

1. **[CONFERENCE WITH LABOR NEGOTIATOR ON STATUS OF NEGOTIATIONS PREVIOUSLY AUTHORIZED IN OPEN SESSION (SECTION 54957.6)**

CONFERENCE WITH LABOR NEGOTIATOR – Negotiator: City Manager; employee organizations: Oceanside Police Officers' Association (OPOA), Oceanside Firefighters' Association (OFA), Oceanside Police Management Association (OPMA), Management Employees of the City of Oceanside (MECO), Oceanside City Employees' Association (OCEA), Oceanside Fire Management Association (OFMA), Western Council of Engineers (WCE), and Unrepresented]

No closed session was held.

2. **LITIGATION OR OTHER ADVERSARY PROCEEDING (E.G., ADMINISTRATIVE HEARING, ARBITRATION) (SECTION 54956.9)**

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (SECTION 54956.9(a))

County of San Diego v. City et al., Superior Court Case No. GIN036570

Discussed; there was no reportable action.

ADDENDUM ITEM

2.5 **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (SECTION 54956.9)**

Initiation of litigation by City pursuant to Subdivision (c) of Section 54956.9: one case

In closed session, Council by a 5-0 vote authorized the City Attorney to file a complaint and intervention, or in the alternative an amicus brief in the matter entitled Mira Mar Mobile Community Homeowners Assoc. vs. Kendall West, LLC, Tower Communities, LLC, Case No. 37-200900050733

5:00 P.M. – ROLL CALL

Mayor Wood reconvened the meeting at 5:03 PM. Present were Mayor Wood and Councilmembers Feller, Chavez, Sanchez and Kern. Also present were City Clerk Wayne, City Manager Weiss and City Attorney Mullen.

INVOCATION -- by Pastor Carl Souza

PLEDGE OF ALLEGIANCE – by team members

PROCLAMATIONS AND PRESENTATIONS

Presentation – "Pet of the Month" presented by Julie Bank, Executive Director of the North County Humane Society & SPCA

Presentation – Mayor's Youth Sports Recognition and Appreciation Award – P & R Youth basketball team

Presentations were made.

CLOSED SESSION REPORT

3. **Closed Session report by City Attorney**

CITY ATTORNEY MULLEN reported out on the items discussed in closed session. (see Items 2 and 2.5 above for those reports).

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

No action will be taken by the City Council/HDB/CDC on matters in this category unless it is determined that an emergency exists or that there is a need to take action that became known subsequent to the posting of the agenda.

Advance written request to reserve time to speak: None

4. **Communications from the public regarding items not on this agenda**

GRETCHEN SLOVER, 3937 Cameo Drive, asked the Council to take a stand on the possibility of the terrorists being moved to Camp Pendleton [from Guantanamo]. It is important to send a word out to the government.

COUNCILMEMBER FELLER stated he would like to bring that item forward.

CATHY NYKIEL, MainStreet Oceanside, thanked Council for the workshop this morning and announced events and the Veteran's Association February 28 fundraiser.

CAROLYN KRAMMER, 904 Leonard Avenue, Chair for the Citizens for the Preservation of Parks and Beaches (CPPB), stated that Councilmember Kern has stepped over the edge in trying to intimidate and silence citizens and that is why she supports the recall.

CONSENT CALENDAR ITEMS [Items 5-8]

All items listed on the Consent Calendar are considered to be routine matters or formal documents covering previous City Council/HDB/CDC instructions. The items listed on the Consent Calendar may be enacted by a single vote. There will be no separate discussion of any Consent Calendar items unless requested by members of the City Council/HDB/CDC or the public through submittal of Request to Speak form prior to the commencement of this agenda item.

The following Consent Calendar was submitted for approval:

5. City Council/Harbor/CDC: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)
6. City Council: Approval of a two-year professional services agreement with George Salinas Tree Preservation of Placentia, California, in an amount not to exceed \$180,000 per year, for street tree trimming, stump removal services, and as-needed extra work; and authorization for the City Manager to execute the agreement (Document No. 09-D0073-1)
7. City Council: Adoption of **Resolution No. 09-R0074-1**, "...authorizing acceptance of the State of California COPS 2009 Supplemental Law Enforcement Safety Funds," accepting \$285,106 in grant funds awarded by the State of California via the County of San Diego Auditor and Controller, authorization to transfer these funds plus \$10,000 in projected investment earnings to the Police Department to supplement frontline law enforcement services including personnel and equipment; and approval of the associated expenditure plan for required review by the County Supplemental Law Enforcement Oversight Committee (SLEOC)
8. City Council: Adoption of **Resolution No. 09-R0075-1**, "...approving the application for grant funds from the California Integrated Waste Management Board Solid Waste Disposal and Codisposal Site Cleanup Program for cap installation over the Vista burn site" for grant funds in the amount of \$750,000

COUNCILMEMBER CHAVEZ moved approval of the Consent Calendar Items 5-8.

COUNCILMEMBER KERN seconded the motion; **motion was approved 5-0.**

Since it was not yet 6:00 pm, the Mayor determined to take Item 13 next.

GENERAL ITEMS

General Items are normally heard after any 6:00 p.m. Public Hearing Items. However, if time permits, some General Items may be heard prior to any 6:00 p.m. Public Hearing Items, following the Consent Calendar.

13. **City Council: Introduction of an ordinance authorizing an amendment to the contract between the City and the Board of Administration of the California Public Employees' Retirement System (PERS) to provide 2.7 percent at 55 retirement option to miscellaneous (non-safety) employees, and adoption of a resolution of intention to amend the contract between the City and PERS**

BRIAN KAMMERER, Human Resources Director, gave the staff report, stating staff is recommending that Council introduce an ordinance authorizing the amendment between the City and CalPERS to provide a 2.7 percent at 55 retirement option to miscellaneous employees. Council previously agreed through collective bargaining unit agreements and through the unrepresented compensation plan to provide this enhancement. CalPERS requires us to adopt a resolution of our intention to amend the contract and adopt an ordinance authorizing the amendment.

To review, this change will affect the employer and employee rates. The rates for the employer will be going up from 9 to 15.2% and the employee rate will go from 7 to 8%. The cost associated with this change over a 20-year period for the employer is \$25,000,000. This will affect approximately 690 employees. However, in anticipation of these rates going into effect and the \$25,000,000 cost, when we met with the collective bargaining units we agreed to pre-fund some of the costs so employees are picking up some of this share. For example, in fiscal year 07-08 employees picked up \$437,000 before it has even started; and in 08-09 employees paid \$575,000. It is anticipated that for fiscal year 09-10 when it goes into effect the employees will have contributed \$1,200,000. So the additional actual cost to the City when all is said and done of the \$25,000,000 will be \$5,000,000 over 20 years, which is \$250,000 per year. He displayed a chart showing the numbers. The total cost for the whole package of employer and employee is \$31,000,000, with the employees contributing \$26,000,000 of that amount. We also have a one-time contribution we collected from the employees of \$375,000, which leaves a remaining balance of approximately \$5,000,000 which, spread over 20 years, will result in a cost to the City of about \$250,000 per year over 20 years.

COUNCILMEMBER SANCHEZ moved approval [of Resolution No. 09-R0087-1, "...to approve an amendment to contract between the Board of Administration of the California Public Employees' Retirement System and the City Council City of Oceanside"; and introduction of the ordinance [as titled, "...authorizing an amendment to the contract between the City Council of the City of Oceanside and the Board of Administration of the California Public Employees' Retirement System"]].

COUNCILMEMBER CHAVEZ seconded the motion. He asked if there were any other employees paying into the retirement plan as much as this bargaining unit.

MR. KAMMERER responded that our public safety employees are presently not contributing to their retirement; miscellaneous employees are contributing.

COUNCILMEMBER CHAVEZ stated that just for a sense of understanding since we are in budget issues now, if our other/public safety employees were to pay into the retirement plan similar to these employees, what would that do to our personnel costs for the City.

CITY MANAGER WEISS responded that he does not have a specific number presently but if you look at the retirement costs for miscellaneous employees, it is actually less than the PERS retirement costs for public safety. If public safety employees paid the same percentage, it would be a significant contribution, and we can get the numbers for Council.

COUNCILMEMBER CHAVEZ stated this is a good effort by the City in managing our resources. It is important to recognize that employees have already pre-funded this at \$1,200,000; they started paying 2 years ago, and the benefits aren't coming until July 2009. He recognized the employees as being true partners.

COUNCILMEMBER FELLER stated he voted against 3 of these early on. In hearing the explanation, we as an employer do need to take care of the employees, and this would not be considered a lavish early retirement that could kill the City. The \$250,000 per year the City will pay remains constant for the next 20 years. That amounts to about \$375 an employee. This is a partnership with the employees that he can live with. This is 5 bargaining units that agreed to this. This is a responsible start for us as a community to review what is actually going to cost us a lot of money over many years. This does not protect them in case there are needs in the budget. He will support this.

Motion was approved 5-0.

The Mayor called Item 16 forward at this time.

16. City Council: FY 2008-2010 Budget Update as of December 31, 2008

CITY MANAGER WEISS will provide a synopsis of where we are in this current budget year and outline for Council our approach to dealing with a budget impact for next year.

TERI FERRO, Financial Services Director, stated this is an update on the current fiscal year, as of December 31. Council has the written document which is an update on where we stand. Using computer slides she noted the Council adopted a \$353,945,000 budget in June 2008, and the majority of the comments will be on the general fund. The budget was adopted with revenues 3.5% higher than last fiscal year. The public safety budgets were increased 6% [\$4,400,000]. All the other departments had a roll-over of maintaining the same level as the previous year. The adopted budget included \$4,500,000 of reductions, and 18 positions were eliminated. The general fund represents about one-third of the overall City budget. The Council took a conservative approach and knew where the economy was going for the current fiscal year. What we are reading in the paper with all the neighboring cities is they are doing what we did 7 months ago.

For the General Fund, property taxes represent about 42% of the revenue that comes in as shown on a bar chart. The in lieu is tracking. Sales tax represents 17% of the general fund budget. With property taxes and sales tax combined, it represents almost 60% of the general fund revenue. She reviewed the Bradley-Burns and in lieu and our Proposition 172 revenues received to date. Regarding the big ticket items, we are on track. For all other taxes, i.e. TOT, cardrooms, etc., we are a little low on some, but the good news is we are on track. All other revenues received from other sources show nothing to say we are in trouble.

On the expenditure side, the original budget is about \$120,000,000, and the budget has been amended by about \$9,000,000 with various approved carry-forwards from previous years, settlement agreements, CIP projects, etc. As of December 31, we have spent 46% of the budget.

She recapped the fund balance as of June 30, 2008 as documented in our CAFR financial report. As of December 30, \$4,200,000 is available.

We are facing upcoming challenges going into the new fiscal year starting July 1, 2009, where we see our revenues being stagnant or declining, but it is only 1%. However, on the expense side, our expenses will increase by 4%. We will need some corrective action to bridge the ongoing gap. Also, we still do not know what the State is going to do; however, we do know that they are going to defer \$2,100,000 of Oceanside's gas tax and Proposition 42 funds for at least 7 months. On top of that, they have stopped payment on all Proposition 40 bond funds, and the City is affected with several projects, such as El Corazon Senior Center, the San Luis Rey River Trail extension, etc.

We do have an economic stabilization reserve fund. This is a cash flow issue; not a budget issue. Money will come to the City; we just need to float the money for the State.

So we are recommending to address that via the economic stabilization reserve. On top of that, we will need to come back to Council for authorization for a budget adjustment. The State is going to take \$751,000 of redevelopment money for an ERAF shift.

CITY MANAGER WEISS stated we are going to be looking at anywhere from a \$3,500,000 to \$4,000,000 deficit for fiscal year 2009-10. He has given direction to the various departments to begin the preparation of 10% budget reduction plans for all departments except police and fire, with their target at 5%. We have already met with bargaining unit representatives, and they will be included in the discussions with those departments, as well as employee groups. We will have the plans in March, with our goal to come to Council in a workshop on March 25 for an informal discussion and then a follow-up workshop tentatively scheduled for April 15, which would then give us enough time to take input and prepare the budget. We will provide Council with routine updates.

Public input

JIMMY KNOTT, 127 Sherri Lane, had talked to some managers about the 10% budget cut. The fat has already been cut; we are now cutting into the flesh, and it will hurt the public and their services. We may have to go to all Fridays off because the cuts are deep. We have a buffer, and he advocates that Council seriously consider it. That is in the investment portfolio, where we have a year's operating budget in case of emergencies. Cutting into the flesh is an emergency. Let's evaluate this step by step and not do a blanket cut of all flesh.

COUNCILMEMBER SANCHEZ stated Council received the financial status report for the quarter ending December 31. In addition, we were forwarded the financial forecast, which indicated an approximate \$3,700,000 gap beginning next fiscal year. Ending this fiscal year was an approximate \$150,000 gap. We need to start dealing with this now and not wait until next fiscal year. Why continue with our present standard? For the last 8 years she knows we have more and more subsidized outside activities, and we did it because we had the money and wanted to support organizations, such as the Chamber of Commerce and the Welcome Center, which we fund at about \$300,000 per year, along with free rent; MainStreet; Boys and Girls Club; etc. We were able to do it, and now we have to say that this temporary situation [2-3 years] is a time when we have to stop doing these things.

Before we start talking about cuts, we need to look at where the money is going. She did not understand we were going straight to the City employees. She had talked with the City Manager and wanted to know what we have and what are we not doing correctly. We had an audit and were told the budget wasn't too fat, and there were things we had to do and update. Development Services was targeted. We have been subsidizing developers for quite some time so she asked the City Manager if we were close to having these departments pay for themselves, and no we are not. Planning is approximately \$2,000,000; Building is \$500,000 approximately; and she doesn't know about Engineering.

We need to look at the revenue coming in and why we are not getting the revenue. We have a service to provide to the residents and businesses that pay the taxes, etc., and she wants to see the total picture. She is asking questions to understand this but when she sees that we are still subsidizing the developer community when nothing is being built, she cannot accept that she will have to go to an employee who sees their salary shrinking because of health costs, etc. and say you have to tighten the belt even tighter, even though someone who is being subsidized and doesn't need the subsidy is taking that from the employee.

We need to see this for what it is — a temporary situation. When we do have recovery, we should do it in a way that is responsible and start investing again into things that provide the most for our residents and small businesses. Before we start saying 5% and 10%, let's see what we can do to increase revenues and let's start now and not wait until June or July. We know these aren't one-time costs. We also have reserves. We have to look at this to make sure we are providing the services and that our community is safe.

COUNCILMEMBER FELLER noted that the reserve as of December 31 was \$4,200,000. At SANDAG we heard how expensive it is to shut down road projects; there are huge costs to stop everything which is not what we need to do. We need to look at

everything to reduce costs; however, businesses have to continue to advertise, and we need to keep moving forward in that regard so that we are poised and ready. There are people out there with a lot of money, and if they see an opportunity, we better be ready. The City needs to be finding ways to drive this market back up. He knows the City Manager and Finance Director have a grasp on this, and we need to support the citizens and businesses that are so needy right now. We are all in the crunch.

COUNCILMEMBER KERN wanted to point out that although we are closed every other Friday, our employees do work 80 hours every 2 weeks. We need to look at this globally but look at it line by line and understand what we cut one place will affect something else. If we cut the Boys and Girls Club after school programs, we may be paying more in police services because these kids are out on the street. We need to look at every item and the cost/benefit. We need to determine the best way to spend our money. He agrees that everything is on the table — all the nonprofits and everything. We have started the process. When we get into next year's budget, we will be ready to go.

CITY MANAGER WEISS pointed out that we have taken preliminary steps already to try to reduce that deficit even this year by holding positions vacant. Based on Council's previous direction, we have provided a comprehensive list of all of the City's fees. We plan on coming to Council in March/April with a recommendation to increase some of those fees, which will offset some of the deficit we are talking about. That is in the works, and we are trying to move that forward as fast as we can and to look at it comprehensively.

COUNCILMEMBER CHAVEZ stated that, with the \$130,000,000 general fund figure we are looking at and the \$3,700,000 - \$4,000,000 gap we are looking for next year, it is about 3%. We need to keep this in perspective. It sounds like a lot of money, but as far as the total budget, it is a little different. We had the opportunity in the past year to make most of this \$3,700,000 up, but because of decisions at the dais and community, we have been unable to get that money. For example, in the year 2008 we thought we would have started receiving money from the beach hotel considered in 2002. If we had not been delayed at the Coastal Commission for 2-3 years over technicalities, the hotel could have moved forward. Then we went into a down market. We would have been receiving approximately an additional \$1,000,000 in TOT fees to the City. Those delayed decisions for a lot of issues precluded that. He also reviewed the discussion about a business proposed on Industry Street, which would have been another \$1,000,000 and 22 jobs. Most recently was discussion on a recycling aggregate business and if we could have proceeded to use an oil for asphalt, we could have been receiving about \$700,000 per year. If we had that \$2,700,000 coming in now, we would be looking at only around a 1% budget reduction.

His point is that decisions are made every day. When people are looking at the emotion of the issue, they do not understand that later on we will have to look at the other side about cutting services. He believes we should encourage people to invest within the City to provide jobs for our citizens and to provide revenue through sales tax, TOT, etc. to the City so that we can provide all the services you need. He is confident that the City Manager and staff can close this. We will be talking about an effort the City will be doing to attract some of the \$2.1 billion going on at Camp Pendleton through Historically Underperforming Business (HUB) zones. The City is one of those areas. We need to look at all opportunities to get people to invest in the City and solve the problems that way.

COUNCILMEMBER SANCHEZ responded those development issues were in the past. It is hard to say how we got here, but we are here. Working together we will get through this.

MAYOR WOOD really blames the State; that's where the blame belongs. The City had a balanced budget, and we were doing quite well. At the SANDAG retreat it was depressing, and even the Federal stimulus package probably won't address some of the concerns in California. There are other cities much worse off than Oceanside, and the cuts from the State have not come yet. We were aware of this coming so we have been doing a lot about it. My direction to staff is that there are 2 lists out there. One is "nice to have" where my cuts will come from. We are the stewards of the City's money, and our citizens want one thing from us - to provide the services a City should provide. Those are my priorities. Hopefully in a few years this will go away. We are doing well under the circumstances.

[This is an information-only item.]

Mayor Wood noted that although it is after 6 pm for public hearings, he called Item 17 to be considered next.

CITY CLERK ITEM

17. **City Council: Appointment to fill City Treasurer vacancy or allocation of \$450,000 and adoption of three resolution relating to a Special Election to be held on Tuesday, June 2, 2009, to fill the unexpired term of the City Treasurer, ending December 2012**

- A) Report by Barbara Riegel Wayne, City Clerk
- B) Discussion
- C) Recommendation – either appoint to fill the vacancy, or allocated \$450,000 and adopt the following resolutions: 1) calling and giving notice of the Special Election to be held on June 2, 2009, for the election of one City Treasurer; 2) requesting the Board of Supervisors of the County of San Diego to consolidate the Special Election; and 3) adopting regulations for candidates

CITY CLERK WAYNE reported that Council, at its adjourned meeting yesterday [to interview applicants], determined to carry forward their top 3 names of Jerry Salyer, Jay Lembach and Gary Felien, and that tonight they would make the appointment to fill the vacancy of City Treasurer through the term ending December 2012.

She further reviewed the process when an elective office becomes vacant -- the Government Code establishes a 30-day timeframe for the legislative body to either fill the vacancy by appointment or to call a special election. [With City Treasurer Jones' passing on January 13] Council's deadline to take action is February 12.

Public input

GARY FELIEN, 1189 Masterpiece Drive, offered a brief rebuttal to Councilmember Sanchez' personal attack on his character yesterday. He contacted all 5 councilmembers yesterday encouraging them to call him if they had any concerns about his experience or background. He received no calls. The main complaint from Councilmember Sanchez was the fact that she did not feel he was forthcoming enough regarding some relationships with other councilmembers. When relationships are on the front page of a newspaper, it is hard to take seriously a complaint that the information is being concealed.

JIMMY KNOTT, 127 Sherri Lane, read his poem, "A Taint Among Us" about the process.

JERRY SALYER, 3667 Harvard Drive, expressed his desire and qualifications for the position but suggested Council take their time due to accusations, etc. If it takes a few days and each of you need to interview us one on one, that would give you time to think about this and respect one another and make a good decision.

COUNCILMEMBER FELLER has been in all these gentlemen's homes and we have been provided with their applications. At the interviews yesterday some questions to applicants were not deep enough for him so he is not going to vote tonight. He will vote next Wednesday night, and he plans to interview all 3 applicants.

He **moved** to appoint the City Treasurer at the next Council meeting [February 11].

COUNCILMEMBER KERN has been lobbied quite a bit and would like to talk with the applicants. Jerry Salyer and Gary Felien have been personal friends for a long time.

He **seconded** the motion and encouraged his colleagues to take advantage of that time to interview all the candidates. He will make a decision next week; he will not spend \$450,000 for a special election.

COUNCILMEMBER SANCHEZ stated that the application form appeared to be questions that would be someone applying for a commission. One question I had often seen on those applications was: do you have a relationship with someone that works with the City. So she tailored her question to: "do you have a relationship with a councilmember or city manager? If so, describe that relationship." That was her question that usually appears in applications when applying for a job with the City. She had heard some rumors and had hoped that those responding to the question would be honest. She did not know most of the people who applied. One thing she did not want to do, because this is a constitutionally protected elected position, was to make this process a sham. It was not her decision to go by appointment. If it was going to be pre-judged before November's election results, then she did not want anything to do with it.

She can support taking more time to talk to each person and decide. She gave every person an opportunity to respond, and she wanted people to be forthright. She will not support a sham.

Motion was approved 5-0.

[Recess was held from 6:26 – 6:35 PM.]

6:00 P.M. – PUBLIC HEARING ITEMS

Public hearing items are "time-certain" and are heard beginning at 6:00 p.m. Due to the time-certain requirement, other items may be taken out of order on the agenda to accommodate the 6:00 p.m. public hearing schedule.

Mayor Wood called hearing Item 12 to be heard next.

12. **CDC: Consideration of a resolution approving a Conditional Use Permit (C-202-08) and Regular Coastal Permit (RC-207-08) to allow for full alcoholic beverage service for Davina's Cabo Grill located at 212 North Tremont Street – Applicant: David Aguirre**

- A) Chairperson opens public hearing – hearing was opened
- B) Chairperson requests disclosure of Commissioner and constituent contacts and correspondence –disclosures were reported
- C) Secretary presents correspondence and/or petitions – no correspondence
- D) Testimony, beginning with

KATHY BAKER, Redevelopment Manager, gave the staff report, stating this is a Conditional Use Permit (CUP) and Regular Coastal Permit to allow the sale of full service alcoholic beverages at 212 North Tremont Street. The prior user has been gone for almost 3 years, and it has been a real eye sore for the downtown. We really want a nice restaurant in that area. Staff wanted to make sure there was ample security so they included a good business plan. They have approximately 32 cameras throughout the facility for security; it can be monitored even from Mr. Aguirre's home. He will also have security on all three levels. Staff really supports this.

It was brought to her attention that there may be support on the Council to allow dancing. If there is, there are 2 conditions in the report that may need to be modified to allow live entertainment until midnight, and the other — Condition 16 could be modified to say, unless a dance permit is issued pursuant to City Municipal Code Chapter 10.

APPLICANT:

DAVID AGUIRRE, applicant, is here to answer any questions. He spoke to each

councilmember to explain what he plans on doing.

Public input:

ERICA LEARY, 4312 Navajo Avenue, Program Manager for the North Coastal Prevention Coalition, stated this took her by surprise because a month+ ago she was assured this was strictly a restaurant. So the idea of the business staying open till 1:00 AM with a basement of 21+ is a concern. She would love to see a restaurant. She recalled the previous business claimed to be a restaurant but became a night club. Drunk driving rates are on the rise. We need to bring those numbers down. She expressed concerns with alcohol usage. Cities in Venture have an alcohol retail program where every business that sells alcohol is required to pay a fee which covers full-time law enforcement. Other restaurants close at 10:00 PM. Please take precautions.

Rebuttal:

MR. AGUIRRE responded that people know his reputation, and he is known for a restaurant and not for alcohol. We are bringing in security. He had talked about a system where all the bars work together where they swipe an ID and if there any problems, that person is not allowed in.

Public hearing closed.

COUNCILMEMBER SANCHEZ is excited that this caliber of a business is starting an entertainment venue restaurant here. She knows it is a huge investment and that they will make this work. She wants to see dancing, which the community has asked for, like the Coyote Grill in Carlsbad.

MS. BAKER noted that Condition 13 would be modified to change the hours of entertainment to midnight. On Condition 16 it would be modified to add: unless a dance permit is issued pursuant to City of Oceanside Municipal Code Chapter 10.

MR. AGUIRRE concurred.

COUNCILMEMBER SANCHEZ moved approved [of Resolution No. 09-R0086-3, "...approving a Conditional Use Permit and Regular Coastal Permit for providing full alcoholic beverage service for a restaurant located at 212 North Tremont Street – Applicant: David Aguirre", with modified conditions 13 and 16 as noted.]

COUNCILMEMBER KERN seconded the motion. He asked how we keep control of the dancing—if it is a yearly application to the police department or some control. Downtown is changing, and this is hopefully some of the new establishments that will stay open until 1:00 AM because people, instead of driving, will walk back to the hotel/timeshare. But with past circumstances, what is the control on that?

CITY ATTORNEY MULLEN responded the dance permit is good indefinitely unless revoked, so if there were a violation of the dance permit, the Police Chief could revoke it. You cannot condition it so that it is reviewed annually under the current structure of the City Code.

COUNCILMEMBER KERN questioned if that should be explored as we go forward.

COUNCILMEMBER FELLER stated that the business plan says the owner of Davina's will be in constant communication with Joe Young. Mr. Young could retire at some point so you might want to say the police department. The type of dancing allowed by the prior business should not be allowed in a public place, so he hopes that is not the type of dancing allowed. He likes the idea of swiping IDs.

MAYOR WOOD stated we have all talked to the applicant who owns other restaurants, and he told them that the biggest problem at this location was not the owner but the employees who get in trouble. This will be a high-end Mexican restaurant. People have stated they need a bigger selection downtown within walking distance, and there is no place to dance for the older generation. This will be for the more mature group. If they

violate, we will revoke the license. He likes the cameras.

Motion was approved 5-0.

Mayor Wood called for Item 11 to be heard next.

11. **City Council: Introduction of an ordinance amending Chapter 29 of the Oceanside City Code by establishing wastewater user rate and system buy-in fee increases; introduction of an ordinance amending Chapter 37 of the Oceanside City Code by establishing water user rate, system buy-in fee, external water provider increases and drought rates in the event of mandatory water reductions; and direction to staff to implement the user rate and buy-in fee increases**

- A) Mayor opens public hearing – hearing was opened
- B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – disclosures were reported
- C) City Clerk presents correspondence and/or petitions –

CITY CLERK WAYNE reported that, as Council is aware, this is a Proposition 218 rate increase hearing. As such we have to account for all the correspondence since it is a protest hearing. There were 38,067 mailings that went out to users. Prior to tonight's meeting, we had received 133 valid protest letters; 21 were not considered valid because they were missing signatures/property addresses; however some of those have been corrected.

However, once tonight's meeting started, we received another large stack of correspondence, and they are being counted. There will be a final report at the end of the hearing on the number of protest letters. Also, before this hearing closes tonight, if anyone else has any protest letters they wish to submit for the record, they need to be received before the close of this public hearing.

- D) Testimony, beginning with

LONNIE THIBODEAUX, Water Utilities Director, will present items for Council consideration:

--water and wastewater user rates and buy-in fees; and

--drought rates

Proposed 2009 Water & Wastewater User Rate and Buy-in increases

In July 2008 we adopted the Integrated Water Utilities Master Plan, as well as a financial plan, and the objectives were to promote rate equity, maintain affordability, encourage water conservation, develop long-term revenue stability, satisfy debt covenants and develop and maintain adequate fund balances. These rate increases in water and wastewater are consistent with these Council objectives. Last week at Council's workshop we presented the rate increases and received direction from Council.

Using computer slides, he showed that we have a shortfall [\$337,358 in 2008-09] in the water fund, primarily comprised of pass-through charges from Metropolitan Water District (MWD) and San Diego County Water Authority (SDCWA). Approximately \$158,000 was recovered from that; \$219,000 of the \$377,358 generated by rate increases is operational costs. We have decreased the operational costs by making cuts.

Council asked for options. Some options on the water side were reviewed based on a single family residence using 15 units of water [11,220 gallons/month]. The reason we used this is that 92% of our bills are to single family residents, while they use about 50% of the water in the City. He reviewed options 1, 2 [reduced oOperations & maintenance] and 3. He noted that one thing that came up at the workshop was delinquencies. To

address that, in Option 3 we recommend keeping the same service charge to take that 25% and put it into a rate stabilization fund for delinquencies/late payments for people with payment plans.

On the sewer side, Council gave direction to eliminate the operations and maintenance increases. Approximately \$1,000,000 was for fixed asset projects such as infrastructure that we need to improve for the growth of the community and the existing community. About \$239,000 was for operational increases including a debt service of \$80,152. The balance of \$160,000 was eliminated from operations to reduce the rate increase. With elimination of the operations and maintenance, the rate increase went from \$4.78/month to \$3.32/month [Option 2].

He reviewed a comparison of single family water and wastewater rates with neighboring agencies before eliminating operations and maintenance, and Oceanside is at the low end of the County.

With water and wastewater system buy-in fees, we had a cost of living increase for a 5/8" meter of \$202 for water and \$278 for wastewater. In this fund we are not anticipating a lot of revenue, so deferral of this would not cause a great amount of stress on Water Utilities funds because we are not getting a lot of growth right now. By comparison with these fees, we are in the middle of the range with other agencies in the County.

For the water user rate increases, staff is recommending option 3 which is the option that reduces operations and maintenance with one quarter rate stabilization fund; for the wastewater user rate increases, staff is recommending option 2 which eliminates operations and maintenance; and water and wastewater buy-in fees increases.

Proposed Drought Rates

As you know, the drought rates will not go into effect unless we go to a Level 2 or higher. We are currently in a Level 1, which is voluntary conservation — up to 10%. We are doing well as a community and are conserving about 8% right now. Our water supplies are quite stressed in the State, and we anticipate some allocations this year because of that condition. We have had one of the driest January's in 30 years. He reviewed the presentation from last week's workshop, whatever rates we adopt tonight. He reviewed the tiers, and the reason the breakpoint is set at 13 units is because 55% of our customers use 13 units or less as a baseline. 25% of our customers use almost 50% of our water, which is the higher end. This was established during the Citizens Advisory Committee in the 1990s and it was also accepted in the Financial Plan. Staff recommends keeping that baseline at 13 units and creating another middle tier and then upper tier at \$3.74. This is up to 20% reduction. We continue that in the future levels. He will use the 20% because that is what we are facing in the near future.

Staff has provided options as Council requested.

-- Option A was the one presented [with 3 tiers and a base of 13 units].

-- Option B creates a lower tier [tier 1] — 4 units for people that use little water with a reduced rate [\$1.63] and a tier 2 for up to 9 units at \$1.92; tier 3 increases in order to keep the zero sum gain so that the revenue is consistent; and tier 4 is 16+ units at \$3.74.

-- Option C maintains the 13 units with a lower tier of 1 to 4 units; tier 2 to 13 units [\$1.92]; tier 3 to 18 units at \$3.19; and tier 4 above 18 units at \$3.85. In any of these options, because we are changing rates, we will have to readvertise for a Proposition 218 hearing.

-- Option D was the impact of lower irrigation — level 2. There is a lot of concern about it, which is well founded since irrigation goes up substantially as part of the drought effect because it is considered discretionary use. Displaying a rate chart, he showed that for irrigation they are proposing a rate of \$3.76. If we lower it to \$3.34, looking at other rates, a single family at the second tier would go up to \$3.50, etc. The reason is that if you adjust any of these rates, it affects all the other rates because it is a zero sum gain in the revenue. The cuts must be maintained that are being imposed by the SDCWA and MWD.

The reason we have to maintain and achieve those cuts is because we will be penalized as a community if we do not reach the required allocations. To exceed our allocation, the penalty will go from our current rate of \$766/acre foot to \$1,056/acre foot if up to 15% over. If we exceed the allocation by 15+%, we will be paying \$2,112/acre foot. It can amount to a lot of money so these rates are designed to minimize water use outside and impact the large users of water outside to reduce that use and not to penalize water conservation for those of limited means and limited use of water. 13 units was the base seen as fair and equitable.

If we don't have a way of recovering any penalties, then our penalties would be paid out of our fund balance; it would impact all the users; and all the users would essentially be subsidizing the high-water users.

Public input

ELLEN BAUER, 4037 Arcadia Way, Secretary, Master Board of Directors, Ocean Hills Country Club (OHCC) Homeowners Association, presented a letter from the 8 HOAs of Ocean Hills Country Club. She read the letter as submitted in opposition to water and wastewater rate increases and the drought rate structure, stating they oppose an 80% rate increase to irrigation water rates as proposed due to the adverse financial impact it will have on members of our community. We have 1,632 homes and approximately 3,000 residents, the majority of whom are living on fixed incomes. OHCC's water budget for 2009 is approximately \$400,000. An 80% increase in rates requires an 80% reduction in watering or an 80% increase in cost at \$320,000. The letter further explains the results. Although our community generally endorses the City's efforts to save the mandatory 20% reduction in a Level 2 drought, OHCC strongly opposes an 80% increase to irrigation water rates. We request the Council consider an alternate solution.

She also expressed her concerns about the 80% increase and what it will do to their property and values, etc.

JIMMY KNOTT, 127 Sherri Lane, speaking as the government liaison for OMHA and also as the La Salina Mobile Home Village Homeowners resident representative, protested the rate increases, not due to the increases per se, but due to the fact the homeowners in the manufactured home community were not contacted. Only the park owners were contacted. We pay the fees as a pass through and deserve equitable treatment. Further, the increases from MWD and from SWRD, etc., were not reflected in the figures as potential pass-throughs. There should be a mandate in the phases into the later phases of conservation and metering all homes for better monitoring. There should also be another level of measuring except just in the winter; it should be according to your consumption as of that time period. There is no fine structure for the wasting of water or an appeal structure for the different stages of drought.

DAVID KEY, 6025 Pirus Way, OHCC, Vice President of the HOA Board, endorses the statements from Ellen Bauer. If we reduced our water usage by 20%, we would still have a 64% increase in our bill. The HOA effectively subsidizes the City by maintaining amenities including the roads, street lights, adjacent Cannon Road median, etc. OHCC individual homes' front yards are maintained/irrigated by the HOA and subject to the 80% irrigation increase. This amounts to about 20% of the HOA water bill and in peak usage months is equivalent to about 3 units per home. It would be fairer if this usage were assigned to the homeowner and charged at the single family rate rather than irrigation. Each OHCC home has its own, and because the homes have compact yards, the usage is well within the first tier. He gave ideas of how to do this. The draconian increase of 80% with no tier increments for irrigation is out of line with rate increases for all other categories and deserves further consideration.

PATRICIA COPE, 5224 Heatherwood Drive, is here to speak on behalf of the rates. As a volunteer on the Utilities Commission, we have worked very hard through the years. Council needs to consider every citizen of this City. As citizens, we have our responsibility. We chose to live here in this desert, and if we cannot accept what goes with that, maybe we should live somewhere else.

JOYCE MALLOY, 4747 Agora Way, OHCC, expressed concern in a level 2 drought with the irrigation rates and suggested looking internally at cutbacks in staffing, salaries,

send statements out electronically, encourage automatic deductions from checking accounts, etc. Also, how will those residents who have already cut back voluntarily cut back by an additional 20%? She implored Council to not raise any water rates.

RUTH GANNS, 4918 Delos Way, OHCC, considered this the wrong way to obtain additional funds. If the City needs money, let's all pay for it; not just homeowners. She suggested a 1% increase in the sales tax, which would be equitable. She objects to this increase at such an astronomical rate.

JAMES JOHNSTON, 4075 Lake Boulevard, stated that, regarding the wastewater rate increase, he has trouble with the wording but not the pricing. He understands that this increase will be used for infrastructure maintenance, material and supplies; however, he sees no mention of maintenance of lateral sewer lines. At the present time, City Ordinance 83-44 states the responsibility for these lines rests with the homeowner. The cost of replacement of these lines range between \$10,000 and \$40,000 depending on the street width. This is not an acceptable responsibility in these economic times. He suggested going back to the drawing board on this rate proposal and include lateral lines and tax maybe \$5/month per resident with a sliding scale based on meter size, etc.

JIM THOMPSON, 1492 Dover, lives in a senior park called Pilgrim Creek Estates. You have heard the effects this will have on the home owners of a senior park. Please remember this.

RON GAGNON, 6012 Patmos Way, OHCC, could not grasp the totality of the presentation. We talk about a 20% drop in usage to an 80% increase. He could not understand that balance. When water is more plentiful, will we have a rebate? He is concerned about this decision. With the suggestions tonight, he felt an increase in sales tax would be logical.

With no further speakers, **CITY CLERK WAYNE** announced again that this would be the last opportunity to submit any letters of protest prior to the close of the public hearing. [No additional letters were received.]

MAYOR WOOD closed the hearing.

MAYOR WOOD noted that during the workshop there were a lot of comments, and the Council had concerns. None of us want any increases whatsoever. This is a pass through from other agencies. We saw the rate comparisons also. Also our bond issue is important, and if we don't increase this to pay the costs, our bonding could be affected.

[Recess was held from 7:36 – 7:48 PM.]

CITY MANAGER WEISS stated that, given the input received, the majority of the issues, particularly with OHCC, is in regards to the drought rates and the 80% increase on the 20% reduction in use. He recommended that Council not act on the drought rates tonight. Any change at all in the drought rate structure will require re-noticing and a rehearing. We have some ideas and will meet with OHCC to come up with something to alleviate some of the concerns.

We would recommend that Council adopt the water and wastewater rates and buy-in fees. Both of those rates include the reduction Council has directed. We removed all the operating costs, and we would recommend the options before you. In the draft ordinance, all reference to the drought rates would be removed.

CITY CLERK WAYNE gave a final report on the letters of protest. As you know, up until the close of the public hearing people were able to submit letters of protest. Including all the letters we received this evening, out of the 38,067 mailed notifications, we have approximately 581 [valid] letters of protest.

MAYOR WOOD noted that most of the concerns this evening were about the drought rates, which will come back later. The water and sewer rate increases and the buy-in fees have had all the operating/maintenance costs removed and only include the pass-through rate increases. We looked into many areas including senior rates and we are not allowed to do a senior rate per the law, etc. We heard your concerns.

MR. THIBODEUX, in response to questions, stated many concerns expressed addressed how we got to the 80% use, and it is based on capacity in the system and the volume. We will readdress some of those issues and will work with OHCC and others to come up with a new package for drought rates. Regarding equity, everyone uses the system, and you have to pay for capacity in the system. High water users pay proportionately more for their rate based on how much they use. Irrigation as a class uses about 20% of the water, so it is proportioned regarding consumption.

Regarding the comment about the lateral maintenance, that is not in our budget and would actually drive rates higher to maintain those; it would be a significant cost.

Regarding the single family rate and the relationship to the irrigation rate, the reason we use single family is because it is 92% of our users using about 50% of our water. The tiered structure is set to also penalize outdoor use in the higher tiers. It is set to impact irrigation. We will have to readdress how we equitably share that burden based on the comments tonight.

Regarding metering, part of the problem with our existing billing system is that the fairest would be a water budget where they could be given a 20% consumption, and our bills would reflect an allocation of 20% on each customer based on their usage over a historic period. Our current billing system does not address that. We are working on remedying that and designing a system that can do water budgets, which would be the best and fairest system using actual consumption. That is where we are heading.

In the interim, we have to design a drought rate between now and July because we will get the allocation in July. So we will take the comments back, meet with consumers in various classes and the Commission and re-fabricate our drought plan to make it as fair as possible but also to do all the goals we set for tonight, i.e. recover our costs as well as any penalties we incur. So we will bring that back.

CITY MANAGER WEISS reiterated that if Council is satisfied with the removal of the drought rates, staff recommends Option 3 for water rates and Option 2 for sewer rates and the increases buy-in fee increases.

COUNCILMEMBER CHAVEZ explained why we are doing this now. We see all the time in the newspaper different cities being fined for polluting the watersheds with broken sewers. We are fortunate that we have a history of investment in the infrastructure, not only for water but also the sewage lines. That is why we don't have some of the huge fines as other communities. A few months ago we had to adjust the bonds to pay for this infrastructure, and we increased the rates. His point was that, when the market changes with a lower interest rate, will we refinance the bonds for a lower rate in 5-10 years at which time we should pass on the savings to the residents. Those have been some of our discussions, but we have to invest in the infrastructure. A fine for a sewage spill can be millions of dollars.

Regarding the electronic mailing, he had brought it up because he pays electronically; however, every month he gets a bill statement, an envelope, and a couple of notices. So 5 pieces of paper are mailed out to 44,000 a month when about 25% of the people are on electronic payment. He recommends we don't send those letters - at \$1.50 x 11,000. All businesses are going to electronic, and we should do the same. Then we have that savings. Staff is working toward that in the next few months.

In these economic times, we should not be increasing the rates to pay for any increase in operational/personnel costs in the Water Department, and he had asked them to find savings. They are looking at that.

MR. THIBODEUX responded they have eliminated a couple of vehicles and can share vehicles, reassessed some of the chemical usage as directed, and are more efficient in the electrical use, as well as staffing.

COUNCILMEMBER CHAVEZ stated there are a lot of things we are looking into to operate more efficiently. Regarding the sales tax comment, it is a regressive tax, which impacts more upon lower-income and fixed because everyone needs the basics — bread and milk. They are impacted more by sales tax than on a fee for service, so he is not supportive of that. He is not one to increase fees. He understands the pass-through because we have no control over that. However, Council at its workshop agreed to direct staff to be 50% water self-sufficient in the future to buffer ourselves. We have to take care of the infrastructure. There is no increase in the operations and maintenance.

He moved to introduce the ordinance to adopt the 2009 water user rate increase Option 2 and buy-in fees [not staff recommendation for option 3], and introduce the ordinance to adopt the 2009 wastewater user rate increase Option 2 and the buy-in fee increases.

COUNCILMEMBER KERN seconded the motion. How can we do rate stabilization with Proposition 218?

MR. THIBODEUX responded we had the workshop discussion about delinquencies, and we checked with utility billing. On the math for the fixed costs, it was about \$200,000 - \$250,000/year, which is what we were trying to recover — delinquencies. So it was a direct cost of service.

COUNCILMEMBER KERN stated the people causing the problem should reimburse the City for that problem, rather than the general public. He questioned where the interfund service charges are on water.

MR. THIBODEUX responded the water interfund charge is approximately \$7,467,000.

COUNCILMEMBER KERN questioned the various GIS programs for water, sewer, etc.

MR. THIBODEUX stated it funds the same program, and the cost is shared by the 2 funds. With the infrastructure of GIS as well as SCADA, it is used by the whole department so both funds help pay for it.

COUNCILMEMBER KERN noted we have about \$24,000,000 in capital expenditures, and we may need to delay some of those if we get into a drought rate, holding back on some until things get better.

MR. THIBODEUX noted they have already looked at that with the Weese plant expansion because of the cost associated with the entire expansion. We have phased that and are looking at postponing projects that aren't necessary on an ongoing basis.

COUNCILMEMBER KERN questioned when we might get into a stage 2 drought.

MR. THIBODEUX responded July is the best guess at this time. We will know our allocations after the snowpack is measured in April. We will have the allocations in place in July, which is when we will be hit.

COUNCILMEMBER KERN received an email from SDCWA stating the snowpack was at 61%. Marin County is in stage 3; Folsom is in stage 3; Diamond Valley Lake is so low they cannot launch boats, etc. Everyone needs to really cut back on water. Oceanside cut back on water 8%, and the goal is 10%; the County average is only 6%. We all need to think seriously about saving water.

COUNCILMEMBER SANCHEZ stated we have been talking about water and shortages for many years now. We are getting to the stage of forced conservation. We have talked about solar, including the City's buildings and the water plant. She assumes

we do not have solar panels.

MR. THIBODEUX responded we do not have solar panels yet. We are getting Co-gen in a few months to produce power.

COUNCILMEMER SANCHEZ has talked about how we need to get in front of development, that new development should pay for itself, and we should talk about sustainability and how we are going to be able to go forward living within our constraints, including water and power. We are still not doing that. She was anxious to hear about conservation and master plan and the things we have done to get us there faster. She believes our residents are ready to take the steps. She congratulated OHCC on what they have done. She is not happy with this and hearing that this is what we need to do to keep an A+ rating. Why do we have to have an A+ rating? What things can we defer safely? She is not comfortable with this, and she did not vote for this last time. It is the same questions, same proposal, same challenges to staff. She does not see any changes at all in the presentation. We asked for a master plan for conservation.

When talking to people in the business they say they don't really know what the pass-through is — you don't really know how much is water. They won't tell how it breaks down. She does not think we should stand for that. We should only pay for water we use and nothing else. We should not be sheep any more, and we should ask other communities to join with us and require that MWD tell us exactly what part of the pass-through is water. We need to be more aggressive in questioning what is going on.

COUNCILMEMBER FELLER noted that the MWD and SDCWA have free reign to throw a raise out there whenever they feel like it. This is all about hunkering down and tightening belts for all of us. He questioned when the pass through was coming to the City.

MR. THIBODEUX responded it has already happened. It happened in January. The next increase is next January from MWD.

COUNCILMEMBER FELLER does not think we are fighting hard enough but we don't want to go broke waiting for the future decisions. Doesn't building housing, commercial and industrial affect these rates; don't they pay their fair share?

MR. THIBODEUX stated we have a different rate category for commercial and industrial. On the water side it is less because they have less discretionary use in manufacturing in drought rates. For regular rates also, it is different from the other classes. On the sewer side, it is based on their actual loading and what is in their wastewater. So they are a different rate structure based on the impact on the system hydraulically and the load they put on the system.

COUNCILMEMBER FELLER heard enough times on this Council that building should be paying its own way. Is that not happening?

MR. THIBODEUX responded that in the past Council has reset the connection fees to match the value of our system. Now connection fees are based on the true value of the system so that with a buy-in fee, a developer would pay for the value that he is investing; in other words, what we have invested in, he is buying into. It is a fair price based on the overall value. It was updated several years ago and wasn't equal to the cost of the system, but it has since been adjusted by Council.

COUNCILMEMBER FELLER questioned if we have any fees anywhere in this process for the future development of water resources. Also, explain the disparity between Oceanside and Carlsbad.

MR. THIBODEUX responded that, in our master plan and our overall financial plan, we have allocated money for development of the RO [reserve osmosis], which is currently a pilot project, as well as the expansion we just did and the wells that have gone on line recently. That is part of our capital improvement program and part of our master plan, and it is funded through FAR which is a part of this rate.

Regarding the item of disparity, on the wastewater side Carlsbad's original plant

was grant funded so they had no debt and they the capital back in the 1970s. Oceanside financed its own facility on the wastewater side. On the water side, the rates are fairly similar.

Regarding the allocation, he explained the utility billing system and how, through new technology, it would be calculated fairly.

COUNCILMEMBER FELLER is struggling with the increases. As Councilmember Sanchez mentioned, he too needs to know what is included in the increased water rates from MWD and SDCWA.

COUNCILMEMBER SANCHEZ stated she had argued against the \$52,000,000 loan we received around 6 years ago for the expansion, because she knew the rates were going to be paid by the ratepayers. She thought new development should pay for itself; existing residents should not have to pay this extra cost for capacity — anticipating more growth. It is not fair to have new development come in and we pay for it.

COUNCILMEMBER FELLER never wanted to be in San Diego's position with all the pipe breaks. We cannot afford the fines. He does not like the increases and is not sure Option 2 is the best, but it is the cheapest. Before there are any more increases, it is not fair to our community to be paying for heavy water users. OHCC is a heavy water user so the cost might be higher due to the landscaping, etc. He does not want the broken pipes, and the increases should not be coming from the general fund. We will be going through other cuts.

The motion was bifurcated as follows:

Motion to introduce the Ordinance as modified with the deletion of the drought rates, "...amending Oceanside City Code Chapter 29, establishing sewer user rate and sewer system buy-in fee increases" using Option 2 — **approved 4-1**, Councilmember Sanchez voting no.

Motion to introduce the Ordinance as modified with the deletion of the drought rates, "... amending Oceanside City Code, Chapter 37, establishing water user rate, water system buy-in fee, and external water provider charge increases" using Option 2 — **approved 4-1**, Councilmember Sanchez voting no.

9. **Council: Adoption of a resolution authorizing the issuance of variable rate demand multifamily housing revenue bonds Series 2009 in a principal amount not to exceed \$15,000,000 to fund the acquisition and rehabilitation of Shadow Way Apartments located at 4707 Yuma Avenue, by Shadow Way Apartments, LP, and approving documents relating thereto**

- A) Mayor opens public hearing – hearing was opened
- B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – disclosures were reported
- C) City Clerk presents correspondence and/or petitions -- None
- D) Testimony, beginning with

DAVID MANLEY, Neighborhood Services Division Manager, stated Council has seen this project before, and Council approved the financing plan in September. Tonight's item is to adopt a resolution to proceed with issuance by the City and to approve the related documents associated with the bond issuance for the project, including the indenture of trust all the way to the Official Statement. The bonds will be used to assist with the acquisition and rehabilitation of the 144 units – Shadow Way apartments at 4707 Yuma Avenue. The bonds will be issued as a public offering through our underwriter. The City will issue the bonds for the project; the City acts as a conduit. The City does not incur debt as a result of the bond issuance. The bonds are paid out of the proceeds from the project. However, the City does receive an issuance fee and an ongoing monetary fee of the principal amount of the bonds.

The Housing Commission reviewed this at its January 27 meeting and recommended approval.

Public input

JIMMY KNOTT, 127 Sherri Lane, received 2 telephone calls on this, and they wanted to make sure this was for low-income housing.

With no further input, the hearing was closed.

In response, **MR. MANLEY** stated the entire project will be made affordable to residents.

COUNCILMEMBER FELLER hopes that the issue of the thugs in the area is being addressed, and that there are strict CC & R's for this complex.

MR. MANLEY responded there will be a management company doing the screening of residents for income, and there will be house rules to maintain. With rehabilitation money in the project, they are required to keep the complex maintained for the duration of the loan. If there are any problems, the City can work with the developer and owner. This will be a rolling rehabilitation.

COUNCILMEMBER FELLER moved approval [and adoption of **Resolution No. 09OR0076-1**, "... authorizing the issuance of multifamily housing revenue bonds in an aggregate principal amount not to exceed \$15,000,000; determine and prescribing certain matters and approving and authorizing the execution of and delivery of various documents related thereto; ratifying any action heretofore taken and approving related matters in connection with the bonds," and related documents – Document Nos. 09-D0077-1 through 09-D0085-1].

COUNCILMEMBER KERN seconded the motion; **Motion was approved 5-0.**

10. **[City Council: Councilmember-called hearing: adoption of a resolution affirming Planning Commission Resolution 2008-P64 and approving Development Plan (D-28-06), Revision to Conditional Use Permit (C-31-02), and Regular Coastal Permit (RC-15-02) for the construction of a 1,800-square-foot commercial addition to an existing retail building located at 1227 Vista Way – Amazon Bikes Remodel – Applicant: Frank Schitzenbaumer/Amazon Bikes]**

This item will not be heard – the Call for Review has been withdrawn.

MAYOR AND/OR COUNCILMEMBER ITEMS

14. **Request by Mayor Wood for City staff to review the structure of the City's Advisory Groups to determine if there are potential cost-savings and streamlining options; solicit input from the Advisory Group chairs and provide a recommendation to the Council for consideration**

MAYOR WOOD has brought this up before. For cost savings for the City, he has tried to address this. There have been issues with filling all these positions. The main issue is the economy and the cost. We have had some commissions spend up to \$93,000 in one year on staff so we need to address that. He will get together with all the chairs and explain this, and with support of staff, to address this group to see if they will come up with a solution on: how many advisory committees we need; if all are needed, can they be combined; cost savings in staff; and have them make the recommendations to staff and come back to Council to try to rectify this problem. This is a cost factor. This came up in 2002. He will be meeting with the chairs on these issues and will let them make recommendations back to Council. He wanted to let Council know about it. Staff will be involved to facilitate this.

Public input

JIMMY KNOTT, 127 Sherri Lane, stated a key issue within the

committees/commissions is a need for better communications among them. He advocated for a commissioner's office to coordinate a lot of the efforts, for better integration with the commissions/committees and the NGO's within the community, and to have assignment-specific uses for each, such as a specific task so we would not need as many consultants to be hired. He also asked that they Consider quarterly meetings instead of monthly meetings,; use of subcommittees for special studies, and to let them take on staff obligations like the minutes, etc. The committee members could do this for themselves. Those are some ideas.

COUNCILMEMBER KERN questioned whether we send suggestions to the City Manager to float those ideas with the chairs.

MAYOR WOOD responded yes, because there will be a staff member in charge of that.

15. **Mayor Wood: Appointments to or motions for removal from some or all of the City's Citizen Advisory Groups**

MAYOR WOOD moved approval of the following appointments:

	<u>Term Expires</u>
<u>ARTS COMMISSION</u>	
Move Lisa Hamel to Regular (Replacing Elisabeth Van Hunnick)	7/1/2012
<u>MANUFACTURED HOME FAIR PRACTICES COMMISSION</u>	
Reappoint Mary Lou Elliott as Regular	8/22/2011
Appoint Walter Hambly as Regular (Replacing John Stonebraker)	8/22/2010

COUNCILMEMBER CHAVEZ seconded the motion; **motion approved 5-0.**

CITY COUNCIL REPORTS

18. **Mayor Jim Wood** – reviewed events and jobs available with the Census.
19. **Councilmember Rocky Chavez** – reported on attending a world trade center conference on business with China; attended a seminar on Scripps Hospital; the Arts Commission utility box art project and the Art Talk on February 23; and reported on the new Palomar Airport/terminal opening.
20. **Councilmember Jack Feller** – no report.
21. **Councilmember Jerome M. Kern** – reported that Mayor Wood, Councilmember Feller and he attended the SANDAG retreat last Thursday/Friday, which was centered around the State budget. The economists at SANDAG said the pain is in front of us. He received an email yesterday that on February 9 CalTrans will shut down all their projects due to no funding. It costs \$195,000,000 to button up a project to stop them and make them safe. It will cost another \$195,000,000 to start them back up. It means almost \$400,000,000 of money just wasted because of the State's inaction in passing a budget.
22. **Councilmember Esther Sanchez** – attended an event and attended last night's update on the Buena Vista Lagoon restoration project.

INTRODUCTION AND ADOPTION OF ORDINANCES

The following items are ordinances for introduction or adoption by the City Council/HDB/CDC. Ordinances are laws of the City of Oceanside and require introduction and adoption at two separate City Council meetings (urgency ordinances are an exception, and may be introduced and adopted at one meeting as an emergency measure). The City Council/HDB/CDC has adopted a policy that it is sufficient to read the title of ordinances at the time of introduction and adoption, and that full reading of ordinances may be waived.

After the City Attorney has read the titles, the City Council/HDB/CDC may introduce or adopt the ordinances below in a single vote. There will be no discussion of the items unless requested by members of the City Council/HDB/CDC or the public through submittal of a Request to Speak form prior to the commencement of this agenda item.

23. Council: Adoption of an ordinance, **Ordinance No. 09-OR0088-1**, "... amending the Zoning District Map from Medium Density-A Residential Senior Mobile Home Park Overlay Historic Overlay Districts to Special Commercial-Highway Oriented Historic Overlay District on a 0.66-acre portion of a lot located on the northeast corner of Mission Avenue and Douglas Drive. (Applicant: Cole and Associates)" (introduced 1/21/09, 4-1 vote, Sanchez-No)

Following the reading of the title, **COUNCILMEMBER KERN moved** approval of the ordinance.

COUNCILMEMBER CHAVEZ seconded the motion; the **motion was approved 4-1**, Councilmember Sanchez voting no.

ADJOURNMENT

MAYOR WOOD adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 9:04 PM, February 4, 2009.

ACCEPTED BY COUNCIL/HDB/CDC:

Barbara Riegel Wayne
City Clerk, City of Oceanside

**NOT OFFICIAL
UNTIL APPROVED AT SUBSEQUENT
MEETING BY CITY COUNCIL**



California

CITY OF OCEANSIDE

JOINT MINUTES OF THE: CITY COUNCIL SMALL CRAFT HARBOR DISTRICT BOARD OF DIRECTORS COMMUNITY DEVELOPMENT COMMISSION

MARCH 4, 2009

REGULAR MEETING 4:00 PM COUNCIL CHAMBERS

**4:00 PM - OCEANSIDE CITY COUNCIL (COUNCIL),
HARBOR DISTRICT BOARD OF DIRECTORS (HDB), AND
COMMUNITY DEVELOPMENT COMMISSION (CDC)
- REGULAR BUSINESS**

**Mayor
HDB President
CDC Chair**
Jim Wood

**Deputy Mayor
HDB Vice President
CDC Vice Chair**
Vacant

**Councilmembers
HDB Directors
CDC Commissioners**
Rocky Chavez
Jack Feller
Esther Sanchez
Jerry Kern

**City Clerk
HDB Secretary
CDC Secretary**
Barbara Riegel Wayne

Treasurer
Gary Felien

**City Manager
HDB Chief Executive Officer
CDC Executive Director**
Peter Weiss

**City Attorney
HDB General Counsel
CDC General Counsel**
John Mullen

For this regular and joint meeting, the Council sat as all 3 governing bodies [Council, HDB and CDC] simultaneously but took action as the respective agency for the jurisdiction covered by each item. Council titles only will be used for brevity throughout the entire meeting.

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB) and Community Development Commission (CDC) was called to order at 4:01 PM, March 4, 2009 by Mayor Wood.

4:00 PM - ROLL CALL

Present were Mayor Wood and Councilmembers Feller, Chavez, Sanchez and Kern. Also present were City Clerk Wayne, City Manager Weiss and City Attorney Mullen.

COUNCIL, HDB AND CDC CLOSED SESSION ITEMS

CITY ATTORNEY MULLEN titled the following agenda item to be heard in closed session: Item 2.

Closed Session and recess were held from 4:03-5:00 PM.

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CITY COUNCIL, HDB, and CDC CLOSED SESSION ITEMS

Closed Session to discuss litigation, property acquisition, labor relations and personnel matters

1. **[CONFERENCE WITH LABOR NEGOTIATOR ON STATUS OF NEGOTIATIONS PREVIOUSLY AUTHORIZED IN OPEN SESSION (SECTION 54957.6)]**

CONFERENCE WITH LABOR NEGOTIATOR – Negotiator: City Manager; employee organizations: Oceanside Police Officers' Association (OPOA), Oceanside Firefighters' Association (OFA), Oceanside Police Management Association (OPMA), Management Employees of the City of Oceanside (MECO), Oceanside City Employees' Association (OCEA), Oceanside Fire Management Association (OFMA), Western Council of Engineers (WCE), and Unrepresented]

No closed session was held.

2. **LITIGATION OR OTHER ADVERSARY PROCEEDING (E.G., ADMINISTRATIVE HEARING, ARBITRATION) (SECTION 54956.9)**

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (SECTION 54956.9)

Significant exposure to litigation pursuant to Subdivision (b) of Section 54956.9: One case

Discussed; there was no reportable action.

5:00 PM – ROLL CALL

MAYOR WOOD reconvened the meeting at 5:01 PM. All Councilmembers were present. Also present were City Clerk Wayne, City Manager Weiss and City Attorney Mullen.

INVOCATION – by Pastor Carl Souza

PLEDGE OF ALLEGIANCE – by Andrew & Matthew McIntyre

PROCLAMATIONS AND PRESENTATIONS

Presentation – "Pet of the Month" presented by Julie Bank, Executive Director of the North County Humane Society & SPCA

Proclamation – Andrew and Matthew McIntyre

Presentation – Joe Farmer, 2009 Recipient of the City of Oceanside/Martin Luther King, Jr. Civic Award

Presentation – Mayor's Youth Sports Recognition and Appreciation Award

Presentations made

CLOSED SESSION REPORT

3. **Closed Session report by City Attorney**

CITY ATTORNEY MULLEN reported that Item 2 was discussed; there was no reportable action.

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

No action will be taken by the Council/HDB/CDC on matters in this category unless it is determined that an emergency exists or that there is a need to take action that became known subsequent to the posting of the agenda.

Advance written request to reserve time to speak: None

4. Communications from the public regarding items not on this agenda

KARL HIGGINS, 1517 Roma Drive, is a registered lobbyist in Oceanside and wanted to talk about wastewater issues and plastic manholes. He has a new client involved in the manufacture of infrastructure products including plastic manholes. He reviewed the benefits and stated they are a green product. He left information with the City Manager.

PoliceWatch.org [no name/address given], expressed his displeasure with the jury process and the system.

JENNIFER LUCKERT, [no address given], indicated that what the previous speaker was trying to say is that we have a corrupt system; judges do not know their own local rules; and the system is failing. It needs to be fixed. She also commented on a police officer's driving and undercover detectives profiling and harassing, which needs to stop.

CATHY NYKIEL, MainStreet Oceanside & VANC (Veterans Association of North County), talked about events and fundraisers.

CONSENT CALENDAR ITEMS [Items 5-12]

All items listed on the Consent Calendar are considered to be routine matters or formal documents covering previous City Council/HDB/CDC instructions. The items listed on the Consent Calendar may be enacted by a single vote. There will be no separate discussion of any Consent Calendar items unless requested by members of the City Council/HDB/CDC or the public through submittal of Request to Speak form prior to the commencement of this agenda item.

The following Consent Calendar was submitted for approval:

5. City Council/Harbor/CDC: Acceptance of Joint Minutes of the Small Craft Harbor District Board of Directors, Community Development Commission and City Council of the February 11, 2009, 4:00 p.m. Regular Meeting
6. City Council/Harbor/CDC: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)
7. City Council: Approval of Amendment 1 in the amount of five percent of gross revenue to the Property Use Agreement with Jitters Express Coffee Pub for coffee cart service at the Oceanside Civic Center, extending the term of the agreement from February 28, 2009, to February 28, 2010, and authorization for the City Manager to execute the amendment
Document No. 09-D0108-1
8. City Council: Approval of Amendment 3 in the amount of \$55,050 to the professional services agreement with Rick Engineering Company for final plans and specifications for the Loma Alta Creek Detention Basin at El Camino Real, for additional survey, hydrology and coordination due to the construction of the Sprinter Rail Line, and authorization for the City Manager to execute the amendment
Document No. 09-D0109-1

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9. CDC: Approval of a loan application in the amount of \$19,861 under the Community Development Block Grant (CDBG) Housing Rehabilitation Program
10. CDC: Approval to appropriate \$20,000 from the Mortgage Revenue Bond Fund available balance to the Homeless Shelters account for the Brother Benno Foundation to support the emergency rent and utility assistance program
Document No. 09-D0110-1
11. City Council: Acceptance of grant funds in the amount of \$158,025 from the San Diego County Office of Emergency Services awarded to the City of Oceanside for reimbursement of funds expended for equipment and training used to respond to potential terrorist incidents, and approval to appropriate the funds to the Fire Department
12. City Council: Authorization to award a contract in the amount of \$229,594.50 to Charles Doherty Concrete, Inc., of Oceanside for the Citywide Sidewalk Repair FY 2008-09 project, and authorization for the City Manager to execute the agreement upon receipt of all supporting documents
Document No. 09-D0111-1

COUNCILMEMBER SANCHEZ moved approval [of the Consent Calendar Items 5-12], and **COUNCILMEMBER CHAVEZ** seconded the motion.

Motion was approved 5-0.

GENERAL ITEMS

General Items are normally heard after any 6:00 p.m. Public Hearing Items. However, if time permits, some General Items may be heard prior to any 6:00 p.m. Public Hearing Items, following the Consent Calendar.

14. **Council/CDC: Approval to issue a Request for Proposals [RFPs] to develop designs, construction plans, and engineering specifications to complete the renovation, replacement, and construction of new restrooms in the waterfront study area; and approval to issue a Request for Proposals for architectural and design services to develop concept plans for the amphitheatre/bandshell area**

and
15. **Council/CDC: Approval to use \$1,000,000 in Redevelopment Bond funds from the Waterfront Improvement Capital Project account to make improvements to the Oceanside Municipal Pier; approval of plans and specifications for the project; and authorization for the City Engineer to call for bids**

KATHY BAKER, Redevelopment Manager, stated they wish to take these 2 items together because they are somewhat related. For background, a few years ago the City retained Wallace, Robert, Todd to help provide some concept designs for public improvements for all the City-owned property along The Strand and the pier area. Over a year ago at a workshop, the Council was shown general ideas of the concept plans. Council's direction at the time was to focus on the core area and along the beach with the condition of the restrooms.

There are 3 restroom facilities on the north side of the pier, which would include the pier restroom, the one at Sportfisher and at Breakwater. Two of those restrooms would most likely be removed and new facilities built, and the one on the pier would be enhanced. In addition there are 2 restrooms to the south at Tyson and Wisconsin. Tyson would most likely be replaced with a new facility, and Wisconsin would be enhanced.

During this whole process we were also looking at the amphitheater/bandshell area, which is a great asset. Staff is recommending that we issue 2 RFPs, one for the restroom

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facilities and one to do an analysis and concept plans for the core area. The core area consists of the existing restroom facilities with a potential reuse of that building, looking at the amphitheater itself, and looking to do a new restroom facility closer to the pier.

Overall, the budget for Phase 1 would be \$4,200,000, and if any of these items were to come over budget, the Redevelopment Agency would not have those funds.

Regarding agenda Item 15, this is the pier bracing. A study was done of the entire pier area. For the pier being 21 years old, it was in good condition, but there was some underbracing that needs to be enhanced. We are proposing to put \$1,000,000 towards the pier underbracing.

Both of these items were taken to several committees/commissions.

For Item 14, staff recommends approval of the issuance of 2 RFPs — 1 for design and construction plans and engineering specifications for the restroom facilities; and the second for the architecture and design services to develop concept plans for the bandshell/amphitheater.

For Item 15, staff recommends approval to use \$1,000,000 of redevelopment bond funds from the waterfront improvement capital project, approve the plans and specifications for the pier improvements and authorize the call for bids.

COUNCILMEMBER SANCHEZ stated that in this process we got commissioners involved in providing input, particularly from the Arts Commission and John McDonald, who brought forward the notion of having the bandshell/amphitheater area become structures reflecting art. SOHO [Save our Heritage], OCNA, people representing the environmental community, etc. got involved, and there was a consensus that this was a good idea. So that is something we should pursue - that the Arts Commission review this along with staff, and we reach out for architectural design with the art with someone as renowned as Hubbard.

She **moved approval** of Item 14 and that we incorporate the Arts Commission. She loves the idea of having a destination art element in Oceanside. We will have to deal with SOHO on the bathroom issue and the change of use.

COUNCILMEMBER KERN **seconded** the motion.

COUNCILMEMBER CHAVEZ stated Item 14 has gone to the Arts Commission and as noted in the staff report, they are supportive of the project. Also in the staff report, it states we are going out to get someone to prepare a concept design and we would present it to the Arts Commission. Any public use project would go to the Arts Commission anyway. That is already in the established process.

COUNCILMEMBER KERN noted that bathrooms on both sides of the bandshell are really needed, with more stalls for women than men.

Motion was approved 5-0.

For Item 15, **COUNCILMEMBER CHAVEZ** **moved approval** of the staff recommendations.

COUNCILMEMBER SANCHEZ **seconded** the motion.

Motion was approved 5-0.

MAYOR AND/OR COUNCILMEMBER ITEMS

16. **Request by Councilmember Chavez for discussion and recommendation to assist in preparation of a community workshop where Camp Pendleton contractors, Oceanside Chamber of Commerce, and the Small Business Development Center North will inform local businesses on how to bid on government contracts, specifically in Historically Underutilized Business (HUB) Zones**

COUNCILMEMBER CHAVEZ has this item on the agenda to ask the Council to support additional staff time over the 4-hour policy in place and for some minimum resources to put this event on. This event is to provide an opportunity for small businesses within the City, not just in HUB zones, to capture some of the \$4,000,000,000 worth of business out of Camp Pendleton, so we need a little bit of help from the staff. Therefore, he **moved approval** of the request for additional staff time and resources.

COUNCILMEMBER KERN **seconded** the motion.

COUNCILMEMBER FELLER hoped this was to provide opportunities, that we are not leading the way on this, and that the experts in creating jobs/business will take the lead.

COUNCILMEMBER CHAVEZ explained that the money Camp Pendleton will be using to provide product or services at Camp Pendleton to build new barracks, for more furniture, more landscapers, etc., all the things Camp Pendleton does through writing contracts. A lot of small businesses are intimidated by the whole Department of Defense and how you get a contract. So we partnered with the Small Business Development Center. It will be a 3 phase issue: 1) people from Camp Pendleton that do the contracting will be at the workshop to explain how to go through the process; 2) the next phase will be for the Small Business Development Center to work with small businesses at a separate meeting on their own on the how-to's; and 3) the next phase is when the businesses actually apply for the contracts that Camp Pendleton is looking for. This is an opportunity for our businesses to understand how to compete for these billions of dollars at Camp Pendleton.

MAYOR WOOD stated this is a way to help the economy. However, MiraCosta College's Small Business Development Center does exactly this, so he does not want to use a lot of staff time when we already have an agency in the community that does the same thing.

COUNCILMEMBER SANCHEZ agreed. We are fortunate to have MiraCosta involved in the development of job opportunities either through training or through information such as through their Small Business Development Center here. She does not see Councilmember Chavez's role in this. She is excited that there are these partnerships forming with Camp Pendleton and the Chamber of Commerce. She will support this, although she felt 4 hours was probably enough; however, if a little more time is needed, okay.

COUNCILMEMBER CHAVEZ needed to clarify that there are appropriated funds, non-appropriated funds, construction funds, etc., with all different departments with different processes. What we have found in working on this for 6 weeks is that many small businesses don't understand how this works. Then the City actually has a HUB zone. When contracts are given through the government, sometimes there is a preference given to disabled veterans, minority-owned, etc., but the number one priority is a business within a HUB zone. The City has a HUB zone, and any business in that zone would have number one priority for those contracts. A number of businesses in the HUB zone were unaware of this, as was the Chamber of Commerce. So this is an opportunity to educate people on how to do it. Since I have the experience and the contacts at Camp Pendleton, they will be bringing their experts out to educate our businesses.

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COUNCILMEMBER SANCHEZ does not see the part about staff.

Motion was approved 5-0.

6:00 P.M. – PUBLIC HEARING ITEMS -- None

PROPERTY ACQUISITION HEARING

13. **Council: Consideration of the adoption of a resolution of necessity to acquire easement interests in privately owned real property for public drainage, utilities and waterline purposes and appurtenances for the construction and maintenance of the Wells 10 and 11 Waterline project affecting vacant land owned by Goli Enterprises, Inc., designated as Assessor Parcel No. 160-270-85; make the necessary findings for the adoption of the resolution of necessity; adopt the resolution and authorize the City Attorney to file the necessary complaint with the Superior Court.**

- A) Mayor opens hearing – hearing was opened
- B) Mayor requests disclosure of Councilmember and constituents contacts and correspondence – disclosures were reported
- C) City Clerk presents correspondence and/or petitions – no correspondence
- D) Testimony, beginning with

BILL MARQUIS, Senior Property Agent, stated this item is for the acquisition of some easement interests in privately held property owned by Goli Enterprises, Inc., which is adjacent to our property on Mission Avenue, adjacent to the new Fire Station 7. The purpose of the easement interest is to provide waterline, utility and drainage rights for the construction and operation of Well sites 10 and 11. These wells will provide groundwater that will be conveyed to our purification plant off Fireside Drive. The Water Utilities Department is prepared to solicit bids for the placement of the water lines, well heads and other appurtenant work related to these well sites. Obtaining the easements for utilities, drainage and waterline, and temporary construction purposes in the privately held property is needed for this project.

The City made a written offer to the property owner and notified them of their right to be heard at this hearing. We heard from their attorney this afternoon that they do not intend to attend to provide any testimony but are still willing to cooperate with us. We are still willing to cooperate with them; however, we would like to have the resolution of necessity adopted in case these negotiations keep stalling because we need to get these well lines online as soon as possible.

He explained the location of the property for the easements. In order for Council to adopt the resolution of necessity, findings need to be made. In support of those findings, we believe that the public interest and necessity require the project to provide citizens with a local source of potable water, and lessening our dependence on imported water are of critical importance to the City; the project is located in the narrowest and least usable portion of the property and has been planned to provide the greatest public good and the least private injury; the property to be acquired is necessary in order to construct the improvements to complete the project; and the written offer, together with the statement and summary basis of the amount of just compensation, has been made to the property owner in accordance with Government Code Section 7267.2.

He asked that Council make the determinations that the public interest and necessity require the acquisition of property rights for the construction and maintenance of Wells 10 and 11; that the project is planned and located in a manner most compatible with the greatest public good and the least private injury; the real property is necessary for the

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proposed project, and the required offer has been made to the owners of record; determine that acquisition of any portion of the property, which is dedicated to a public use is for a compatible or more necessary public use; and that Council adopt the resolution of necessity to commence eminent domain proceedings to acquire the necessary property rights and authorize the City Attorney/designee to cause the filing of the required complaint and deposit the funds with the Superior Court.

CITY CLERK WAYNE noted that since this is a property acquisition hearing, we had received at Council's prior scheduled hearing on January 12 a request to be heard by the Goli Enterprises' attorney [John Credell]; but staff has just reported the phone call today that they declined that. There is no other input.

MAYOR WOOD closed the acquisition hearing.

COUNCILMEMBER SANCHEZ hopes there can be a resolution without going into the legal aspect; however, this has been an ongoing City project, and water is very important. She **moved approval** of the findings and staff recommendations [including adoption of **Resolution No. 09-R0112-1**, "...declaring the necessity of and authorizing condemnation of certain easement interests in real property for the construction of the Wells 10 and 11 Waterline Project" and **Document No. 09-R0113-1**]. She is hopeful that this is just one piece of the plan for the City to become as independent as possible in terms of water.

COUNCILMEMBER KERN **seconded** the motion. This is a very critical part of the infrastructure that we need to put in. The other wells were not producing. Also, there is the fact that today the Delta smelt moved to the endangered list, etc., so water out of the delta will probably not be coming this year. So this is more critical as the day goes on.

Motion approved 5-0.

MAYOR AND/OR COUNCILMEMBER ITEMS (cont.)

17. **Request by Councilmember Feller for direction to staff to prepare amendments to article 46 of the Zoning Ordinance to require Council approval of Calls for Review**

COUNCILMEMBER FELLER feels it is time for Council to go back to the original way of requesting a call for review where a councilmember can, under their item, bring a request for a call for review to the Council to make their case for a call for review and it takes a majority vote from the Council to proceed with the call for review hearing.

He moved to direct staff to prepare the amendment to Article 46 as stated.

COUNCILMEMBER KERN **seconded** the motion.

Public input

Speakers in opposition to the change:

Jimmy Knott, 127 Sherri Lane
Sharon Newbery, 1212 Vista Way
Holly Hargett, 1220 Vista Way
Margaret Malik, 1611 Hackamore Road
Greg Root, 404 Hoover Street
Edward Burns, 204 Hoover Street
Joan Brubaker, 1606 Hackamore Road
Charles Lowery, 812 Alberta Avenue
Nadine Scott, 550 Hoover Street
Mimi DeMirjian, 214 South Freeman Street

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Speaker in support of the change:

John Ord, Ord and Rodgers Homes, Carlsbad

Off topic speaker:

Elaine Barton, 493 Lexington Ct.

COUNCILMEMBER SANCHEZ reviewed the matrix as requested by Councilmember Chavez regarding the numbers of calls for review from 2006 to the present. Each one of us is here to serve the public, and we each have our perception of how to serve. Out of the list generated, she has actually had 6 calls for review and only 3 heard in the last 3 years. She explained with Amazon Bikes, she called it for review and later withdrew it; Ms. Hargett had a family emergency and could not get signatures or pay \$1,000. On the last day/hour I agreed to help her and met with staff and her and the gentleman from Amazon. I was able to get a resolution/agreement so that was removed. She further explained other calls for review and why. Six calls for review in 2 years is not an abuse, and she asked not to change the process.

COUNCILMEMBER KERN stated there is a process, and there are plenty of points of public input. No one's rights are being denied. All we would be doing is to go back to a system that was in place before he came on Council. If a councilmember has an issue, they would bring it to the Council without any staff work and present it to their colleagues; if in agreement, Council will hear it. This previous method had been around for years, and it just changed with the previous Council. He has supported some calls for review, but he cannot support it anymore because he thinks there is an abuse of the system in looking at what has happened in the last 4-5 months. We will maintain the people's voice. This is only to change the process so we don't burn up a lot of staff time; we are in a down economy and may have to cut staff and don't need frivolous appeals. He reviewed the Amazon Bikes circumstance and the process.

COUNCILMEMBER CHAVEZ wanted to add perspective to this. Today it was a 10.7% unemployment rate in California; Wall Street and the European markets are falling; etc. What we are seeing economically is not just in Oceanside but is across the entire world. The best projections show this economic downtown will go to 2011 or longer, but no one really knows. Shortly we will be talking about cutting \$3,500,000 out of next year's budget. We are looking at police and fire and reducing services at libraries and parks, and people will want to protect those items. The way to often pay for that is by people who invest in the community. When looking at the budgets back in 2002-2004, it was projected we would be receiving revenue from the Beach Hotel, etc., but through a lot of delays, that has not happened. Now there is no funding to build. Others are items such as CityMark and Robertson's. He referenced Amazon — a small businessman who put all his money into his expansion. Because his project was delayed, it cost him greatly.

Open government is important. He also believes in a fair hearing, and we all need to treat each other with respect. When people are willing to invest in the community, we need to have an ear to them also; it is a balanced way. He was on Council with the previous process. There is not just the delay in time when we do a call for review, but there are costs in staff time.

In response, **CITY MANAGER WEISS** stated the staff time depends on the type of project, but there is an additional cost to the applicant because they are then charged with all of the noticing/hearing costs.

COUNCILMEMBER CHAVEZ reiterated then that it is not just the applicant's expenses but also the staff time/costs. There are a lot of costs for delay, which we just dismiss and allow appeals with 25 signatures. He further reviewed the matrix with Councilmember Sanchez's calls for review [September to present = 5]. He was here with the old system and didn't think that worked well either. He would like staff to come back with options for this. He would like this to be fair to all, including the person investing

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here. Maybe if Councilmembers want to call for a review, they should pay for it themselves out of their budgets, which is an option. This needs to be a balance.

MAYOR WOOD stated this issue came up with the previous Council. The reason it came up is the same reason as this time — where a voting majority could block these. This is a way for citizens to not have to pay the money or try to gather signatures; they can appeal it to their individual Councilmembers. He thought it was fair that each Councilmember with constituents had the right to do this. In the past, one of the recommendations was to have 2 Councilmembers concur to call something for review, which seemed reasonable since it is easy to get a second vote from someone on Council. On the other hand, if one councilmember talked to another and they did not agree, then do they go to a third Councilmember — which is a Brown Act issue. You cannot do that, so you only have one other person you can talk to, to call it for review.

This situation is a little frustrating. What it comes down to is that a particular voting majority rules, which is the way it works. However, if there is a project that needs to be reviewed, and you do not have the cash or the time to get the signatures, you have a short time to get hold of a Councilmember, and he thinks that is reasonable. The Councilmember also has the opportunity to say no. A citizen can go to any/all Councilmembers, but a Councilmember can only go to one other Councilmember due to the Brown Act. That leaves few options.

He thinks the system is fair. His only recommendation is that if you have a Councilmember that has something for review that they should have at least one other Councilmember to approve it — at least have the 2. That saves money, time and effort for our citizens that want to do this. The problem also is that with this voting majority, the Council will probably stack the next Planning Commission to vote in a particular direction. He further expressed his concerns with the majority and the process.

As with Councilmember Chavez, going back to staff for a recommendation is fine. Having a voting majority be able to turn this down or change it is not fair, nor is in the best interest of the City. He would like to see the staff come back and that at least 2 Councilmembers agree.

COUNCILMEMBER SANCHEZ wanted a break.

[Recess was held from 7:10 – 7:15 PM.]

To review, **CITY CLERK WAYNE** stated the motion presently on the floor is to direct staff to prepare amendments to Article 46 of the Zoning Ordinance to require Council approval of the calls for review.

COUNCILMEMBER FELLER stated that some of the 12+ people we heard from today opposing this change are ones wanting to appeal projects that are nowhere near their residences. In response to Ed Burns, he asked staff to respond.

CITY ATTORNEY MULLEN responded there is a 10-day period within which any interested member of the public can file their appeal from the date of the Planning Commission decision. So if a call for review was filed and required a majority approval, the Council would determine at its next available meeting whether to grant the call for review/set a public hearing. The citizen's right to appeal is still preserved, but the time would be running. It is possible there would be no Council meeting within the 10-day time period, so if a citizen were waiting for Council to make a decision, the 10-day period could run out. An option could be that, if Council were going to a majority approval for calls for review, Council could extend the citizens' time beyond the 10-day period.

COUNCILMEMBER FELLER stated then that the Zoning Ordinance could be changed; it is not State law.

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CITY ATTORNEY MULLEN confirmed that the 10 days is set forth in the City's Zoning Ordinance.

COUNCILMEMBER FELLER stated, in light of that, maybe there is opportunity for compromise. He does not agree with 2 members; he used this process because it was there, but he did not agree with it from the day the prior Council of Wood, Mackin and Sanchez voted for it. He thinks it has been abused. He saw what it did to Amazon Bikes' owner who had complete approval for it. He wants a process where it takes more than a whim by a few people with a councilmember. He would be willing to go back and give staff 30 days to come up with a suggested change. He would so **modify his motion** to send this back to staff for 30 days to come back with options/recommendations for the call for review process. If Councilmembers have input, get that to the City Manager. The public can email their input, as well as developers, etc.

COUNCILMEMBER KERN, as second, concurred to the modified motion.

COUNCILMEMBER CHAVEZ wished to clarify his position. Having listened to the discussion, he believes in minority rights/majority rules. We need to have a compromise. The Mayor made some good points about a 3-2 majority on the Council, so he thinks it is fair if we allow 2 Councilmembers to bring a call for review forward for hearing. So he would now feel that is a good compromise.

MAYOR WOOD would agree that it takes 2 Councilmembers to call for review.

GEORGE BUELL, Development Services Director, requested clarification on Council's direction to staff.

MAYOR WOOD reiterated that to be fair and reasonable for the public, it would take 2 Councilmembers; so his recommendation is for staff to make that change and return.

COUNCILMEMBER CHAVEZ concurred.

Following further discussion, **motion failed 2-3**; Mayor Wood and Councilmembers Chavez and Sanchez voting no.

MAYOR WOOD moved to direct staff to make the necessary changes that a call for review requires 2 Councilmembers to bring an item for a hearing [rather than one as presently written].

COUNCILMEMBER CHAVEZ seconded the motion.

CITY ATTORNEY MULLEN clarified that the motion is direction to prepare the amendment, which will go through the Planning Commission as well.

Motion was approved 3-2; Councilmembers Kern and Feller voting no.

18. **Request by Councilmember Sanchez to discuss permanent funding for the arts, and direction to staff**

COUNCILMEMBER SANCHEZ was recently at a Utilities Commission meeting. There was a presentation regarding the vision for Coast Highway, and one of the elements had to do with venues for public art/large areas for landscaping and/or public art. It concerns her that we still do not have a vehicle for the funding of public art. Since this is coming before Council within the next few weeks, along with recommendations as to fee schedules, she thought this was an appropriate time to revisit this item. She supports public art/culture. This is happening very slowly, even just having them within our public projects. One thing presented before was a developer fee of around 1%. She is not

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concerned about what the vehicle would be but is more concerned about establishing a vehicle for permanent funding for public art.

She **moved** to give direction to staff to come up with options for attaining that permanent funding for the arts. The things we are talking about will not happen for several years, so whether we can afford it now is not relevant because these fee schedules and projects are at least 2-3 years into the future.

MAYOR WOOD seconded the motion for discussion.

COUNCILMEMBER CHAVEZ stated this came to the Arts Commission about 2+ years ago, and it was felt then that the best way to insure that we had character and art within the community was to go after the issue of having projects that support public needs like hotels, restaurants, etc., go to the Arts Commission for their input. It was not just a matter of a single art element — plop art - but more an architectural element within the project itself. Thereby the benefit would not only go to the investor but also to the City. In research it was found that when you do it that way, there is actually more money being expended in quality projects than taking a percentage. He applauds the idea of looking at how we can give the City more character. He would ask that for whatever does come forward the Arts Commission be involved. The Arts Commission asked him on Monday what this agenda item was, and he responded he had no backup material to know what it was. They are interested in having a voice in this. He asked to have the motion modified to send this back to staff, and sending it to the Arts Commission to have their input would be appropriate.

COUNCILMEMBER SANCHEZ so modified her motion [to direct staff to work with the Arts Commission to come up with options for attaining permanent funding for the arts].

MAYOR WOOD, as second, concurred.

Public input

JANE DANCISON, Arts Commissioner, wanted to know what this item was about. She is also a business woman and really appreciates what it takes to be responsible for a return on investment. The arts is not easily defined anymore, so whatever it is that we, as a community, come up with, it should be something that can be evaluated for return on its investment. She offered her services for whatever it is that we begin to work on because it could have a significant impact on the City's future and very much a significant financial impact on the money we bring in.

COUNCILMEMBER KERN stated new fees were mentioned, and he will not support new fees. Right now to build a single-family home, it is about \$70,000 in fees before one shovel of dirt is turned; for a condo it is about \$40,000 in fees. If they come forward with some funding mechanism, he wants to make sure staff is clear that they find the offset for it, whether it is offset in park fees or whatever, but no additional new fees on any project. Also, when these projects come through, he supports that they are vetted through the Arts Commission so each project has an art element built in. He would rather see art on the project itself instead of adding a fee, unless there are offsets someplace. He is reluctant to support the motion because of the mention of fees.

Motion was approved 3-2; Councilmembers Kern and Feller voting no.

CITY COUNCIL REPORTS

19. **Mayor Jim Wood** -- **MAYOR WOOD** gave accolades to the Police Department for targeting drug dealers and gang members resulting in 31 arrests; welcomed new MiraCosta College President Dr. Francisco Rodriguez and wished a happy 75th birthday to MiraCosta College; reported on events and Arthur Hemingway's passing.

Regarding our Washington, D.C. trip, our delegation was myself, City Manager Weiss, Deputy City Managers Lawrence and Hadley, Water Department and Councilmember Sanchez. We got to see all our representatives -- our Federal Senators Boxer and Feinstein and Congressman Issa; went to reclamation for water issues, etc. He has gone to D.C. on several occasions. Generally it is interesting to go to the halls of Congress and the Senate, and they are usually fairly quiet with few people. This time it was chaotic; mass numbers of people from everywhere in the hallways to see their representatives; he has never seen it like that. It seemed like no one seemed to know what the stimulus was or had read it. Everyone is back there trying to find out what is going on and to save their projects, etc. We made our recommendations on priorities in Oceanside on Federal projects, like the harbor, flood control channel, water, reclaimed water etc. Hopefully our representation there pays off; we won't know until down the road, but hopefully we'll have positive feedback.

20. **Councilmember Rocky Chavez -- COUNCILMEMBER CHAVEZ** reported that NCTD had a retreat last weekend; they have a \$13,000,000 budget problem to take care of. Two main items are: they are faced with the same budget cuts affecting everyone, and the other is that the funds/grants for the operation of the Sprinter are going to be gone in a few years. So they have about a \$13,000,000 budget gap they have to close.

He went to the Carlsbad Chamber of Commerce event with Solartubes as a sponsor. They provide energy efficient lighting for buildings, and they recently became one of the main systems for providing lighting to China, who is looking at 2030 to start going green.

He thinks the City needs to diversify its economy. One area is with the contracting of Camp Pendleton; another is looking at our industrial parks;, but the other we invest a lot into is tourism. In tourism, people go places because they want to go there. We held an Art Talk event last week and had over 80 people attend with much diversity. What came out of there was they need a venue and to know the City has a vision for art, and they wanted to know what they could do to support the arts in venues. We will follow through on this. There is a newsletter for Art Talk if anyone is interested. Only by having a diversified economic base capturing government dollars, capturing new business in our industrial parks, or building a tourism industry can we reach the place to be economically stable. This is a long-time effort, and we need to grow the economic pie by attracting new businesses here, etc. He will not support new fees for this art effort.

21. **Councilmember Jack Feller -- COUNCILMEMBER FELLER** reported on events; the passing of Arthur Hemingway, Marvin Reed, Harriet Wicburg's daughter, and George Molfua's hospitalization.
22. **Councilmember Jerry Kern -- COUNCILMEMBER KERN** reported on items/events. His water bill showed they used only 3 units of water for conservation.

He attended the SANDAG meeting last Friday, and they approved the plans for the new Lindberg field. It will be exciting if they ever get the money.

Yesterday the Economic Development Commission formulated their workplan for the coming year. We also reported on an EDC visit to Genica aka Geeks.com. They are one of our major employers with 225 employees, so things are going well for some companies.

He challenged everyone to get their water usage to under 4 units.

23. **Councilmember Esther Sanchez -- COUNCILMEMBER SANCHEZ** reported on Arthur Hemingway and his funeral; the California Surf Museum is now open at 312 Pier View Way; and reported on events.

Today she had a conference call with staff regarding the Shoreline Preservation Working Group subcommittee. We are addressing information received regarding an attempt to bring Boating and Waterways, along with its coveted funding, under Parks. We

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are fighting that and will continue to stay on that.

The trip to D.C. was really interesting. Everyone is talking 'stimulus'; some is going through the State level, but most is available almost immediately through the grant programs. Police, fire, energy, and infrastructure are things we can apply for and are pursuing with vigor. It was a pleasure to meet Senator Feinstein, and she is helping us. There was a setback in terms of learning new information about the river and the Army Corps and new standards/requirements; that was a bit of a letdown, but we were able to present the change of information.

She contacted the Police Chief to send her a list of the things they have been able to do, and he sent a whole packet, which she highlighted.

[Councilmember Feller left the meeting at 8:07 PM.]

The overall crime rate for the first 11 months of 2008 compared to the first 11 months of 2007 was down 9.8%; violent crimes for the same time period were down 11.5%. From January 1, 2005 through November 30, 2008, crime has dropped over 32% in the City. She further highlighted other items from the packet. She also reported on other departments and their successes.

She believes we can get through this coming budget time without losing people, without losing salaries. She believes there are different ways that we can get to the bottom line. There are stimulus packages, etc., and there is absolutely no reason to feel that we are not going to make it through this crisis without maintaining our levels of service. The City provides services which are labor based. That means people are doing things, so we are labor based. We provide a service. Even if we were to contract out, it would still be providing a service. She knows there are a lot of employees quite concerned when they received their paychecks and were shown how much they cost the City. She would say that this is how valuable you are to us. She knows the ratio is still not the best compared to other cities; we still have people working harder and harder because we don't have enough staff. She is proud of our employees and the residents, and we can work together to make Oceanside the best there is. We can do this without drastic changes or cuts.

INTRODUCTION AND ADOPTION OF ORDINANCES -- None

ADJOURNMENT

MAYOR WOOD adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 8:12 PM on March 4, 2009. [Next meeting: March 11, 2009 at 4:00 PM]

ACCEPTED BY COUNCIL/HDB/CDC:

Barbara Riegel Wayne
City Clerk, City of Oceanside