

Communication from Public

Name: Jeffrey Gavin

Date Submitted: 06/08/2022 11:28 PM

Council File No: 22-0496

Comments for Public Posting: The Homeless Committee is being asked to approve a DDA agreement for a 99 year lease on the housing project formerly known as the "Reese Davidson" development in Venice before the entitlement process is completed. Entering into an agreement regarding the transfer of this valuable property prior to the approval of the project by the Coastal Commission would be financially reckless and irresponsible given the risk that the Commission could fail to approve the project or impose conditions that make it impossible to move forward. The developer is required to provide replacement beach parking to build the project. The developer is trying to get the City to pay for the replacement parking with a \$19,492.862 MICLA bond. As explained in the attached emails, the MICLA Bond request claims that the parking structure would generate \$11,382 per space in gross annual revenues when the busiest beach parking lots in much better locations only generate about \$3000 to \$5000 in annual revenue per space. The new parking structure will generate less than half the revenue projected by the developers, leaving the City holding the bag with a parking garage that will cost the general fund about \$1,887,000.00 in negative cash flow and lost profit per year and over 35 million dollars over the first 19 years of the lease. Everything about this development is a scam, including the 252 space beach parking garage that the City is being asked to pay for. The developers' own expert has confirmed that the building envelope is not big enough for a 252 space parking lot. The CAO report for the Homeless Committee claims that the parking garage will have 252 spaces, but the plans included in their report show a parking garage that exceeds the height limit for the project and only has 231 spaces. The developers want the City to pay for parking spaces that don't exist. Any agreement with the developers is premature as the project still has to be reviewed by the Coastal Commission where it will face fierce opposition. The City has been charging twice as much as other beach parking lots at the existing lot and the MICLA Request assumes that they will raise the prices even higher to a level that excludes half of the City's residents. Even if the Coastal Commission approves the development, they are almost certain to impose conditions limiting the prices charged that would result in huge financial losses to the City. If built, this

project would probably be the most expensive affordable housing units ever built in the United State when you include the cost of the coastal land, construction cost for the replacement beach parking lot, negative cash flow on the parking garage and the lost profits on beach parking. People from all over the City, including constituents from all the Council districts, were turned away from the Venice beach parking lots on at least 14 out of 15 weekends last summer. This project will reduce and cap the number of parking spaces at the City's beach for the next 99 years and increase prices to a level that would prevent access for more than half of the City's residents. Every child growing up in Los Angeles should be able to enjoy our beach as part of growing up. This project will make that make that goal impossible, sabotaging the City's efforts for equity and inclusion in beach access. My emails with the CAO explaining the details are attached. I have not received a response to my last email. A typo has been changed to correctly state the term of the lease. Jeffrey Kavin

Hello Yolanda and Jacqueline.

Thank you for your response to my email.

The DDA Agreement would commit the City to a 99 year lease at \$1 per year for a project that does not have its entitlements approved. The DDA agreement specifically states that the garage would be financed with a MICLA loan, which could easily cost the General Fund about \$1,887,000 in negative cash flow and lost profits per year for the next 19 years as discussed below and in my prior email. Thus, the statement in the CAO report that there is no impact on the General Fund from signing the DDA agreement including the reference to the MICLA Loan is false and inaccurate. The committee's understanding of the facts relating to the MICLA loan will be important with regard to their decision about the DDA.

The CAO reports also assumes that the Coastal Commission will approve this project, and do so without conditions. This is extremely unlikely. The project does not comply with the provisions of the Coastal Act and there is very strong opposition. As the City has been charging rates at Lot #731 that are mostly twice as much as other parking lots at the beach, any approval of the project should include a condition requiring the City to reduce the rates being charged by around 50% instead of permitting the increase that the City plans to use to pay for the debt service. Signing the DDA before the City knows what the Coastal Commission will do would be financially reckless and irresponsible. The CAO's job is to protect the City in this kind of situation. At very least, you have an obligation to fully disclose these risks to the Homeless Committee before they meet.

According to the CAO report for the Poverty Committee hearing, the new parking structure would have 252 spaces. This is not true. The 252 spaces listed in the tabulation are fictional as the plans included with the CAO report only have 231 spaces. The Parking Design Group informed the developers that the maximum capacity in the "garage envelope" would be about 220 after they carefully studied "any and all reasonable potential options for this site." (Page 4 of their August 14, 2020 Proposal that I will send you in a separate email.) As Jacqueline knows, the developers have spent years trying to come up with a workable design to increase the capacity of the garage to match the numbers they promised without any success. There is no plan for a 252 space parking lot in the available building envelope and there never will be. Again, you clearly have an obligation to disclose all of this to the Homeless Committee before they meet.

The agreement does not include the Coastal Permit Application, Hearing and approval in the list of project milestones. This omission also needs to be corrected.

The MICLA request states "parking experts predict that this Public Parking Structure will be more profitable than the existing surface parking lot." This is not true. In fact, the net income shown in the developer's investment summary is much less than the profit at the existing parking lot. The cost of operation shown for the new parking structure is more than five times as much as the existing parking lot and the debt service alone would be more than the gross revenues at Lot #731.

The MICLA request states that the funding will pay for a 246 space parking lot. The MICLA request and the revenue projections need to be changed to reflect the true number of spaces that will be built.

The MICLA Request also states that the revenue from the new parking structure will fully cover debt service payments and provide incremental income during the 18 year term. This statement is not true.

The request is based upon a projection that the new parking garage a block and half from the beach will generate up to 2.8 million dollars in revenue without taxes, which would be \$11,382 per space per year.

The busiest parking lots on the beach managed by the County, including the ones owned by the City, generate \$3000.00 to \$5000.00 per space in annual revenue. If the new parking garage was able to generate

\$5000,00 per space, the revenue would be over 1.5 million dollars less than projected. This information also has to be disclosed to the Homeless Committee and MICLA before they take any further action.

The existing parking lot generates about 1 million dollars a year in gross revenue according to the Tierra West Parking Study prepared for LADOT. Tierra West concluded that overall there was no unmet demand for parking in this location except for on Holiday afternoons. (Page 3). The study's finding that there is no unmet demand in this location is in direct conflict with the CAO's prediction in the MICLA request that revenue will increase by 1.8 million dollars per year. Again, it is obvious that you have an obligation to provide this information to the Homeless Committee and MICLA before they take any further action on this project

The elements of fraud in California are (a) misrepresentation (false representation, concealment, or nondisclosure); (b) knowledge of falsity (or "scienter"); (c) intent to defraud, i.e., to induce reliance; (d) justifiable reliance; and (e) resulting damage.

Any lease of the Lot #731 property and/or approval of a MICLA loan for the public parking garage based upon the information included in the 2022-22 Non-Departmental Request and/or the the reports to the Homeless Committee would be based upon fraudulent information included in those documents. Any DDA agreement entered into based upon the false and misleading information provided to the CAO as included in the MICLA Request and Reports to the Homeless Committee would be subject to rescission for fraud.

The mission of the CAO is to provide sound advice, oversight and recommendations to the Mayor and Council on the fiscal condition, financial status, and future needs of the City and to promote productivity, economy, and efficiency in the conduct of City government so that available resources provide the greatest benefit possible to the residents of the City of Los Angeles. In this case, you have been provided with false and misleading information and have also failed to fully disclose the financial problems and risks related to the MICLA loan and signing the DDA agreement before the other issues discussed in this email have been clarified and resolved. You have an obligation to take immediate steps to recall the false, inaccurate and misleading reports to the Homeless Committee and MICLA Request so that they can be revised to fully disclose all of the financial risks so that City leaders can make informed decisions about these matters.

I will be happy to provide any additional documentation regarding the statements made in this email that you may need to revise these documents.

Given that the hearing is on Thursday, I would ask you to confirm that you will be withdrawing or replacing the reports to the committee as soon as possible.

Respectfully,

Jeffrey Kevin

-----Original Message-----

From: Yolanda Chavez <yolanda.chavez@lacity.org>

To: Jeffrey Kevin <jeffrey.kavin@verizon.net>; Jacqueline Wagner <JACQUELINE.WAGNER@lacity.org>

Sent: Tue, Jun 7, 2022 12:59 pm

Subject: Re: : Factual Errors in your Report for Thursday Hearing CAO File No. PAGE 0220-00540-1608

Mr. Kevin,

Based on the Automobile Parking Tabulation included in Attachment D – Project Site Plan of the Key Terms and Conditions attached to the CAO Report dated June 3, 2022 (page 26 of the CAO Report No. 0220-00540-1608), the East Garage will provide 252 spaces. The 231 spaces amount referenced in the email is not included in the CAO report. The CAO report also does not include projections on the financial performance or the customer count of the new parking structure. The recommendations of the CAO report will have no impact on the General Fund. Project funding sources, including financing for the public parking structure, will be addressed through other Council actions.

Thank you!

On Tue, Jun 7, 2022 at 3:13 AM Jeffrey Kevin <jeffrey.kavin@verizon.net> wrote:

Hello Yolanda,

According to the June 3, 2022 CAO Report, the east public parking garage at the Venice Dell Housing Project will have 252 spaces. The plans included in the same CAO report are in direct conflict with this statement as they show that the parking garage will only have 231 Spaces. The CAO needs to fix this discrepancy before the hearing.

As discussed below, the CAO has issued false projections about the financial performance of the new parking structure in this report and the 2022-23 Non-Departmental Request for MICLA funding without checking them for accuracy. The CAO needs to take immediate steps to withdraw these projections before City officials rely upon them to make decisions that will cost the City millions of dollars.

The CAO report states that the project will have no impact on the General Fund. This is not true. The City will lose about \$850,000 per year in net profit that it currently receives from the existing parking lot and the new parking structure will also show huge amounts of negative cash flow every year. The CAO has an obligation to disclose accurate information about the lost profits and negative cash flow in the report before this week's hearing and the MICLA Request.

In response to my email raising these issues, Ken Husting at LADOT wrote back: "LADOT maybe listed as the lead but LADOT didn't design the parking garage and didn't write the MICLA request." If LADOT didn't prepare the financial projections in the MICLA request, who did?

The highest grossing beach parking lot managed by the County outside of Venice generates around \$3000.00 in gross revenue per space annually. The Venice Beach and Washington Blvd lots on the beach managed for the City by the County generate about \$5000.000 per year per space. A beach parking structure hidden behind a housing development 1 1/2 blocks from the beach should generate much less revenue than the lots at the beach, not more.

If the new parking structure can match these numbers for revenue per space, which is very unlikely, the maximum gross revenue potential would be about \$1,2600,000 with 252 spaces. This is less than the \$1,368,517 in annual debt payments for the garage, leaving no cash left to pay for the operational expenses. With the 231 spaces shown in the plans, the maximum potential revenue would be even less, at about \$1,255,000. This assumes that the Coastal Commission does not make the City reduce the prices charged for parking.

The existing parking lot generates about 1 million dollars a year in gross revenue according to the Tierra West Parking Study prepared for LADOT. Tierra West concluded that overall there was no unmet demand for parking in this location except for on Holiday afternoons. The CAO projection that customer counts would be almost three times as high at the new parking structure is in direct conflict with the Tierra West Study.

The only projection released for the operating cost at the new garage is \$929,000. Using this number, the garage would have to generate \$2,297,000 just to pay the operating costs and debt service. Even if you assume that the operating costs would be half of this number, the garage would have \$1,037,000 in negative cash flow with the \$1,260,000 in gross revenue discussed above. Adding the \$850,000 in lost profits would bring the cost to the General Fund up to \$1,887,000 per year and over 35 million dollars over the first 19 years of the lease. Again, the CAO needs to take immediate steps to withdraw its false and unsubstantiated claims that the parking garage would not impact the General Fund.

It is impossible to predict the financial performance of the new parking garage without knowing what pricing will be approved by the Coastal Commission. The statement that the project will have no impact on the general fund assumes that the Coastal Commission will not impose conditions on the project such as pricing limits. Signing an agreement with the developers without knowing these conditions would be an unacceptable risk to the City's finances. The CAO has an obligation to explain this risk in detail and advise the committee to postpone any decision on entering into additional agreements with the developers until the decision of the Coastal Commission is known.

I will be asking the Coastal Commission to roll back the maximum pricing for parking to the prices in effect when the Coastal Act was passed, which would be about \$5.00 during the peak season after adjusting for inflation. The existing parking lot would still be very profitable at this price. Even if they reject this level of price reduction, the Coastal Commission is almost certain to include a condition requiring the City to drastically reduce the current level of pricing to bring it in line with the market, adding to the City's losses from the new parking garage. The City's prices at lot #731 are often twice as high or more than the prices on the beach. As the maximum rate in the Southern Beach Lot in Santa Monica is \$12.00 compared to \$45.00 at Lot #731, a price cap by the commission would have a very significant impact on the finances of the new parking structure.

After the CAO prepared the 2022-23 Non-Departmental Request for MICLA funding, I submitted public records requests to the CAO and LADOT seeking the documents used to prepare the financial projections. As I expected, the documents produced did not include any calculations or information supporting the inflated customer counts used in projections. Making these claims in support of a bond issue without doing an analysis of the projected customer counts would be a violation of the the anti-fraud provisions Federal Securities laws.

I would appreciate the opportunity to talk to you about this and to provide supporting documents. I also have more information about serious financial improprieties related to this project that I would like to talk about.

Jeffrey Kevin