approximately 200 feet inland of the beach, for parking by AVP staff and its sponsors (Exhibit #1).

In terms of admission for the tournament, the applicant proposes free admission for the qualifier on Thursday, July 19<sup>th</sup>, with the intention of securing the entire venue and charging 100% admission each day for the main draw (Friday, July 20<sup>th</sup> through Sunday, July 22<sup>nd</sup>). Tickets for the stadium would consist of approximately 2,900 general admission tickets at \$20.00 a piece and approximately 600 reserved seating tickets at \$40.00 a piece. Tickets for the outer courts would consist of approximately 6,500 general admission tickets at \$20.00 a piece and approximately 1,560 reserved seating tickets at \$40.00 a piece. Student tickets (must have a valid student I.D.) would be \$10.00 a piece and would allow access to the stadium and outer courts, but not the reserved seating. The total number of matches to be played at the 2007 Hermosa Beach Open includes 120 matches on Thursday, 120 matches on Friday, 87 matches on Saturday and 29 matches on Sunday.

In addition, the applicant is seeking a 5-year conditional permit (2007-2011) instead of a one-time event permit. The applicant proposes to submit annual evidence of local approval and updated project plans (depicting all physical improvements and footprint of the event) by January 1<sup>st</sup> of every year. The event dates would be finalized at the time of local approval and would be provided to the Commission staff with the annual submittal package.

The applicant is also proposing to donate \$1.00 from each ticket sold to the California Coastal Commission Whale Tail License Plate Program. The applicant also proposes to provide up to 1,000 tickets to local businesses for distribution to customers. These tickets would be made available to the businesses through a partnership with the Hermosa Beach Chamber of Commerce.

The site of the 2007 Hermosa Beach Open Volleyball Tournament is a sandy beach area, located on the north side of the Hermosa Beach Pier (Exhibit #2). The project would occupy approximately 3 acres of public beach from Thursday, July 12 until Sunday, July 15<sup>th</sup>. Beginning on Monday, July 16<sup>th</sup> until Saturday, July 21<sup>st</sup>, the project would occupy approximately 6.3 acres of public beach. Beginning on Sunday, July 22<sup>nd</sup> through Wednesday, July 25<sup>th</sup>, the project would occupy approximately 3 acres of public beach. There would be a fence installed around the perimeter of the event area, and the proposed development and activities would not block public access to the pier or to the shoreline. The proposed site plan includes restrooms and interactive areas for the public, tents for the competitors, event sponsors and vendors.

The City of Hermosa Beach and the AVP have a written agreement (City Agreement) that includes the terms, obligations and restrictions for each to co-sponsor and operate the proposed 2007 tournament. [See Exhibit #5: *Agreement Between the City of Hermosa Beach and Association of Volleyball Professionals AVP Hermosa Beach Open.*] The City Agreement states that, "Admission shall be charged as set by the California Coastal Commission." The City Agreement requires that the AVP provide a shuttle bus service on Saturday and Sunday of the event, and to complete all take-down activities and remove all equipment from the beach before by 6 p.m. Wednesday, July 25, 2007. The City agreement also lists the City's responsibilities, including the reservation of certain public beach parking facilities for the event.

With the cooperation of the City, the AVP is proposing to implement a traffic and parking management plan and a free shuttle bus service. The Mira Costa High School parking lot is proposed to be the event's main parking supply (approximately 600 parking spaces according to the applicant) and the free shuttle bus pick-up point (Exhibit #1). As proposed, 40 public beach parking stalls located approximately 200 feet inland of the beach would be reserved for television and AVP trucks, event staff, sponsors' parking and valet parking for VIPs (Exhibit #1). The shuttle bus drop-off point would be located approximately 300 feet north of the pier and approximately 100 feet inland of the beach at the 14<sup>th</sup> Street Circle at Beach Drive (Exhibit #2). Three shuttle buses, each with a capacity for at least 25 people, are proposed to run continuously on Saturday and Sunday of the proposed tournament.

## **B. Public Access and Recreation**

The exclusive use of a segment of public beaches by special events, and the associated limitations on public access and recreation, has always been an issue of prime importance to the Commission. The following Coastal Act policies protect the public's right to public access and recreation opportunities:



Section 30210 of the Coastal Act states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211 of the Coastal Act states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212 of the Coastal Act states, in part:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...*

Section 30213 of the Coastal Act states:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30220 of the Coastal Act states:

*Coastal areas suited for water-oriented recreational activities that cannot be readily provided at inland water areas shall be protected for such uses.*

Section 30221 of the Coastal Act states:

*Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

The proposed project is a temporary sporting event that will affect part of the public beach and its public parking supply. For 14 days, from set-up to take-down (July 12-25, 2007), the general public will be excluded from using the sandy beach area and public volleyball courts on the event site, except to watch the proposed volleyball tournament and participate in the proposed event's interactive activities. The proposed event will occupy between 3 to 6.3 acres of beach area that exists between The Strand and mean high tide line (MHTL). In order to preserve lateral public access along the shoreline, the applicant will maintain a fifty-foot wide corridor on the beach between the sea and the event site. This fifty-foot wide corridor must be kept clear of structures and other obstructions. Direct unobstructed vertical access to the shoreline will be maintained at the northern end of the event site and on the beach area along both sides of the Hermosa Beach Pier.

Although the proposed event will not physically prevent pedestrian access to the water, it will affect the public's ability to access and use the coast by restricting the use of a portion of the sandy beach to a specific group of people: the organizers, participants and spectators of the proposed volleyball tournament. However, the Commission has primarily found that temporary events, and specifically volleyball tournaments that are open (with limited paid seating) to the general public, can be held in a manner that is consistent with the public access and recreation policies of the Coastal Act, even though such events typically involve the exclusive use of sandy beach area. In fact, after several public hearings and a public workshop for temporary events on the beach, the Commission adopted specific guidelines to exclude temporary events similar from coastal development permit requirements (Exhibit #3).

#### Free Admission vs. Paid Admission

In response to several commercial events that were to take place on the beach in a number of coastal communities, the Commission requested the Executive Director to investigate the number of possible events, and ways to assure that a proliferation of commercial and other special events would not displace the general public from the use of the public beach. On May 12, 1993, the Commission adopted guidelines to balance the use of the beach for short-term events, such as filming activities and sporting events and the general public's use of the beach.

The Commission's *Guidelines for the Exclusion of Temporary Events from Coastal Development Permit Requirements* allow the Executive Director to exclude most temporary events from coastal development permit requirements, except for those that meet all of the following criteria:

- a. The event is held between Memorial Day weekend and Labor Day; and,
- b. The event occupies all or a portion of a sandy beach area; and,
- c. The event involves a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).

The guidelines also allow the Executive Director to exclude from permit requirements temporary events meeting all of the above criteria when:

- d. The fee is for preferred seating only and more than 75% of the provided seating capacity is available free of charge for general public use; or...[see *Exhibit #3 for full text of Guidelines*].

~~The provision in the Guidelines that allows temporary events to be excluded from permit requirements if more than 75% of the seating is available free of charge for general public use is applied in this case as a limit on the amount of seats that may be subject to an admission charge.~~ **Because the applicant would like to charge admission for more than 25% of the seats at this tournament, this project did not fall within the exemption allowed under the Guidelines, therefore the applicant was required to**

**obtain a permit and seek discretionary review by the Commission.** The applicant states that it would be preferable from its point of view, as a business, to charge for 100% of the seating on all but the first day **of the tournament, in order** to recover the enormous cost of holding this event.

While it is understandable that the applicant would prefer a system that would assure that the event would operate at maximum profit, the standard of review is the Chapter 3 policies of the Coastal Act that are cited above. The project site is a heavily used public beach and the event is being held during the peak beach use period-, **thus public access and recreational opportunities must be protected. The proposed event, is however, a visitor-serving use that will bring more members of the public to the beach than would otherwise utilize the beach on a typical summer weekend. The proposed admission prices are relatively lower cost, given the caliber of the athletes and ticket prices to comparable events at indoor volleyball venues and other professional sporting events. This event is therefore a lower-cost visitor serving use which should be encouraged in the Coastal Zone. In addition, the free shuttle set up by the applicant will enhance public access to Hermosa Beach, as any person can use the shuttle, whether they are attending the event or not.** Over the years, the Commission has reviewed and approved these events requiring either 100% free admission or limiting admission fees. The applicant's proposal does not protect public access and is not consistent with the Guidelines.

**Although this event provides recreational opportunities and in some ways enhances public access, it still consists of exclusive use of public sandy beach. Thus, allowing the AVP to charge admission for 100% of the seats at the event would not be consistent with the public access requirements of the Coastal Act. The impact to public access is minimized, however, because the tournament will, at most, occupy approximately 6% of the beach. This is a relatively small proportion of the beach, so the Commission finds that the applicant can mitigate this public access impact by providing 10% of the seats at each event to the public for free on a first-come, first-served basis.**

**The sport of beach volleyball first started in southern California and in some ways represents California as much as its beaches do. It is, therefore, an important recreational resource that should be supported, while ensuring that public access and recreational opportunities are protected, consistent with the Coastal Act.** As conditioned to prohibit general admission fees by protecting at least 76 **10%** of the total seating capacity for free general public use at each match and seating areas reserved for paid or otherwise restricted admission of no more than 24% of seating at each match, the Commission finds that the proposed project can be found to be consistent with the public access and recreation policies of the Coastal Act.

By the time this staff report was completed on January 25, 2007, Commission staff had received approximately 500 letters, mostly via email, in support of the applicant's proposal to charge admission. Conversely, Commission staff has received approximately 10 letters, mostly via email, in opposition of the proposed project. Examples of correspondence in favor and in opposition of the proposed project have been included (Exhibit #5).

### Public Access to the Pier

Special Condition No. 4 protects public access to the pier and requires that the event shall not interfere with the public's access to and use of the Hermosa Pier, that access shall remain open and unobstructed at all times, that no tents, vehicles, fences or other similar structures shall be placed on the pier and the applicant shall monitor the pier to prevent any unpermitted encroachments by event sponsors and vendors. Only as conditioned can the proposed event be consistent with the public access and recreation policies of the Coastal Act.

### Traffic and Parking

In regards to the public beach parking supply, the crowds generated by the proposed event, in association with the event's reserved use of public parking areas, will negatively affect beach goers' ability to find a parking space near the beach. The Commission has consistently found that a direct relationship exists between the provision of adequate parking and availability of public access to the coast. The proposed event is expected to attract approximately an average of 7,000 persons per day to an already crowded beach area. The additional visitors drawn by the proposed event will overburden the limited beach parking supply. There is simply not enough public parking available in the downtown area to accommodate all of the people who attempt to visit Hermosa Beach during summer weekends. Add to this the AVP's proposal to reserve 40 parking spaces close to the pier and the ability to find public parking near the pier will be nearly impossible.

The City's agreement with the AVP has authorized the AVP's reservation and exclusive use of 40 public parking spaces in Lot B for television and AVP trucks, event staff, sponsors' parking and valet parking for VIPs (Exhibit #1). Nearby public beach parking is available directly adjacent to Lot B in a three-story parking structure which has approximately 200 parking spaces, Lot A, which is located directly adjacent and south of the pier has approximately 50 parking spaces. Public beach parking is also available up and down Hermosa Avenue, which runs parallel to the beach.

Therefore, the Commission finds that the reservation of 40 spaces for the temporary exclusive use of the event is consistent with the public access and recreation policies of the Coastal Act.

These parking lots (Lot A, Lot B and the 3-story parking structure) can provide only part of the total amount of parking that is needed to meet the parking demand of the event and the beach-going public. Therefore, other parking supplies must be identified as part of the required parking and traffic management plan. The applicant has worked with the City to develop a parking and traffic management plan that involves a remote parking supply (over 600 parking spaces) at an inland parking lot, and a free shuttle bus service to provide public transportation between the remote parking supply and the event area (Exhibit #1). This parking supply and shuttle bus service has been adequate in past years.

In order to replace the public parking reserved by the AVP in the pier parking lots and to provide public parking to meet the increased demands generated during the tournament, Special Condition No. 3 requires the applicant to provide the proposed remote parking

supply (approximately 600 parking spaces according to the applicant) and to operate the proposed free beach shuttle bus for AVP guests and the general public as proposed and described in the applicant's agreement with the City of Hermosa Beach, dated October 25, 2005 and attached as Exhibit #4 of this staff report. The remote parking supply and free shuttle bus service is necessary to mitigate the increase in vehicle congestion, parking demand and vehicular pollution caused by the large numbers of persons who will drive to the area to attend the annual volleyball tournament on the busiest days of Saturday and Sunday.

Special Condition No. 3 also protects the parking spaces normally reserved for handicapped persons, and requires signage and newspaper and radio advertisements to inform the public of the free remote parking and shuttle bus service. The signs must be posted and advertising campaign must commence prior to the start of the tournament in order to adequately inform the public of their parking options prior to arriving at the beach during the days of the tournament. Only as conditioned to mitigate the effects of the exclusive use of public parking on public beach access can the proposed event be found to be consistent with the public access and recreation policies of the Coastal Act.

#### 5-Year Permit

As mentioned previously, the applicant is seeking a 5-year conditional permit (2007-2011) instead of a one-time event permit. The applicant proposes to submit annual evidence of local approval and updated project plans by January 1<sup>st</sup> of every year. The event dates would be finalized at the time of local approval and would be provided to the Commission staff with the annual submittal package.

The Commission has imposed Special Condition No. 9, which requires the applicant to submit on an annual basis, for the review and approval of the Executive Director, the following: evidence of local approval, updated project plans (depicting all physical improvements and footprint of the event), event dates, parking plan and shuttle bus plan, and evidence that the previous year's event complied with all special conditions. Only as conditioned can the proposed event be found to be consistent with the public access and recreation policies of the Coastal Act.

#### **C. Visual Resources and Noise**

The temporary structures and advertising associated with temporary events like the Hermosa Beach Open are highly visible and block public views of the shoreline, but they do not conflict with the Coastal Act policies because they exist on a temporary basis for only a few days. After the event, the structures are quickly removed from the beach (within a few days) and the public's view of the shoreline is restored. Therefore, the scenic resources of the coastal zone are protected from any long-term or permanent negative impacts. The City Agreement requires that "Amplified sound speakers will be placed facing the west." Therefore, the City has addressed noise-control as an issue.

Special Condition No. 7 requires that all temporary improvements permitted herein shall be removed in their entirety and the site restored to its pre-existing condition by no later than

6:00 p.m. Wednesday, July 25, 2007. As conditioned, the Commission finds that the development conforms with the Coastal Act.

**D. Water Quality**

The following Coastal Act policies protect marine resources from the effects of polluted runoff:

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams*

The proposed event poses a potential source of pollution due to trash generation, spillage from portable restroom facilities, and vehicles driving on the beach. The discharge of polluted runoff onto the sand and into to coastal waters can cause cumulative adverse impacts to water quality.

Therefore, Special Condition No. 8 requires the applicant to (each day) remove and legally dispose of all trash, waste, oil, grease, and other materials that may be deposited on-site incidental to the volleyball tournament, all associated activities, and the general public's use of the event site, pier and adjacent parking facilities. As conditioned, the Commission finds that the development **does not have an adverse impact on marine resources or water quality and** conforms with Sections 30230 and 32031 of the Coastal Act.

**E. Local Coastal Program**

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3.

The Commission conditionally certified the City of Hermosa Beach Land Use Plan on August 19, 1981. The Land Use Plan (LUP) was effectively certified with suggested modifications on April 21, 1982. The modifications were accepted and the LUP is certified. The City submitted a final draft of its zoning and implementation ordinances (LIP) and a revision to their LUP in 2000. The amendment and Implementation ordinance was scheduled for public hearing and Commission action at the October 8, 2001 meeting, but the City withdrew. Therefore, these have not been certified and the standard of review for development in Hermosa Beach is still the Coastal Act.

As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

**F. California Environmental Quality Act**

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

All adverse impacts have been minimized by the recommended conditions of approval and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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South Coast Region

JUN 29 2007

STATE OF CALIFORNIA  
COASTAL COMMISSION

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AVP PRO BEACH VOLLEYBALL TOUR, INC. )  
AREA OF THE STRAND )  
CITY OF HERMOSA BEACH )  
COUNTY OF LOS ANGELES )

Application  
No. 5-06-396

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Friday February 14, 2007  
Agenda Item No. 15.c.

Catamaran Resort Hotel  
3999 Mission Boulevard  
San Diego, California

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1 benefit of the real party in interest.

2 So, we think that is a reasonable provision, and  
3 would suggest that you keep that in the staff recommendation,  
4 and support the staff recommendation.

5 CHAIR KRUE: Thank you, Director Douglas.

6 With that, I will come to the Commission, and  
7 Commissioner Clark.

8 [ MOTION ]

9 COMMISSIONER CLARK: Thank you, Mr. Chair.

10 I would like to make a motion for discussion  
11 purposes, and so I would move that the Commission approve  
12 Coastal Development Permit No. 5-06-396 pursuant to the staff  
13 recommendations, and recommend a "Yes."

14 And, I would like to make an amending motion, and  
15 then discuss the motion.

16 COMMISSIONER REILLY: Second.

17 CHAIR KRUE: It has been moved by Commissioner  
18 Clark, seconded by Commissioner Reilly. They are asking for  
19 a "Yes" vote and the passage of this motion will result in  
20 the approval of the permit as conditioned, and the adoption  
21 of the following resolutions and findings as contained in the  
22 staff report.

23 Commissioner Clark.

24 [ MOTION ]

25 COMMISSIONER CLARK: My amending motion is to go

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1 to Condition No. 2 on admission fees, and to replace in the  
2 second line, at "76 percent to total seating capacity at each  
3 court" et cetera, et cetera, with "25 percent."

4 And, in the middle of the condition, the remaining  
5 where it says, currently, "24 percent" replace that with 75  
6 percent.

7 And, then on the Condition No. 10 to delete  
8 Special Condition No. 10, regarding indemnification by the  
9 applicant.

10 And, if I could speak to my motion?

11 CHAIR KRUEER: Well, first we need a "second" to  
12 that motion.

13 COMMISSIONER ACHADJIAN: I'll second it.

14 CHAIR KRUEER: I has been seconded by Commissioner  
15 Achadjian.

16 Commission Clark, do you want to speak to your  
17 amending motion?

18 COMMISSIONER CLARK: Yes, I think what this is  
19 really all about is a proportionality of what is available,  
20 in terms of free admission to the pro-volleyball tournament  
21 at Hermosa Beach, and what is paid.

22 I don't think that there is any debate that can  
23 take place that the cost of putting on an event like this has  
24 continued to increase. We heard from the applicant, in terms  
25 of not has it increased, but it is pretty much economically

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1     infeasible to continue along this pathway.

2                 We have already, the Commission, over time has  
3     recognized a reasonable -- the fact that paid admission is  
4     something that can be in play here. To me, what we are  
5     really talking about, in light of the public benefits -- and  
6     I'll go through them again, because I think they are worth  
7     noting -- the fact of the matter is this only takes up 6  
8     percent of the Hermosa Beach area. There is no impact to the  
9     Strand, to the Pier, to the ocean itself.

10                It brings, I believe and I am convinced, it brings  
11    more members of the public to the beach. I think the fact  
12    that there is a condition requiring offsite parking, free  
13    parking -- not just for people going to the AVP Hermosa Beach  
14    Open Volleyball events, but for members of the public --  
15    enhances the ability for members of the public to park and  
16    enjoy the beach. I do believe it is a low-cost  
17    visitor-serving entertainment of value.

18                I think the fact that there is a condition for  
19    monitoring of this, insures that we have the opportunity in  
20    the future to readdress. I agree with staff, that a 5-year  
21    permit is in order for this.

22                And, I just, basically believe that if we are  
23    going to support beach volleyball at this level, on  
24    California beaches, and I think we, absolutely, should for  
25    the benefit of Californians, as a whole, then we should

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1 support this.

2 And, I think it is reasonable to recognize a  
3 proportionality that says 50 percent of the seats are free,  
4 and 50 percent are paid, along that scale.

5 Thank you.

6 CHAIR KRUEER: Okay.

7 COMMISSIONER ACHADJIAN: I have --

8 CHAIR KRUEER: Yes, Commissioner Achadjian.

9 COMMISSIONER ACHADJIAN: -- a question, thank you,  
10 Mr. Chair. I have a question for staff.

11 It wasn't clear, do we request from the --

12 CHAIR KRUEER: Commissioner Achadjian, because I am  
13 confused.

14 COMMISSIONER CLARK: I am sorry, 75 and 25.

15 CHAIR KRUEER: All right, because your amending  
16 motion --

17 COMMISSIONER CLARK: Yes.

18 CHAIR KRUEER: -- you flipped the numbers.

19 COMMISSIONER CLARK: I did, 75 percent paid and 25  
20 percent free.

21 CHAIR KRUEER: Yes, and I am sitting here thinking,  
22 you know, where we are, okay? So, you are still with your  
23 amending motion?

24 COMMISSIONER CLARK: I am.

25 CHAIR KRUEER: Thank you.

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1 Commissioner Achadjian.

2 COMMISSIONER ACHADJIAN: Well, he also changed the  
3 numbers, so the flip of that would be 24 percent and 76  
4 percent?

5 COMMISSIONER CLARK: Seventy-five and 25, reverse.

6 COMMISSIONER ACHADJIAN: Thank you.

7 My question is, when AVP does hold activities,  
8 regardless of where they are in California, are they insured  
9 for their activities? and are we named the insured? on their  
10 insurance?

11 Staff?

12 DISTRICT DIRECTOR AINSWORTH: We are not aware of  
13 whether they are insured or not. That is a question for the  
14 applicant, I believe.

15 COMMISSIONER ACHADJIAN: Well, regardless of the  
16 applicants, but there is always the issue of liability, and  
17 any activities that are sports related, any place, can raise  
18 concerns to local cities, local agencies, us as the Coastal  
19 Commission, and do they have to represent proof of insurance  
20 for their activities? and, thus the local cities and the  
21 Coastal Commission are named on that insurance?

22 DISTRICT DIRECTOR AINSWORTH: Yes, to the city,  
23 they do, but not us.

24 COMMISSIONER ACHADJIAN: Well, if it is --  
25 Counsel want to address this?

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1                   DEPUTY ATTORNEY GENERAL PATTERSON: Commissioners,  
2 through the Chair, if I may, the Commission is immune under  
3 the Government Code from suit for injuries, or for any  
4 damages occurring as the result of the issuance of the  
5 Coastal Development Permit.

6                   So, typically, the Commission is not added as an  
7 insured to the policies, and we simply defend on the grounds  
8 you are immune. And, there are several cases: *Al Barrow v.*  
9 *California Coastal Commission* that stand for that  
10 proposition.

11                  COMMISSIONER ACHADJIAN: Thank you.

12                  CHAIR KRUEER: Okay, thank you.

13                  Commissioner Reilly, and then Commissioner Kram.

14                  COMMISSIONER REILLY: Thank you, Mr. Chair.

15                  This is a tough issue for me. I am not sure I am  
16 entirely comfortable with either the staff recommendation, or  
17 Commissioner Clark, so I am not sure where I am going to go  
18 with this.

19                  It seems to me that we need to acknowledge that  
20 pro-beach volleyball is synonymous with Southern California  
21 beaches, and I don't think any of us want to see that end, in  
22 terms of being kind of the center for where it happens, even  
23 though it is being exported to many other areas now.

24                  A lot of people came and talked about free  
25 beaches, free access, that is not really what we have. We

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1 have a hybrid that we have created that doesn't really fit  
2 into either the profit thing, or the free thing, really.

3 And, I would agree with AVP in terms of their  
4 interpretation of the guidelines. I think that when you read  
5 it, it is clear that the percentages in there only apply, if  
6 you are going to be exempt from a permit. So, I think it is  
7 appropriate for them, if they want to exceed those  
8 percentages to bring that forward as a permit to this  
9 Commission.

10 On the other hand, there is nothing in Chapter 3  
11 that mandates that the Commission exceed those guidelines  
12 that we have established anyway, so it is a totally  
13 discretionary decision of the Commission as to whether or not  
14 we wish to go beyond what we have drawn a line in the sand on  
15 -- if you would allow me that one.

16 I don't think there is anything about the 24  
17 percent that we would argue is scientifically derived. It  
18 was a number that we came up with.

19 It is interesting to me that the applicant does  
20 not claim that they lose money on these things. They just  
21 say that they have less profits on these than they have on  
22 other events, and you know, absent some kind of an  
23 independent audit of, you know, exactly how bad a shape they  
24 are in, I don't know how to make that determination about  
25 whether they really need to have additional revenue from

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1 admissions in order to be able to continue to be able to do  
2 these events. It is just very difficult.

3 I am sympathetic with staff's concern about  
4 precedence about other kinds of activities that would be  
5 charging on the beach. I think we have to be very careful  
6 about that.

7 In terms of indemnification, again, in our county  
8 we do that as a matter of routine. Any time we approve a  
9 major permit, we have the applicant indemnify the county for  
10 any legal costs that may accrue as the result of that, and so  
11 that is just sort of a routine thing. It is a bit  
12 unfortunate, from my perspective, that you decided to start  
13 doing that today. I mean, I guess you have got to start some  
14 place, but -- and also in an addendum, and also without some  
15 real consideration of that as a policy issue across the board  
16 before the Commission, it just sort of appears over night,  
17 and that does make me feel a little bit uncomfortable, in  
18 terms of something we are going initiate as a practice, or a  
19 regular thing that we do. I would prefer to have a little  
20 bit more discussion about it as a policy issue before we just  
21 kind of spring it on in an addendum.

22 Thank you.

23 CHAIR KRUEER: Thank you, Commissioner Reilly.

24 EXECUTIVE DIRECTOR DOUGLAS: Mr. Chairman.

25 CHAIR KRUEER: Yes.

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1 EXECUTIVE DIRECTOR DOUGLAS: Just on that last  
2 point, if I may.

3 Commissioner Reilly, I did at the last meeting,  
4 when you were not here, discuss this issue with the  
5 Commission, in light of the experience that we have had,  
6 where we were ordered by a court to pay substantial attorney  
7 fees.

8 And, in fact, we are in that situation right now,  
9 that we are dealing with, and fighting with, an attorney over  
10 significant attorney fees, and we just think -- and we  
11 understand local governments do this all of the time.

12 There was a concern in the past about making sure  
13 that the Commission is able to control the arguments that are  
14 made in court in defending your action, so that the real  
15 party in interest isn't making arguments interpreting the  
16 Coastal Act that are contrary to the best interests of the  
17 Commission. And, I think we have addressed it with the  
18 language that we have incorporated here.

19 But, basically, it is because of the experience we  
20 have had over the last year or so, that we decided to proceed  
21 with this. And, it is not going to be something that we are  
22 going to be suggesting in every case, it is those major cases  
23 that are in controversy, and where we make some judgment that  
24 we may end up being sued over it.

25 CHAIR KRUEER: Okay, thank you.

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1 Commissioner Kram.

2 COMMISSIONER KRAM: I agree with Commissioner  
3 Reilly. I am very troubled by a couple of things here.

4 The idea of an indemnification from the  
5 applicants, you know, seems to be one -- for legal fees and  
6 things like that -- it seems to be one that would discourage  
7 applicants from coming here, and in many cases, this is,  
8 almost, like a court of last resort.

9 And, what you are describing -- or what we may be  
10 creating is almost like a needs' based case. You know, we  
11 will examine the applicant's finances, whether they can  
12 afford to, whether it is a small project, a big project, what  
13 is their exposure? You know, is it some individual with a  
14 little house, do we really want to do that to them in the  
15 likelihood of them getting sued? I don't see us going down  
16 that road, and I am very concerned about it.

17 I wanted to ask the Executive Director, I seem to  
18 remember having gone to a couple of paint ball tournaments on  
19 the beach, where were gated. Are you aware of those? my son,  
20 at some point was into that.

21 EXECUTIVE DIRECTOR DOUGLAS: You were  
22 participating?

23 COMMISSIONER KRAM: No, I didn't. I observed it.

24 EXECUTIVE DIRECTOR DOUGLAS: Oh, no, I am not  
25 aware of that.

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1 Anybody here? No.  
2 COMMISSIONER KRAM: Okay, I was there, and you  
3 know, they were on the beach. I am just not sure where?  
4 somewhere in Manhattan, or Hermosa Beach.  
5 VICE CHAIR CALDWELL: Are you sure it wasn't  
6 Malibu?  
7 COMMISSIONER KRAM: No, it wasn't Malibu.  
8 EXECUTIVE DIRECTOR DOUGLAS: And, they charged  
9 admission?  
10 COMMISSIONER KRAM: It was a gated entry. I had a  
11 ticket, so I am not sure how it worked.  
12 EXECUTIVE DIRECTOR DOUGLAS: That may be a  
13 violation, thank you for bringing it to our attention.  
14 COMMISSIONER KRAM: There you go, so, I didn't  
15 know if that was practically the same.  
16 I would like to give the applicant the chance to  
17 talk about the financial conditions of the tournaments here  
18 in California, you know, about how we can really understand  
19 your profitability or lack of profitability for those events.  
20 MR. ARMATO: Thank you, Mr. Kram, and I am glad  
21 you asked me that question.  
22 CHAIR KRUEER: Would you state your name, please.  
23 MR. ARMATO: Leonard Armato.  
24 CHAIR KRUEER: Thank you.  
25 MR. ARMATO: The AVP, as a business, has gone

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1 through two insolvencies, and we actually acquired it out of  
2 insolvency in 2001.

3 And, we are a public company now, and all of our  
4 records are public, and over the last five years, since we  
5 acquired the AVP, we lost significant amounts of money,  
6 millions of dollars every single year, and believe me, we are  
7 trying our best to get to the point of break even, and above.  
8 We have the duty to our shareholders to do that.

9 But, I can unequivocally state, for the public  
10 record, backed up by public documents, that we have never  
11 made a profit on a yearly basis. And, the reason, the  
12 substantial reason is that the lion's share of our events  
13 were in California, and we have had to reduce them one by  
14 one.

15 Right outside is a beautiful beach in San Diego, a  
16 hot bed of beach volleyball. We can't have an event in San  
17 Diego anymore. It was a huge money loser for us. Every  
18 single event in California loses money for us, ranks at the  
19 very bottom of our profitability list. And, when I say  
20 profitability, I mean unprofitable.

21 So, it is clear. There is no dispute over it. We  
22 lose significant amounts of money in the State of California  
23 with our events because we can't access local revenue.

24 We don't want pro-beach volleyball to become  
25 extinct here, nobody wants that. Please help us.

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1 COMMISSIONER REILLY: Mr. Chair, just to followup  
2 on that.

3 CHAIR KRUEER: Yes, and I know that Commissioner  
4 Clark had a quick question, too, on that, too.

5 COMMISSIONER REILLY: Would you come back up,  
6 please.

7 We were given this newsletter sort of thing from  
8 AVP, dated November 14, 2006, two pagers, that says:

9 "AVP reports record third quarter revenues  
10 up 41 percent; third quarter net income  
11 of \$2.57 million, or \$.09 per share."

12 which would seem to indicate that it made a profit, so I --

13 MR. ARMATO: Because all of our revenues are  
14 loaded into that quarter, and on a yearly basis, for 2006, I  
15 will represent to you that we were not break even; in fact,  
16 we were unprofitable.

17 We had bigger losses in the second quarter, in the  
18 first quarter, and on a yearly basis, as I indicated earlier,  
19 we were unprofitable. And, you can look back into 2005, when  
20 I think we had \$3 million plus in cash losses; 2004, when we  
21 have \$2 million plus in cash losses. So, over the course of  
22 the last five years, we probably have suffered \$8, \$9, \$10  
23 million in cash losses.

24 Is that satisfactory?

25 COMMISSIONER REILLY: Yes, it doesn't seem to jive

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1 with what we were given. I don't know who gave us this, but

2 --

3 MR. ARMATO: Well, someone, probably, pulled it  
4 off of the public records, and said, "Look, AVP is making a  
5 profit."

6 But, remember, we recognize revenue in different  
7 quarters, as a public company, and they are loaded into that  
8 particular quarter, and on a yearly basis I represent to you  
9 that we -- last year, 2006, AVP did not break even, it lost  
10 money.

11 Thank you.

12 CHAIR KRUEER: One second, I think Commissioner  
13 Clark had a question for you.

14 COMMISSIONER CLARK: Thank you, Mr. Chair.

15 Mr. Armato --

16 MR. ARMATO: Yes, thank you.

17 COMMISSIONER CLARK: -- in reaction to my amending  
18 motion, with respect to my proposal to the Commission, on  
19 Condition No. 2, changing the proportionality, do you have a  
20 reaction to that?

21 MR. ARMATO: Well, my reaction is that it is  
22 better than it was before, but there is still a certain  
23 amount of local revenue that we are not able to realize, so  
24 it still makes it more difficult to conduct business in the  
25 State of California.

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1 And, the truth is, you don't want it to be more  
2 difficult to conduct business in the state where the sport  
3 was born. You want it to be equal, and just as easy to do  
4 business here as in any other state. And, you don't want to  
5 drive us out of the state.

6 And, the truth is, if that is what you adopt  
7 today, we will try to live with it, but it is not ideal. I  
8 will tell you, it will put the California events, again, at a  
9 disadvantage when compared to the other events, when we  
10 stack, rank, the profitability of these events.

11 So, it is just harder to do business here, and we  
12 shouldn't have barriers to enter and do business in the State  
13 of California.

14 If you wanted to impose a small, very small,  
15 amount of free seating, 10 percent, something like that, I am  
16 sure we could live with that. But, if you are going to go  
17 down the road of 75 - 25, and everybody agrees, obviously, we  
18 will look at it, try to make it work.

19 But, I will tell you, it still could be very  
20 difficult, but I am being completely honest. Do what you  
21 think in your heart is right, but I would implore you, give  
22 us as much facility as possible to make this sport work in  
23 our home state.

24 Thank you.

25 CHAIR KRUER: Thank you, Mr. Armato.

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1 I am going to go to Commissioner Burke.

2 COMMISSIONER BURKE: I hate getting involved in  
3 this. I have been sitting here being absolutely quiet for  
4 the last hour, because I have been going through this,  
5 myself, personally, for the last 23 years of my life.

6 And, I come up before bodies exactly like this,  
7 and I know how those guys feel, and you people are nice  
8 people, so I am not going to feel like that about you.

9 I disagree with both sides on this. I disagree  
10 with the staff. I disagree with the people who are making  
11 motions from the dais.

12 COMMISSIONER CLARK: Sorry.

13 CHAIR KRUER: That is what I love about you,  
14 Commissioner Burke.

15 COMMISSIONER CLARK: Right.

16 COMMISSIONER BURKE: Let me give you a two second  
17 history about these kind of events, because what we get  
18 involved in here is a transformation of major events -- sorry  
19 Leonard -- to minor events.

20 From the staff's perspective the Coastal Act is to  
21 protect the beaches, it is a public facility. There was a  
22 lawsuit 11 years ago in the City of Boston, filed by four  
23 television stations to prohibit the Boston Marathon from  
24 using the public streets, because they gave an exclusive  
25 television right to one television station, and excluded the

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1 other television stations from participating in the revenue  
2 stream. Something that seemed kind of like an  
3 inconsequential lawsuit to me. But, all of a sudden, there  
4 were millions and millions of dollars in legal fees, and the  
5 reason there was that -- it was not the Boston Marathon  
6 didn't have that money -- it was the NFL had gotten involved,  
7 because you extrapolated out, and if there is public money in  
8 the streets, there is public money in the stadiums, and  
9 stadium facilities, so if you can't broadcast the Boston  
10 Marathon exclusively, neither can you broadcast the Super  
11 Bowl. End of story.

12 So, that was found to be that you could use public  
13 facilities for private events, and that there is a precedent  
14 in law for that -- so that is there.

15 Now, in California, on our beaches -- you guys are  
16 interested if they are making a profit, or not a profit, and  
17 that is none of our business. I don't care about that. You  
18 know, Leonard has got lots of money. He can lose money for  
19 20 years, he don't care, okay?

20 But, do we ever ask all of those hamburger stands,  
21 that are currently on the beaches of the State of California,  
22 licensed by the State of California, revenue participating by  
23 the State of California, how much beach space that they take  
24 up, and they deprive people of on Sunday afternoon? The  
25 question has never come up here. I have never even heard of

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1 a permit here in the five years I have been here. Now,  
2 should we take all of those hamburger stands down? I don't  
3 think so.

4 Now, if you really look at the map -- and I was  
5 trying not to look at it, because I really didn't want to get  
6 involved in this -- of the stadium that this guy is putting  
7 up, if you talk about deprivation of beach utilization, I  
8 think that that is really extrapolating it out to the Nth  
9 degree.

10 Now, the people from the city, I absolutely agree  
11 with you, it is pain in the butt. They bring traffic, and  
12 they have got people, and all of that stuff. But, what they  
13 also do is provide revenue source through tax revenue, so  
14 that your garbage is collected more efficiently, or in better  
15 trucks, or that your street signs are newer, and all of that  
16 stuff. So, it is not a black and white issue here.

17 So, you know, I am almost -- Wimbledon, believe it  
18 or not, Wimbledon had this exact same problem. It was about  
19 15 years ago, the people of Wimbledon, England, decided that  
20 they should have free tickets to Wimbledon, because they had  
21 provided all of the infrastructures, the trains, the busses,  
22 and all of the traffic control and all of that for the  
23 Wimbledon, and Wimbledon is private property.

24 Well, I don't know if you can imagine how that  
25 shook the roots of that 130-some year old organization, but,

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1 here is what they did. They took -- Wimbledon took -- and I  
2 know you can't extrapolate this out, because they are not  
3 under the Coastal Act, but here is how they designed an  
4 answer to that problem. No one is going to give away all of  
5 their tickets, or 25 percent of the tickets to the finals.  
6 You know, there is no hole in the ground big enough to put an  
7 event like that on.

8 But, what they did was, they took 10 percent of  
9 their tickets on stadium court, on Sunday of the finals,  
10 where man you can't -- I mean you pay a fortune for one of  
11 those tickets, and those tickets are distributed to the local  
12 schools and charitable organizations around Wimbledon.

13 Now, you add all of this up together, and what do  
14 got? You have got poor Leonard out there. He don't know  
15 what to do. He's got a source sport that represents our  
16 state, as much as our beaches represent our state. Now, he  
17 is in the unfortunate position of being in a profitable  
18 business, or not so profitable. But, you can't, I don't  
19 think, take one our icons, being the sport which we have  
20 exported around the world, made it a television phenomena,  
21 and penalize him for that.

22 Now, I listened to the athletes. The athletes  
23 were just like anyone who has come in my door. They  
24 understand that they are great athletes, world class  
25 athletes. Man, I watched Carson on television, myself, man,

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1 it was great. I remember when Rafer Johnson's daughter was  
2 in the doubles, I mean, I was glued to the television set.

3 But, they have no clue about all of these various  
4 things that has got to come together to provide them a stage  
5 on which they are to perform. They think they do, and they  
6 have the basic concept, but the real finite stuff that we are  
7 dealing with her today, they just -- it is not in -- they  
8 don't care.

9 So, whatever this august body does today, I would  
10 just ask, don't penalized this guy because he is in business.  
11 These are people, not bad people, just people, and don't make  
12 him give away 25 percent of his tickets on Sunday. Make him  
13 give away more on the regular days, give away more, you know,  
14 but on the days where he is going to try to break even,  
15 because if it rains on Sunday, he is really tattooed, okay.

16 So, I mean, you just got to -- I just wanted to  
17 tell you that, because that is my background, and I really  
18 think you ought to have the information -- and, I like being  
19 on TV.

20 CHAIR KRUEER: Thank you, Commissioner Burke.

21 I just wanted to ask a question of, maybe,  
22 Commissioner Burke, while you were talking there, I was  
23 thinking.

24 We understand what the Coastal Act issues are,  
25 which we are the Coastal Commission here, which has issues

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1 we, obviously, have to look at, but when we are talking about  
2 these percentages, like Commissioner Clark's amendment, or  
3 the staff's recommendation, the question I have for you is --  
4 and I want to understand a little more on just the economic  
5 side, because no one wants to lose them, but at the same time  
6 we have to make sure that the Coastal Act resources are  
7 protected -- is really the number of seats where the  
8 percentage is? is there -- you know how it works, can you  
9 have certain seats that you are selling as boxes, and to  
10 corporate sponsors, and getting a lot more money, so really  
11 this is derivative of revenue enhancement by doing the good  
12 marketing and creating --

13 COMMISSIONER BURKE: Well, you are absolutely on  
14 target, but he doesn't live in a perfect world.

15 You see, I lived in a perfect world for a long  
16 time, because I had all of the sponsorships I could stand.

17 CHAIR KRUER: Okay.

18 COMMISSIONER BURKE: So, every runner I go was  
19 like icing on the cake. This guy doesn't live in that world  
20 yet. NFL lives in that world to one thousand degrees.

21 So, you know, if you take 10 percent of his  
22 tickets, you are taking a significant slice out of the pie.  
23 Because, first of all, his whole facility isn't that big. We  
24 are not talking about Staples here, we are talking about a  
25 place he builds on the beach.

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1 Tell, me, how many? 6,000 or 8,000 seats?

2 MR. ARMATO: Four or five hundred.

3 COMMISSIONER BURKE: Whoa, when Bobby Short was  
4 alive, he could have played the piano and drawn that many  
5 people, okay?

6 CHAIR KRUEER: Okay, you answered my question. I  
7 just wanted to understand that.

8 And, Commissioner Wright, you wanted to say  
9 something.

10 COMMISSIONER WRIGHT: Just to make a couple of  
11 comments.

12 I couldn't agree more. I don't think our position  
13 is to be concerned with the amount of profit that the AVP  
14 makes. Our concern is with the Coastal Act. Our concern --  
15 at least mine is -- is with the State of California, and the  
16 impacts. And, what they bring to it, I think it is really  
17 positive.

18 I agree with Commissioner Clark, but I wouldn't  
19 put any percentages in there. I think there is a way that we  
20 can see that we recover, and I would suggest that that 10  
21 percent be taken off of the profits that are made each day,  
22 because they are going to be at different times. Thursday is  
23 not going to have the same draw as Friday is, or is going to  
24 have the same draw as Saturday is. That way, if you have a  
25 down year, everybody loses, if you have a great year,

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1 everybody wins. So, I would throw that out for consider-  
2 ation, and then we don't get caught with just these arbitrary  
3 numbers on who can be seated.

4 And, I don't think public access is being limited,  
5 6 or 7 percent, whichever the right number is, that is being  
6 utilized, I think is appropriate. And, the fact that free  
7 parking is going to be provided for anyone that comes into the  
8 Hermosa Beach area, regardless of whether they attend it or  
9 not, is a real plus for the community, and certainly the  
10 amount of money that is going to be spent there is a real  
11 plus for the community, and for the state.

12 I am a little concerned with Condition 10. It  
13 just seems redundant to me, but I am open to discussion on  
14 it.

15 But, I would like to, maybe, entertain some  
16 discussion on rather than the number of seats, that the  
17 Commission, towards the license plate program, a percentage  
18 of the profits would go to that.

19 CHAIR KRUEER: Thank you, Commissioner Wright.  
20 Commissioner Shallenberger.

21 COMMISSIONER SHALLENBERGER: Well, we have spent a  
22 whole lot of time talking about AVP and its business, and  
23 what kind of profit it turns, or doesn't turn, and what its  
24 revenues are, and as awkward as it is, because everybody  
25 loves AVP, and everybody loves beach volleyball and thinks it

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1 should stay in the state, but those issues, really, are not  
2 any place in the Coastal Act.

3 And, so what we need to be looking at is what the  
4 Coastal Act requires, because that is, actually, the only  
5 thing we are legally allowed to make our decisions on, unless  
6 it was a balancing act. But, I don't read any place in the  
7 Act that we can balance public access with a private  
8 company's ability to make money.

9 And, I am troubled with the discussion in relation  
10 to Section 30210 of the Coastal Act, which says that in  
11 carrying out a segment of the California Constitution maximum  
12 access, which shall be conspicuously posted, and recreational  
13 opportunities shall be provided for all the people,  
14 consistent with public safety needs, and the need to protect  
15 public rights, rights of private property owners, and the  
16 natural resource areas from over use.

17 So, it is awkward, because everybody loves AVP,  
18 and we want to make it happen, but I think taking the staff  
19 recommendation, which would have the majority of these seats  
20 be public -- which is consistent with the Coastal Act -- and  
21 flipping it, so the majority are private, is -- I don't find  
22 that that is -- can be substantiated and defended in the  
23 Coastal Act.

24 So, I am absolutely going to be opposed to the  
25 current proposal before us, as moving us very, very far away

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1 from public access to private rights to use our public  
2 beaches for private events.

3 CHAIR KRUE: Thank you, Commissioner  
4 Shallenberger.

5 Commissioner Wan.

6 COMMISSIONER WAN: Yes, I think that Commissioner  
7 Shallenberger has brought this back to what I call the issue  
8 that we need to deal with, and that is the policy issue, as  
9 it relates to public access under the Coastal Act, not do we  
10 like this business? or don't we like this business? or how  
11 much of their seats should be, you know, how much should be  
12 protect their profit? The issue is public access. And, I am  
13 very concerned.

14 And, by the way, this isn't Sydney, Australia,  
15 this is the California coast, and it is unique in the world,  
16 and we protect public access under the Coastal Act. But, I  
17 am not only concerned about protecting public access in this  
18 particular event, but I am very concerned about the precedent  
19 it sets.

20 This is a commercial business, and as much as we  
21 love this business, and we can all look for ways to try to  
22 justify it, because this is a, quote, California lifestyle,  
23 this is a commercial business. How do we distinguish this  
24 from other commercial businesses -- and I am not talking here  
25 about the hamburger stand, that serves the beach-going

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1 public. I am talking about other large commercial events,  
2 and Mr. Massara brought up the fact that the surfing  
3 community doesn't charge for their events. Are we now going  
4 to see the surfing community come to us and say, "Well, you  
5 can't prevent surfing in California, where, you know, we will  
6 go to other areas, we will go to Baja, and other places that  
7 have surfing, because we can't charge and we can't make  
8 money."

9 Where do you draw the line? So, I am really  
10 concerned about how you distinguish this so that we don't  
11 wind up with a whole host of other commercial events coming  
12 in here and then we are not using this, just for a few days a  
13 year, this area of the beach, but we could wind up using it  
14 all of the time, and having, basically, the beaches of  
15 California become privatized for the purpose of making funds  
16 for commercial companies. And, that precedential issue  
17 probably bothers me more than anything else in relationship  
18 to this.

19 CHAIR KRUEER: Thank you.

20 We are going to a question that Mr. Reilly has.

21 COMMISSIONER REILLY: Thank you, and before I ask  
22 staff the question, I just want to say that we have already  
23 crossed the line, because we have allowed 24 percent, you  
24 know, and so whatever that line is, and we found that  
25 consistent with the Coastal Act, so I don't know if 25

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1 percent is not consistent.

2 Let me ask staff this. If we go with the staff  
3 recommendation, which, basically, mirrors the guidelines that  
4 we have, why do they need a permit?

5 EXECUTIVE DIRECTOR DOUGLAS: Well, they are not  
6 following the guidelines.

7 COMMISSIONER REILLY: But, the staff's  
8 recommendations do?

9 EXECUTIVE DIRECTOR DOUGLAS: Well, the application  
10 is what we are looking at, not the staff recommendation. So,  
11 the application doesn't follow the guidelines, the staff  
12 recommendation would bring it into conformity with the  
13 guidelines.

14 COMMISSIONER REILLY: So, if we denied the whole  
15 thing, would it be just the same as what staff recommended?

16 EXECUTIVE DIRECTOR DOUGLAS: No, they would still  
17 have to propose what they are going to do, if they did it  
18 consistent with the guidelines, they wouldn't need a permit,  
19 as I understand it, right?

20 COMMISSIONER REILLY: Okay, I just wanted to be  
21 clear on that.

22 EXECUTIVE DIRECTOR DOUGLAS: That is correct.

23 CHAIR KRUER: Commissioner Wan, and then  
24 Commissioner Burke.

25 COMMISSIONER WAN: Can I ask Commissioner Reilly a

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1 question? As I read the Hermosa Beach -- I don't have it in  
2 front of me, I couldn't find it -- LCP, it basically says  
3 they don't need a permit if they don't charge anything, but  
4 if they charge it, that is why they need the permit. So, if  
5 they are charging 25 percent, or more, for 25 percent of the  
6 seats, or more, then they need to come in for a permit. That  
7 is what the LCP says.

8 Am I right, Ms. Henry?

9 **EXECUTIVE DIRECTOR DOUGLAS:** That is my  
10 understanding, right Teresa?

11 **DISTRICT MANAGER HENRY:** You were quoting,  
12 actually, the Manhattan Beach LCP.

13 Hermosa has a Land Use Plan, only, and the  
14 agreement that they have with -- Hermosa Beach actually says  
15 that the fee shall be as required by the Coastal Commission.  
16 So, the city hasn't acted on the fee yet. The agreement that  
17 -- I think is Exhibit 4 in the staff report -- the city is  
18 waiting for the Commission's action on the actual fee, in  
19 this case.

20 But, they do, also, have an application pending  
21 with Manhattan Beach. They want to amend the Manhattan Beach  
22 LCP to be consistent with whatever the Commission does here  
23 today. And, Manhattan Beach only allows for 25 percent paid  
24 seating.

25 **CHAIR KRUEER:** Okay, thank you.

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1 Commissioner Burke.  
2 COMMISSIONER BURKE: I have two questions, one for  
3 Mark Massara.  
4 Mark, how do they pay the prize money, in surfing  
5 terms?  
6 MR. MASSARA: Commissioner Burke, Mark Massara,  
7 Sierra Club, I'll admit at first I am not an expert on this,  
8 although I do read surf magazines all too often.  
9 Like many other businesses, and very similar to  
10 the AVP, there is an overriding umbrella commercial  
11 for-profit organization that sponsors these events, and then  
12 prize money is paid to the winning athletes, and sponsors are  
13 generally --  
14 COMMISSIONER BURKE: My assumption is --  
15 MR. MASSARA: -- obtained by the billion dollar  
16 surfware industry.  
17 COMMISSIONER BURKE: Right, but my assumption is  
18 also that they charge the entrance.  
19 MR. MASSARA: There are entry fees --  
20 COMMISSIONER BURKE: Entry fees by the surfing  
21 companies, right.  
22 MR. MASSARA: -- and then the surfers, themselves  
23 are generally --  
24 COMMISSIONER BURKE: So, those fee --  
25 MR. MASSARA: -- sponsored and those fees are paid

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1 by their sponsors.

2 COMMISSIONER BURKE: So, what we have here is  
3 just a different kind of fee base, so you can't say the  
4 surfing is free on the beach --

5 CHAIR KRUEER:, Microphone, sir.

6 COMMISSIONER BURKE: -- because they are paying an  
7 entry fee, but, what you can say is the people can go watch  
8 them free.

9 CHAIR KRUEER: Use your microphone, please.

10 COMMISSIONER BURKE: Oh, I am sorry.

11 What I was saying was that people can watch for  
12 free, but they can't surf for free in the tournament, so the  
13 income is just in a different income stream here.

14 CHAIR KRUEER: Okay, thank you.

15 I guess the challenge for me is, in listening to,  
16 you know, in reference to the amendment, et cetera, is that I  
17 am sort of torn from the fact that we do have these  
18 requirements, and I think we have already crossed, John, that  
19 line in the sand, and we are there now at that 24 percent.

20 But, I guess I just don't understand how we can --  
21 and we are sympathetic to the economic thing that the AVP is  
22 saying, on the other hand, we have to protect and not create  
23 a bad precedence, et cetera.

24 I guess, as one member, I am trying to understand  
25 how we get from 24 - 76 to flipping it three times the other

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1 way, 300 percent. And, I guess that is what makes me feel  
2 uncomfortable, is that without any analytical information, et  
3 cetera, that is real difficult and I want to do something  
4 within the parameters that I can for the AVP, because I think  
5 it is an important tournament, et cetera.

6 But, on the other hand, I am really sitting here  
7 and thinking, how can I just jump from and triple this  
8 requirement and say this is what works, and I have not heard  
9 anything really at this point to prove that, substantiate it.  
10 It is like, I would understand if it was a little different  
11 than the number I guess, is what I was going to get to, and I  
12 am not trying to negotiate. I am trying to tell you I am  
13 really having a hard problem of how I can justify my own  
14 facts and findings to say that we can flip these numbers  
15 around, and that is the problem I am having.

16 Commissioner Clark, maybe you can help me.

17 **COMMISSIONER CLARK:** Well, first, there are  
18 several things I want to address in perspective to my  
19 colleagues' comments today, and I certainly appreciate them.

20 I would agree, this is not about the economics of  
21 AVP, and their profitability. What it is about is the  
22 survival of this level of volleyball on the coast of Southern  
23 California. And, I think that is the heart of the matter  
24 before us today, okay.

25 I am not concerned, either, with their profit-

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1 ability, but I am concerned that they remain a fixture, in  
2 terms of this level of attraction, sports attraction, to our  
3 Southern California beaches. Part and parcel of beach  
4 volleyball, as we all know, grew up in Southern California.  
5 It is what is part of what makes Southern California beaches  
6 what they are today.

7 They told us that, in fact, there isn't some  
8 adjustments, they are probably going to leave. I think that  
9 is absolutely what will happen, if we don't recognize the  
10 realities here, irrespective of the profitability.

11 The fact of the matter, I think, is, also this  
12 kind of event brings more people to the beach, not just to go  
13 to the pro-tournament, but to enjoy the beach. And, what  
14 they are offering up, I think, is of benefit to the public,  
15 to visitor-serving on the coast, and is consistent with the  
16 Coastal Act.

17 Now, if my colleagues think the proportionality  
18 switch doesn't make a lot of sense for you to support, I am  
19 open to an alteration of that.

20 But, I think the fact -- what staff has proposed,  
21 as only being able to charge 24 percent of the seating, I  
22 think, leads us to a final conclusion that we will lose pro-  
23 beach volleyball on Southern California beaches, and I don't  
24 want to go there.

25 CHAIR KRUEER: Okay.

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1 Commissioner Reilly.  
2 COMMISSIONER REILLY: Well, in terms of some  
3 thoughts on alternative proposals, if the motion before us is  
4 not successful, I would be willing to propose that AVP be  
5 required to provide 50 percent free seating throughout the  
6 entire tournament, with at least 25 percent in each  
7 particular day -- no less than 25 percent each particular  
8 day.  
9 CHAIR KRUER: Okay, all right, I would like to, at  
10 this time --  
11 Oh, I am sorry, Commissioner Burke.  
12 COMMISSIONER BURKE: If the maker of the motion is  
13 --  
14 CHAIR KRUER: There is no motion yet.  
15 COMMISSIONER BURKE: Oh, I thought he made a  
16 motion.  
17 CHAIR KRUER: We will come back to you. There is  
18 an amending motion -- I am talking about -- he is referring  
19 to Commissioner Reilly's?  
20 COMMISSIONER BURKE: No, no, I am talking about to  
21 the main motion.  
22 CHAIR KRUER: To your motion? the main motion?  
23 okay, then to the amending motion Commissioner Clark has, go  
24 ahead, Commissioner Burke.  
25 COMMISSIONER BURKE: I know that this is not going

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1 to pass, but if the maker of the motion is amenable to this,  
2 I would like to amend your motion to make it a 10 percent  
3 free ticket, free ticket event.

4 COMMISSIONER CLARK: Commissioner Burke, you are  
5 suggesting that 10 percent would be free, as opposed to --

6 COMMISSIONER BURKE: To your 25 percent.

7 COMMISSIONER CLARK: -- the 25 percent?  
8 I'll take that as a friendly amendment.

9 CHAIR KRUEER: How about the "seconder" of the  
10 motion?

11 COMMISSIONER ACHADJIAN: The "seconder" concurs.

12 CHAIR KRUEER: So, you both concur with the  
13 friendly amendment, okay.

14 COMMISSIONER CLARK: Call for the question.

15 CHAIR KRUEER: I would like to call for the  
16 question on the amending motion.

17 And, I would want to, for the record, is also in  
18 your amending motion the -- I want to be clear on,  
19 Commissioner Clark, -- on the indemnification, you are  
20 removing that?

21 COMMISSIONER CLARK: Yes, it is deleted.

22 CHAIR KRUEER: Okay.

23 COMMISSIONER CLARK: Special Condition No. 10 is  
24 deleted.

25 And, I agree with -- just to speak to that --

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1 several of the Commissioners who indicated that I think we  
2 need some more far-reaching discussion with staff, in terms  
3 of a policy on this before we just instantly institute it on  
4 one project coming forward.

5 Thank you.

6 CHAIR KRUE: Okay, they are asking for a "Yes"  
7 vote and I will please have the clerk call the roll.

8 SECRETARY MILLER: Commissioner Caldwell?

9 VICE CHAIR CALDWELL: No.

10 SECRETARY MILLER: Commissioner Clark?

11 COMMISSIONER CLARK: Yes.

12 SECRETARY MILLER: Commissioner Kram?

13 COMMISSIONER KRAM: Yes.

14 SECRETARY MILLER: Commissioner Wright?

15 COMMISSIONER WRIGHT: Yes.

16 SECRETARY MILLER: Commissioner Potter?

17 COMMISSIONER POTTER: Aye.

18 SECRETARY MILLER: Commissioner Reilly?

19 COMMISSIONER REILLY: No.

20 SECRETARY MILLER: Commissioner Shallenberger?

21 COMMISSIONER SHALLENBERGER: No.

22 SECRETARY MILLER: Commissioner Wan?

23 COMMISSIONER WAN: No.

24 SECRETARY MILLER: Commissioner Achadjian?

25 COMMISSIONER ACHADJIAN: Aye.

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1 SECRETARY MILLER: Commissioner Burke?  
2 COMMISSIONER BURKE: Yes.  
3 SECRETARY MILLER: Chairman Kruer?  
4 CHAIR KRUE: No.  
5 SECRETARY MILLER: Six, five.  
6 SECRETARY MILLER: The motion carries.  
7 CHAIR KRUE: So, the motion passes?  
8 SECRETARY MILLER: The motion carries.  
9 CHAIR KRUE: The motion carries, okay.  
10 The main motion now, and on the main motion is  
11 there any objection to a unanimous roll call?  
12 COMMISSIONER WAN: Yes.  
13 COMMISSIONER SHALLENBERGER: I would object.  
14 CHAIR KRUE: There is an objection on the main  
15 motion, can we apply the previous vote? Do you want me to  
16 call the roll on the main motion?  
17 COMMISSIONER SHALLENBERGER: You can call the roll  
18 --  
19 COMMISSIONER WRIGHT: The amendment passed.  
20 CHAIR KRUE: I know, but now to the main motion,  
21 the main motion.  
22 Call the roll, please.  
23 SECRETARY MILLER: Commissioner Clark?  
24 COMMISSIONER CLARK: Yes.  
25 SECRETARY MILLER: Commissioner Kram?

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1 COMMISSIONER KRAM: Yes.  
2 SECRETARY MILLER: Commissioner Wright?  
3 COMMISSIONER WRIGHT: Yes.  
4 SECRETARY MILLER: Commissioner Potter?  
5 COMMISSIONER POTTER: Aye.  
6 SECRETARY MILLER: Commissioner Reilly?  
7 COMMISSIONER REILLY: No.  
8 SECRETARY MILLER: Commissioner Shallenberger?  
9 COMMISSIONER SHALLENBERGER: No.  
10 SECRETARY MILLER: Commissioner Wan?  
11 COMMISSIONER WAN: No.  
12 SECRETARY MILLER: Commissioner Achadjian?  
13 COMMISSIONER ACHADJIAN: Aye.  
14 SECRETARY MILLER: Commissioner Burke?  
15 COMMISSIONER BURKE: Yes.  
16 SECRETARY MILLER: Commissioner Caldwell?  
17 COMMISSIONER CALDWELL: No.  
18 SECRETARY MILLER: Chairman Kruer?  
19 CHAIR KRUER: No.  
20 SECRETARY MILLER: Seven, four.  
21 CHAIR KRUER: What was the vote? it should be six,  
22 five. It passes the same as the other, okay.  
23 \*  
24 \*  
25 [ Whereupon the hearing concluded at 5:55 p.m. ]

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