



California

# CITY OF OCEANSIDE

## MINUTES OF THE: SPECIAL MEETING OF THE CITY COUNCIL

APRIL 7, 2010

**SPECIAL MEETING                      3:00 PM                      COUNCIL CHAMBERS**

**Mayor**

Jim Wood

**Deputy Mayor**

Vacant

**Councilmembers**

Esther Sanchez  
Jack Feller  
Jerome M. Kern  
Vacant

**City Clerk**

Barbara Riegel Wayne

**Treasurer**

Gary Felien

**City Manager**

Peter Weiss

**City Attorney**

John Mullen

The special meeting of the Oceanside City Council was called to order by Mayor Wood at 3:00 PM, April 7, 2010.

**PLEDGE OF ALLEGIANCE** – None

**3:00 PM - ROLL CALL**

Present were Mayor Wood and Councilmembers Sanchez, Kern and Feller [arrived at 3:01]. Also present were City Clerk Wayne, City Manager Weiss, and City Attorney Mullen.

**CITY ATTORNEY MULLEN** titled the Item 1 to be heard in Closed Session.

[Closed session was held from 3:01 to 4:05 PM]

**CITY ATTORNEY MULLEN** reported out on the following item:

**CLOSED SESSION ITEM:**

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

CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION

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

Discussed; there was no reportable action.

- Public Communications on City Council Matters (off-agenda items) – None**

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

April 7, 2010 - 3:00 PM

Council Meeting Minutes

**ADJOURNMENT**

**MAYOR WOOD** adjourned this special meeting of the Oceanside City Council at 4:07 PM on April 7, 2010.

**ACCEPTED BY COUNCIL:**

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Barbara Riegel Wayne  
City Clerk, City of Oceanside



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

Discussed; there was no reportable action.

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

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

Riverwatch et al. v. County of San Diego Department of Environmental Health et al., Superior Court Case No. GIN038227/D054471

Information only; there was no reportable action.

B. CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION  
Initiation of litigation by City pursuant to Subdivision (c) of Section 54956.9: One case

Council, in closed session, voted to authorize the City Attorney to file a nuisance abatement action against the Beechwood Motel at 210 Surfdrider.

3. **PUBLIC EMPLOYEE APPOINTMENT, PUBLIC EMPLOYMENT, PERSONNEL EVALUATION AND DISCIPLINE (SECTION 54957)**

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

A. City Attorney

B. City Manager

Discussed Items A & B; there was no reportable action.

**4:00 PM – ROLL CALL**

Mayor Wood reconvened the meeting at 4:02 PM. Present were Mayor Wood and Councilmembers Feller, Kern and Sanchez. Also present were City Clerk Wayne, City Manager Weiss, City Treasurer Felien and City Attorney Mullen.

**CLOSED SESSION REPORT**

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

**CITY ATTORNEY MULLEN** reported on the items discussed in closed session. (See Item 1, 2A, 2B, 3A and 3B above for those reports).

**Change to the agenda**

**CITY CLERK WAYNE** announced that Item 14 has been continued to the meeting of May 26<sup>th</sup> at staff’s request.

**CONSENT CALENDAR ITEMS** [Items 5-12]

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 Council/HDB/CDC or the public through submittal of a Request to Speak form prior to the commencement of this agenda item.

The following Consent items were 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 September 10, 2008, 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/Harbor: Approval of Amendment 2 [**Document No. 10-D0297-1** and **Document No. 10-D0298-2**] in the amount of \$160,084 to the professional services agreement with The Ferguson Group of Washington, DC, for federal legislative support services, extending the term of the agreement from June 30, 2010, to June 30, 2012, and reducing total compensation by 10 percent, back to the FY 2007-08 level; and . authorization for the City Manager to execute the amendment
8. City Council: Approval of a five-year property lease agreement [**Document No. 10-D0299-1**] with Petite Madeline Bakery [Christine Lyoola – owner] with revenue to the City in a minimum total amount of \$137,230 for the use of a portion of the City-owned property at 223 North Coast Highway, and authorization for the City Manager to execute the agreement.
9. City Council: Approval of a Memorandum of Understanding (MOU) [**Document No. 10-D0300-1**] between the City of Oceanside, the Oceanside Unified School District (OUSD), and the Boys & Girls Club of Oceanside (B&GC) to enable the parties to further evaluate development of an agreement or agreements for the Jefferson Middle School site that would be beneficial to all parties in serving the community; and authorize the City Manager to execute the MOU
10. City Council: Approval of updated Planning Commission Bylaws [**Document No. 10-D0301-1**] to include new rules on changes in membership, election of a new chairperson in April, required compliance with a code of ethics, and presentation of the annual Work Plan to the City Council in June of each year
11. City Council: Acceptance of a one-year Supportive Housing Program renewal grant [**Document No. 10-D0302-1**] in the amount of \$146,702 from the U.S. Department of Housing and Urban Development (HUD); approval to appropriate these funds to the Neighborhood Services Department; approval of an agreement [**Document No. 10-D0303-1**] with the Women's Resource Center for use of the HUD Supportive Housing Program funds for operation of a 21-unit Transitional Housing Program; and authorization for the City Manager to execute the Agreement
12. City Council: Acceptance of the improvements constructed by Charles Doherty Concrete of Oceanside for the San Luis Rey River Trail Extension Project Phase 2, and authorization for the City Clerk to file the Notice of Completion [**Document No. 10-D0304-1**] with the San Diego County Recorder

**COUNCILMEMBER SANCHEZ** moved approval [of the Consent Calendar Items 5-12].

**COUNCILMEMBER KERN** seconded the motion.

**Motion was approved 4-0.**

Mayor Wood determined to hear Item 15 at this time.

**GENERAL ITEMS**

15. **City Council: Introduction of an ordinance amending Chapter 37, Water, of the Oceanside City Code by the addition of Article 7, Landscape Water Use, to implement water restrictions throughout the City, to make the City Landscape Regulations consistent with state requirements, and to meet the landscape water conservation measures of Assembly Bill 1881**

**HARRY GROVE**, Associate Engineer, Development Services Department, stated that due to Assembly Bill (AB) 1881, which was passed by the California State Legislature, the City is required to adopt the Water Efficient Landscape Ordinance. AB 1881 requires all local agencies to implement this ordinance, which targets those development activities requiring a City permit. The City currently has Ordinance 91-50, which was implemented to conserve and ration water during our last drought period in 1991. The proposed Water Conservation Ordinance is intended to satisfy the State's requirements and enhance the City's existing water conservation efforts. Adoption of this ordinance has been determined to be exempt from the California Environmental Quality Act (CEQA).

**COUNCILMEMBER SANCHEZ** asked for an explanation of the 'add new \$50 fee for processing small, residential landscapes'.

**MR. GROVE** replied that the \$50 fee is for processing a short form. Technically the ordinance is covering a long form of development processing, which includes several different elements. Whereas the short form is for single-family residences that are less than 5,000 square feet of landscapable area to be able to work around this a little bit. It's a little easier for the homeowner to process this requirement.

**COUNCILMEMBER SANCHEZ** asked if this is for new development, and **MR. GROVE** replied yes.

**COUNCILMEMBER SANCHEZ** moved to approve the introduction of an ordinance, "... amending Chapter 37 of the Oceanside City Code by adding a new Article VII pertaining to water efficient landscaping."

**COUNCILMEMBER FELLER** seconded the motion. If he wanted to do something completely different with his front yard, would there be a fee?

**MR. GROVE** responded there would be no fee.

Following the reading of the title, the **motion was approved 4-0.**

16. **City Council: Adoption of a resolution approving and adopting a Supplemental Employee Retirement Plan and appointing the City Manager as the Plan Administrator**

**BRIAN KAMMERER**, Human Resources Director, is recommending that Council adopt a one-time resolution for a Supplemental Employee Retirement Program and to appoint the City Manager as the Plan Administrator.

The City currently has an \$8,000,000 budget deficit, and we are proposing a Supplemental Retirement Program that will act as an incentive and encourage qualified employees to voluntarily retire from the City. By doing so this will reduce the workforce and thus create a cost savings benefit to the City.

Staff is asking that Council approve the concept of the plan. We will come back

at the June 30, 2010, meeting and present to Council a detailed cost analysis with the number of actual participants in the program, position considerations and exact cost savings to the City. The final implementation of the program would be left up to Council at a later date. Right now we are asking that Council allow staff to study the feasibility of the program to see if it will work. We don't know the actual costs savings right now because we can't tell the exact number of people who are going to retire and who are not going to retire. We have worked with a private firm, Keenan and Associates, and they have representatives here to answer any questions.

To qualify for this program the employee must be at least 50 years of age, must have a minimum of 5 years of City service, be eligible to retire and will retire by July 31, 2010. If they meet those conditions, the City would purchase, through Keenan and Associates, an annuity plan, which would be the dollar equivalency of 85% of your base pay. It is anticipated through the preliminary analysis that we've conducted, along with Keenan and Associates, that between 35 and 40 people would retire. This would result in a savings to the City over a period of 5 years of \$2,500,000 to \$3,500,000.

Public input

**THOMAS DEMPSEY**, 3641 Esplanade Street, feels the resolution should be pre-fixed not to exceed current plan allowances for the revised Supplemental Plan. When you revise something, anything can happen. If you make it specific, then we know what the target is.

**HERMAN CORNISH**, 3553 Roselle Street, stated that as a member of the Metropolitan Police Department in Washington, D.C. and a long-time federal government employee, he was required to pay into his pension fund, as well as to pay a portion of his health insurance. Even today as a retiree, he pays \$100 per week into the Federal Government Health Plan.

**JIMMY KNOTT**, 127 Sherri Lane, thinks this is something that Council should look into but not fully adopt at this time.

Public input concluded

**COUNCILMEMBER SANCHEZ** stated we have been asking staff to look into how we can save money for the City in different ways for several years now. The utmost in people's minds is whether this would actually save money for the City and be able to continue with the kinds of services that people have grown to expect.

**DIRECTOR KAMMERER** replied this is not a new program; it has been tried before in several local school districts and local agencies. It definitely will be a savings. The exact dollar amount is unknown. Over a 5-year period, he would guess a minimum of \$2,000,000.

**COUNCILMEMBER SANCHEZ** thinks people need to have some facts because at this point there is a lot of discussion on the front page of the paper about giving away taxpayer dollars. This is not committing us to do this, but to actually look into seeing if the City can save money.

**DIRECTOR KAMMERER** replied that is the whole purpose. If the cost-saving is not here, we don't move forward. All we are doing tonight is asking Council to let staff explore the feasibility of moving forward with the program. We will bring the program back in June with the facts. Right now he couldn't provide every fact because he doesn't know the exact number of people who are going to retire. We ran a preliminary analysis of our employees, based on the age, demographics and years of service. He personally talked to some employees about the program. This program is flexible for everyone. It allows employees to take this dollar amount and buy health insurance or service credits, etc. It meets more of the employees' needs than a single-sided program, such as the purchase of health insurance. We are also looking at the cost savings to the City, which

is the most important factor. All we are asking for is permission to look into this and get commitments from the employees. On June 30<sup>th</sup> Council is going to know the exact number of employees that are going to participate in this program, what their classifications are, what the dollar amounts are, what the exact savings would be to the City and what the exact costs to the City would be to implement the program. Council could then make a decision at that point. Right now we are asking for the possibility to bring this forward.

**COUNCILMEMBER SANCHEZ** reiterated we are not committing to anything; we are just seeing if 40 people would be interested. If 40 people were interested, what would the savings be?

**DIRECTOR KAMMERER** responded that depends on their salary. It could be a little bit more or less than \$2,000,000. It probably would be a little more.

**CITY MANAGER WEISS** brought to Council's attention that even though there may be 40 employees that may elect to participate in this program, we have to keep in mind that the true cost-savings comes in from not back-filling those positions. In some cases, there may be employees who are looking to sign up for the program, but if those positions have to be refilled, we would probably recommend that Council not adopt the program when we come back in June.

Part of the process is going to be, once we determine which employees are interested, working with the departments to see which of those positions can remain vacant. Therein is where you would see your cost-savings.

The other issue is that this has the potential for preserving some of those positions that may otherwise be losing their jobs, probably not all of them, but it may have the ability to save some of them. The reason we can't give Council hard facts is that we are basing the numbers we have right now on estimates based on data that's based on the age of the employees and those that may be eligible. We have not in any way gone to employees yet and asked if they would participate. That's what the next several weeks would entail. There would be meetings with the employees and their families and then a sign-up period, following which we would be back to Council with the hard numbers and an actuarial on what the cost-savings would truly be.

**COUNCILMEMBER SANCHEZ** has known and worked with employees where this has happened. To your knowledge, have you ever seen this end up costing the City more money versus saving the City money?

**DIRECTOR KAMMERER** replied never to his knowledge.

**STEVE GATES**, Keenan and Associates, has been working with staff on this project. His company has worked with about 300 agencies over the last 25 years doing these kinds of plans, and many of them have saved money. However, there have been some facts and circumstances where it has not, such as when not enough people take the incentive. The key is having an incentive where enough people take it. That way you not only pay for the people who already are going to go, which is a cost, but you also have additional people go on top of that to create a savings. In those situations where the agency has not saved money, they decided not to proceed with the program because the circumstances didn't warrant it.

**COUNCILMEMBER SANCHEZ** asked if this is something that is done over and over again in municipalities and school districts, and **MR. GATES** responded yes.

**COUNCILMEMBER SANCHEZ** asked if it's ever actually been implemented and then the agency lost money.

**MR. GATES** responded in some circumstances agencies have committed to the program and proceeded with it regardless of the outcome in terms of the number of

people who enroll. The programs we have done recently have been presented the way its being done tonight. Based on our experience, we make estimates on the numbers of people who will retire. We know that by ages and years of service. What we typically have done of late is go through the enrollment process, and then we can see who actually retires and what their salaries are; they would then look at it from a budget standpoint and how many of those positions are going to be replaced or not. At that point you can figure if it's going to save money and decide if you are going to proceed with the program.

**COUNCILMEMBER SANCHEZ** thinks it seems like we will have a definite idea of whether it would be a savings and that would be before there is an actual authorization to go forward, is that correct?

**MR. GATES** replied yes.

**COUNCILMEMBER SANCHEZ** asked how many employees are eligible for retirement at this time.

**DIRECTOR KAMMERER** replied that based just on years of service and age, there are about 250.

**COUNCILMEMBER SANCHEZ** stated that he is looking at people who are ready to retire and has had kind of a heads-up about what that group would be and where they'd come from.

**DIRECTOR KAMMERER** responded yes. We did our research. Obviously all of these aren't going to retire right away, but we are looking primarily at people who are on the fence. This may be the incentive to help these employees decide to leave a little bit early and save by not filling the position. The employee walks away with a smile, and the City is happy because we are saving money. It's a win-win situation for everybody.

**COUNCILMEMBER SANCHEZ** asked if the City Manager recommends that we go forward on this.

**CITY MANAGER WEISS** responded yes since Council is not committing to anything now. The actual decision point will be when we bring it back to Council and will realize whether there is truly a significant cost savings or not. He would recommend at least going to the employees to see how many people would be interested in participating.

**COUNCILMEMBER SANCHEZ** asked if at this level there is any risk to the City to just explore this.

**CITY MANAGER WEISS** responded there is an approximate \$5,000 risk that if we do not move forward, we would still have to pay an approximate \$5,000 fee to Keenan.

**MAYOR WOOD** stated this is really about trying to motivate people who've been here for a long time at a high pay rate to leave. They are paid the highest so in turn we are getting the most savings for our budget. Those positions may or may not be replaced; that's another savings.

**COUNCILMEMBER SANCHEZ moved** to approve adoption of a resolution approving and adopting a Supplemental Employee Retirement Plan and appointing the City Manager as the Plan Administrator

**MAYOR WOOD seconded** the motion.

**COUNCILMEMBER KERN** had a long discussion with Director Kammerer, and can't support this. He doesn't like the methodology. We hear from the person who is selling this about what a great deal it is. If we are not going forward, why do we need to appoint a Plan Administrator tonight on the resolution? The people who have been here a long time are adequately compensated when they retire, and he doesn't think we need to bribe them to leave. This is not good for the City or the taxpayers. We give somebody 85% of their salary to leave, pay them over a lifetime, which might be an additional \$500 to \$600 per month for a lifetime. One thing he never got quite clear is whether this is a post-employment benefit. He hears both yes and no. That's \$700,000 per year that we are going to add to our budget. If you've been reading the 5-year forecast, we have a \$9,300,000 gap. He can't support this at this time. How much does Keenan get out of this if we go forward; what is their total charge?

**DIRECTOR KAMMERER** replied not to exceed \$4,500 is the administration fee.

**COUNCILMEMBER KERN** reiterated if we decided to go forward with this, how much is Keenan going to make?

**DIRECTOR KAMMERER** replied it is the cost of the plan at 4.5%.

**COUNCILMEMBER KERN** wanted a dollar amount.

**DIRECTOR KAMMERER** doesn't have that at this point. They will know that dollar amount on June 30.

**COUNCILMEMBER KERN** doesn't believe we are going to get the savings you think we're going to get so he can't support this. He believes we compensate people fairly, and they retire at a very good retirement for the City. He doesn't think bribing them to leave is a good idea for the taxpayers at all.

**COUNCILMEMBER SANCHEZ** heard through her line of questioning that this is good for the taxpayers, i.e. that there would be a savings and that we would not have to go through with this if there was not a demonstrated savings, including a focused look at whether or not we would need to backfill or fill any of these positions when people retire. Is there something that she's missing here, Mr. Kammerer? Would this be a savings to taxpayers?

**DIRECTOR KAMMERER** is asking Council tonight to allow staff to explore the possibility of offering this program. Once we explore, we can come back on June 30<sup>th</sup> with an exact dollar savings and Council can evaluate it and make an educated decision. He is convinced there will be a cost savings.

**COUNCILMEMBER SANCHEZ** has actually seen this in the private sector, where you have longer-term employees who are probably at a top level and then you have someone who is not making as much money but doing almost the same work. Mr. Kammerer said that we have approximately 250 employees that are eligible to retire. What is the cost every year for them not to retire?

**DIRECTOR KAMMERER** responded that the cost difference between an A-step employee and an F-step employee can be 25%. There is a cost difference on base salary if they left at the F-step and someone was hired back at the A-step. That's not always the case, but there is a significant savings right there. If you had to refill that position, there is some savings.

**COUNCILMEMBER SANCHEZ** doesn't see any danger to the City in going forward and seeing if there are any employees are in a situation where they can help the City, and the City can help them make a significant decision that will save the City taxpayers millions of dollars.

**COUNCILMEMBER FELLER** stated when we first talked about this in closed

session, he was almost sure staff told Council that public safety wouldn't be included in this.

**DIRECTOR KAMMERER** responded negatively. We looked at various plans with different agencies before deciding on Keenan and Associates. One of the other agencies they interviewed, but did not choose for this study, recommended we do not include public safety since those positions would probably be refilled.

**COUNCILMEMBER FELLER** did some brief calculations. It was a little vague when he heard this in closed session. If you had 34 \$50,000-per-year employees retiring, that's \$1,700,000 that we'd have to pay into this program at 85% over the 5 years. That is a cost directly to the City. If we have to fill 20 or 25 of those positions, then we've just rewarded anybody that's going to retire anyway. He believes 85% is almost a give-away, although plenty of people have worked for this City for many years and are good employees. The reality is that the City doesn't have money lying around. He doesn't see June 30<sup>th</sup> anywhere in the staff report to bring back the information. By June 3<sup>rd</sup> every employee who wants to participate will have to have given a letter of retirement. By June 30<sup>th</sup> you will already have letters and high expectations among employees.

**DIRECTOR KAMMERER** stated we will have the letters of retirement, and the employees will be signing notices. We will be informing everybody that everything is contingent upon the approval on June 30<sup>th</sup>. If Council rejects it on June 30<sup>th</sup> then everything will go back to the status quo, and the retirements are revoked.

**CITY ATTORNEY MULLEN** added that in the resolution in Section 2, it discusses if the objectives are not reached, the City may withdraw the retirement incentive on or before, it actually states July 31<sup>st</sup>, although he knows staff wants it to come June 30<sup>th</sup>. It says any letters of retirement would be null and void if that action were taken by the City.

**COUNCILMEMBER FELLER** understands that, but you are having employees show up on June 30<sup>th</sup> thinking they are going to be retiring. He would guess it's going to be a lot more than the \$1,700,000 he previously stated.

When he heard this in closed session he was asking himself why we are doing this. This is like a golden handshake in the private sector. We're not allowed to give golden handshakes in the public sector; it's public money. He cannot support this.

**COUNCILMEMBER KERN** questioned if this comes back under AB 1123.

**CITY ATTORNEY MULLEN** advised that Council should treat it as such. He doesn't think it was intended to be by the clear language of the Government Code because this is a known number. It's not like retiree health care where that could exponentially increase over years. This is a fixed number that you would know if this goes forward.

**COUNCILMEMBER KERN** stated that's another reason to vote against it.

**COUNCILMEMBER SANCHEZ** thinks this is good for the City because it would save the City, and we wouldn't do it unless we would save taxpayer money. She hears Councilmember Feller's concern about if we have to backfill some positions so we wouldn't get any savings and we'll be in a worse situation. Could we direct staff to not include those positions that are necessary to continue to provide services; i.e. that would not then call for backfilling?

**DIRECTOR KAMMERER** responded that is part of the screening process. Once we get the list of employees who desire to participate in the program, we are going to have to sit down with the department director and the City Manager to see if we can afford to let certain people take advantage of the program. That is already built into the

process. That is why we would like the opportunity to explore this program.

**COUNCILMEMBER SANCHEZ** thinks it is fair to proceed to find out real facts, not suppositions.

**MAYOR WOOD** understands what we are trying to do. This is a financial situation that's been brought upon us by the State and the economy. We are trying to look at ways to not cut services to the citizens. The alternative to this item is that those people stay, and because of the economy we lay off people at the bottom, the people who actually receive the least amount of pay and larger numbers. A prime example would be that someone at the top leaving almost makes up for 2 positions at the bottom. If we don't go forward with something like this, then we are looking at laying off larger numbers of employees at the bottom that provide the most services. If that money isn't saved there, then we'll be cutting into things like KOCT, Chamber of Commerce, MainStreet and all of the other nice-to-haves but not need-to-haves.

**Motion failed 2-2;** Councilmembers Kern and Feller – no.

**MAYOR AND/OR COUNCILMEMBER ITEMS**

17. **Request by Councilmember Kern that all unrepresented employees (inclusive of, but not limited to executives, managers and supervisors) pay 100 percent of their employee share of PERS retirement benefits, similar to Council Members and their Aides, for discussion and Council Action**

**COUNCILMEMBER KERN** brought this forward because he's been hearing a lot from the public about the pensions. The biggest elephant in the room that we haven't talked about is our pension costs and lowering the cost of government. His goal is to have every City employee pay their full share of their pension costs. For the City, that's \$4,000,000. The alternative is that we lay off more employees. Either we can get the employees to participate by paying their pension costs or we can keep eliminating employees to reach our goal.

This is an opportunity because the unrepresented are the only ones we can deal with now. As others contracts come up, we need to have them pay their full share of their pension costs. Some people's cost is 4% but there is a 3% raise due July 1<sup>st</sup> so they are actually dealing with a 1% reduction. It's not going to be that difficult for people to do. It's like holding everything steady, but we get to save that money for the taxpayers. He is urging his Councilmembers to not only do this but come up with a policy that every City employee will pay their full share of their pension costs.

Public input

**CHRIS CATE**, 7593 Coloma Circle, Carlsbad, San Diego County Taxpayers Association, is here to voice our support for Councilmember Kern's proposal to begin having all unrepresented employees contribute their required share to their pensions.

Last fall our association prepared an analysis of the region's pension costs and shared our pension reform recommendations with each city, including Oceanside. Our top priority recommendation was to eliminate the employer pick-up on behalf of employees, or in other words, to require employees to contribute their fair share towards their pension costs. The proposal before Council today would implement that recommendation. While this action would help the effort to close a gaping budget deficit, this same proposal must be applied to all employees.

Our recent analysis of the City's expenditures shows that in 2009 the City could have saved over \$6,000,000 had all employees been required to contribute their fair share towards their pension costs. Our report also recommended adoption of reduced retirement benefits for new employees. We hope that additional reforms to employee retirement plans include a new tier with reduced benefits and use the highest 3-year

salary when calculating the final benefit. We appreciate the progress the City would be making if the proposed changes are adopted by the Council today. We encourage Council to pursue elimination of the pick-up and establishment of the new tier with reduced benefits for your other bargaining units in the City as well. This is critical to addressing one of your fastest growing expenditures - pension costs.

**MICHAEL BAGBY**, 5539 Papagallo Drive, has been in the community for a little over 2½ years and has been self-employed as a lawyer. His firm represented exclusively employers. To be quite frank, if he compares the benefit package that he could offer to his attorney's during the period of the last 30 years, it wouldn't even come close to the deferred compensation package that the employees of this City have. It is a wonderful benefit, but it is not sustainable. The costs are astronomical.

He would urge Council to seriously look at this obligation. It can't go on. Even with this position taken, the City is going to have a struggle dealing with the ongoing PERS costs, especially with the deficit.

**JUDY BARZ**, Management Analyst, read a statement from the Unrepresented employees of the City, voicing their opposition to this item based on the lack of parity among the employee groups.

Public input concluded

**COUNCILMEMBER KERN** stated this is a start. His goal is to have everybody pay their fair share of their retirement. He thinks they are having a discrepancy as to what fair share is. Right now on retirement, the City pays 12% and the employee share is 8%. We're paying 16%, and the employee is paying 4%. He thinks everybody paying their share of their own retirement is fair to the taxpayers and the employees. Your retirement amount stays the same. Right now we have one more year on one of our labor contracts, and hopefully by this time next year we will be talking about the same thing with the other employee groups. We have to start somewhere. It is fair to pay your share of your retirement. Council and their Aides do it. We could go back to the social security system, which would save the City a lot of money because the City would pay 6.2% and the employees would pay the 6.2%. PERS is a good deal, and some people retire at 90% of their pay. It is not fair to the taxpayers for us to be paying their share.

He got a CalPERS letter today that said employees are living longer, earning more pay and retiring earlier. They are drawing on that system for a longer period of time. Actuarially most people are going to live to 82 or 83. It might surprise some to find out that the life expectancy of police and firefighters is slightly longer than the miscellaneous workers. We are in a real bind, and if this Council can't get in front of this and actually take the leadership role in getting control of these pensions, we're going to be broke.

If you look at our 5-year forecast, our pension costs go from \$5,000,000 in 2002 to \$20,000,000 today and \$30,000,000 per year in three years. That means services have to be cut just to stay even. This is not a political issue; this is economics. It's great when times are good. He voted for the 2.7% enhanced retirement 3 years ago. He doesn't regret voting for it because it was a great deal, and at the time we could afford it. But we can't afford to do this anymore. Money is a problem. We have \$830,000 left in our unallocated reserves.

He **moved** that all unrepresented employees, inclusive of but not limited to the executive managers and supervisors, pay 100% of their employee share of PERS retirement benefits.

**COUNCILMEMBER FELLER** seconded the motion for discussion.

**MAYOR WOOD** is concerned about the financial situation of the City just like

everybody else, and he doesn't know how to fix it. It was passed on by the State and other people. When he sits behind this dais and tries to address the needs of the City and the quality of life issues that are important to all, Council has to make decisions that are good and bad.

He's been an employee for the City for almost 40 years as a Councilmember, Mayor and City employee. The last thing he wants to do is lay off anyone. City employees provide services, and that's the number one thing that citizens request. Finances are a part of that, and he is concerned too. On the other hand, you can't turn down the item before this and then say you want to look out for the taxpayers on this item.

The \$8,000,000 deficit that we are looking at could have probably easily been covered by our Waste Management contract that 2 Councilmembers decided to give a 7-year extension with no financial benefits to the City. When he complained and said he would go to the Grand Jury and the Attorney General's office because of their motion, they backed off. Waste Management came back and said they would give us \$1,000,000 per year for those 6 to 7 years. That's \$7,000,000 minimum. We had money there. We since have talked to people about that particular Waste Management contract.

Councilmember Sanchez made a motion that we continue to deal with them regarding that contract because places like Chula Vista, El Cajon and Carlsbad get like 14% and up to \$3,000,000 and \$4,000,000 for their franchise fees from Waste Management per year. So \$1,000,000 a year is nice, but it's not appropriate. We need to negotiate. When we made a negotiation motion, it was turned down by these 2 Councilmembers not to negotiate with them. There is our deficit right there.

He is concerned about this motion because the pension system needs to be addressed. However, it needs to be done by the State. You can't have cities individually do it because if we do it, but Orange County and Riverside County don't do it, they will steal Oceanside's employees. He was also upset because it's bargaining in good faith. It's not supposed to be done here at the dais; it's supposed to be done by the City Manager, our representatives, the attorneys and Human Resources (HR) people. It's not supposed to start at Council and go down. The City Manager makes recommendations that we support or not. That's how it's always been done. Every other city does it that way too. This deserves to be addressed at the workshop coming up and on a meet and confer basis with our City employees by HR. That is the appropriate way to do it.

We had an employee that stood up here for the Unrepresented. These are the people that are not in any employee or union group. There are 100 or so people in this group, and they decided not to be part of unions, but they are going to be the ones with the biggest hit. We're going to have disparity with employees throughout the City. It causes internal problems and morale issues that he doesn't want. We have enough problems in this City with finances without trying to address morale problems and disparity in employee benefits. It should be a recommendation by the City Manager. Tonight is a change in pace by saying 100% of these people will do it, but none of the other bargaining units have to. It doesn't make sense because it's the wrong thing to do. It should be done in a normal fashion throughout the City with meet and confer and good faith.

Again, we had things that probably would have paid for the losses in the City, but three Councilmembers refused to go for that. When we take on these employees and beat them up, it concerns him. The employees being addressed tonight are the unrepresented employees and have the least ability to represent themselves, and they are the easiest group to beat up on. He apologizes for that. He is concerned about the City, its budget and the State. However, you can't do it unless it is comparable to every other city. He is concerned about this item and won't support it. It doesn't mean it doesn't need to be done, but not tonight.

**COUNCILMEMBER SANCHEZ** stated this is not appropriate before us tonight. Procedurally what we have done in the past is we negotiate with the employees that do have associations, and then last are the Unrepresented. What we have done in the past is treat them equally. She's as angry as anybody else about what is happening to our State and our Country. But by picking on the Unrepresented and trying to make them an example is political.

The City Manager is the one who is responsible for bringing this to Council; the City Manager is in charge of the daily operations. She has heard countless times over the years that Councilmembers should not and cannot get involved in negotiations. We have not done that, and now some Councilmembers are insisting that we not have the City Manager involved.

The Mayor is correct in terms of the franchise fees we probably have lost because of the kind of contract that we signed. It's about \$15,000,000 already. We have changed a lot of things over the last 10 years. There have been several instances where City staff has gone above and beyond, and they don't get paid for that. This needs to be done by staff through negotiations that are coming before us for the first time next Wednesday.

There are a lot of things that we can do. When each department is asked to cut so much money or a percentage, they go in and look at those. PERS is not the only item on the budget. She is voting against this.

**COUNCILMEMBER KERN** stated going from \$20,000,000 to \$30,000,000 is a fact. Our pension costs are out of control. This is a start. He is not picking on these employees; he is asking them to pay their share of their own retirement. We'll still pay the 12%, and hopefully we can get everybody to pay their fair share.

Council sits as a policy board. We need to set a policy and direction. We need to give direction to staff, instead of staff trying to give direction to us. We were elected to set a course for the City. He can't solve the State's pension crisis, but he can do a little bit to help solve Oceanside's pension problems. It needs to be addressed. If not now, then when? Are we going to take it up at the workshop next week and come back with the same conclusion?

At our current burn rate through our reserves, by this time next year we will be broke. We are out of money. This is not something he brought forward to pick on employees or a particular group. We need to start the conversation today on how we get out ahead of this budget problem and our pension costs. He would hope all the employees will come forward and help the City get out of this budget crunch. He is not asking for anything that he hasn't done himself. He pays his full share of his pension costs and required their Aides to pay their share since last October. He is trying to come up with solutions; Council needs to lead, set the course and bring the City back to financial stability. The worst thing we can do is nothing. Revenues are flat, and our costs are going up. If the employees don't want to participate, the only alternative is to lay off more employees. By paying your share of your pension costs, the job you save may be your own.

**COUNCILMEMBER FELLER** stated that procedurally this just means a delay. The crisis is at hand, and he agrees this is a payment that our employees should be making to their own retirement. It should start with the directors. He made a motion in October for Council to pay their own benefit costs and for their Aides to do the same. It has cost him, just as it will everybody else. He is supportive of the goal to get to employees paying 100% of their portion of their retirement. We have reasonably well paid employees and stability in government. We must make a correction of a mistake that we made in late 2000 when everything was rosy; it was too good to be true. The State came up with new pension ideas, it was a great windfall. Now we are suffering; it's unsustainable. We were talking about saving \$2,000,000 to \$3,000,000, but it [Supplemental plan – Item 16] really amounted to \$500,000 a year that we're going to

save out of retiring some 40 employees. That to him is not the fix we are looking for.

This action is not an equitable way to start this process. This City is going to require every employee to pay their portion of their retirement; that's what it should be. Every employee should be doing it, not just these few.

What is fair for one should be fair for all. He struggled with whether he was going to support this motion. He is in favor of all employees paying their full portion of their own retirement. It's not a pay cut. This is going to cost jobs next week because we have an \$8,000,000 to \$9,000,000 gap that is facing us by the end of this fiscal year. If we don't come up with that we will be broke. We have to figure out what services we're going to cut. He's not going to support this motion. The election will tell you who is going to make this City function going forward.

We threw away \$1,000,000 from Waste Management. He was not being threatened by an investigation by the Attorney General or anyone else. Hopefully we can get some of that back in the future with Waste Management. We threw away \$1,000,000 on a temporary asphalt plant in the middle of the rock crushing operation at El Corazon. That was \$1,000,000 a year for 5 years for a temporary plant. We're throwing a lot of money away by not allowing business to thrive in the community.

**COUNCILMEMBER SANCHEZ** stated Oceanside was one of the last cities in the region to vote for these pensions. We had many problems retaining good employees; that meant that we were losing money all the time by training and losing people.

We do have to do something; it is very serious. We're talking about people and services that people have learned to rely on, especially the ability to call in an emergency. We have things to do as a City, but this is a statewide issue. There are decisions that we have to make as a City that are very difficult. Waving the red flag and saying this is all about PERS and the unions is not true. In fact, we pick on the Unrepresented, who have never been treated this way. They had no notice and nobody talked to them.

**Motion failed 1-3;** Mayor Wood and Councilmembers Sanchez and Feller – no.

[Recess was held from 5:30 to 5:45 PM.]

**5:30 PM - INVOCATION** – Pastor Carl Souza

**PLEDGE OF ALLEGIANCE** – McAuliffe Elementary K-Kids Club

**PROCLAMATIONS AND PRESENTATIONS**

Presentation – Mayor's Youth Sports Recognition and Appreciation Award—Vista  
American Little League  
Presentation – Employee Service Awards

<u>20 year award</u>	<u>Department</u>	<u>Hire date</u>
Michelle Skaggs-Lawrence	City Manager	01/08/90
Brett D. Lucore	Water Utilities	01/08/90
Daniel S. Cavatino	Water Utilities	01/21/90
Kelly Kaumeyer	Police	02/11/90
David Dubski	Public Works	02/19/90
Valencia Warner-Sadaat	Police	02/25/90
Joseph A. McNally	Fire	03/04/90
Charles W. Maeva	Water Utilities	03/04/90
Michael G. Margot	Fire	03/12/90
Thomas L. Schraeder	Fire	03/12/90
Scott T. Thomas	Fire	03/12/90

Jeffrey C. Driessen	Fire	03/12/90
Terry Collis	Fire	03/12/90
June Boyd	Public Works	03/14/90
Severo R. Martinez, Jr.	Public Works	03/18/90

<u>25 year award</u>	<u>Department</u>	<u>Hire date</u>
Mary V. Benson	Harbor & Beaches	02/25/85
Lynnet A. McMahon	Police	03/31/85

<u>30 year award</u>	<u>Department</u>	<u>Hire date</u>
Larry S. Boston	Public Works	02/11/80
James F. Quan	Harbor & Beaches	02/25/80
Joe D. Betancourt	Harbor & Beaches	03/17/80

<u>35 year award</u>	<u>Department</u>	<u>Hire date</u>
David J. Frantz	Water Utilities	01/26/75
Linnea C. Wells	Library	02/09/75

<u>40 year award</u>	<u>Department</u>	<u>Hire date</u>
Hugh W. Flemming	Fire	03/01/70

Presentations were made.

**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.

**24. City Council: Consideration of a petition to operate taxicabs in the City of Oceanside submitted by SCT Marketing and Finance, Inc., of Carlsbad, DBA Craig's Cab**

- A) Mayor opens public hearing – hearing was opened.
- B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Mayor and Councilmembers reported contact with staff; Councilmember Kern had no contact.
- C) City Clerk presents correspondence and/or petitions – none.
- D) Testimony, beginning with:

**SHERI BROWN**, Revenue Manager, stated the petition is requesting a maximum of 20 cabs over a 5-year period, with one cab operational upon approval, a second cab operational by December of 2010 and all 20 cabs operational by the end of the 5-year period. The proposed hours of operation are 24 hours a day, 7 days a week, with the owner providing the full range of services initially from administration to dispatch to driving. The proposed vehicle colors are silver with black lettering.

In analyzing the request, staff reviewed the current situation in Oceanside; we have 2 authorized operators: Yellow Cab and 24/7 Taxi Cab. Neither of these operators has pulled all of their permits, so they do have the potential to respond to any increase in service demand. Both companies report on the service standards required in their Franchise Agreement. They reported one complaint in the last 12-month period, and 96% of the requests for service were answered within 20 minutes. Almost 99% were answered within the 35 minute requirement. This indicates that these current providers are meeting the service demands for Oceanside.

The rates of fares that are being proposed by the new operator are higher than our existing operators by about \$1 a mile. There is no financial benefit to the customers, the citizens or the businesses that would support this petition. The unaudited financial statements that were provided by the petitioner lacked some key expenditures that would be typical of the business, including repair, maintenance and gas. If you took what they said was the equity in the company and added in the expenses, it seems that

it would not be a fiscally viable company or fiscally sustainable over the long-term.

One of the major concerns is that there is currently only one driver that would be operating 24 hours, so there is a clear public safety hazard there. If they are taking calls for service during the time that the driver is supposed to be resting, there would be a lack of sleep and he wouldn't be well rested to operate the vehicle. With only one vehicle, if that vehicle were in need of repair or maintenance, it would not be able to respond to the service call. Further, the Police Chief is of the opinion that the petitioner has not demonstrated public convenience and necessity as required by the Municipal Code, and the opinion is based on several of the items previously discussed. Staff is recommending that Council deny the petition.

With no one wishing to speak, Mayor Wood closed the public hearing.

**COUNCILMEMBER SANCHEZ moved** to deny the petition.

**MAYOR WOOD seconded** the motion.

**COUNCILMEMBER FELLER** thinks this sounds more like someone who is interested in a limousine service as a one-man operation. This is not the place to start with one cab, 24 hours a day, with one driver.

**Motion was approved 4-0.**

25. **City Council: Adoption of a resolution to increase the hourly parking meter rate from the current fifty cents per hour to one dollar per hour in the Downtown, Beach, and Harbor Areas**

- A) Mayor opens public hearing – Hearing was opened.
- B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Mayor and Councilmembers reported staff and public.
- C) City Clerk presents correspondence and/or petitions – none.
- D) Testimony, beginning with:

**KIEL KOGER**, Public Works Maintenance Manager, reviewed that in 1979 the Council adopted an ordinance to regulate parking. This ordinance established metered parking areas and set the metered rate at 25¢ per hour. Revenue derived from parking was designed to cover the costs of installation and maintenance of parking control measures, as well as the cost of enforcing and policing the measures.

In 1991 the Council raised the metered rate from 25¢ per hour to 50¢ per hour due to rising maintenance costs, which substantially exceeded revenue. This again is the case, while the hourly rate has remained at 50¢ per hour for the last 19 years. If you assume an annual inflation rate of 3.5% over 19 years, 50¢ in 1991 is roughly equal to \$1 in today's value. Since the last increase, the City's costs to install, replace, maintain, enforce and collect from the meters have continued to rise. In addition, the City's parking meter rates are well below parking rates for other beach cities within San Diego and Orange Counties, which range presently from \$1 to \$2 per hour. By increasing meter rates from 50¢ to \$1 per hour, we anticipate generating an additional \$60,000 to \$100,000 in meter revenue. Staff recommends that Council adopt a resolution to increase the hourly parking meter rate from 50¢ per hour to \$1 per hour citywide.

Public input

**JIMMY KNOTT**, 127 Sherri Lane, opposes this increase as he feels it will do our businesses harm in this tight economy, and would be prejudicial to low-income, seniors and the disabled. He used computer graphics to show studies that reported a slump in businesses related to meter increases in other areas. He also had computer graphics demonstrating the prejudice against the low-income individuals. Reports show a net negative impact on businesses. This is not the time.

**PAMELA MYERS**, 910 North Pacific Street, personally believes that the parking in the beach area is pretty cheap, and she would support meeting halfway and raising it to 75¢ per hour. They could then see how it impacts businesses. She thinks \$1 is pretty high.

She asked why the parking lots on Breakwater Way are not metered. She has a real problem with the people who vacation at North Coast Village being able to park in that parking lot for free. This has been going on for years. Why do these people get to park free because they are staying at North Coast Village? Everyone should pay their way. Her complex is next to that parking lot, but they can't park there for free. If you're going to increase the metered parking, you should increase the parking lots too.

Public input concluded

Mayor Wood closed the public hearing.

**MAYOR WOOD** asked the City Manager if there are plans to install machines that take dollar bills.

**CITY MANAGER WEISS** responded that they are looking into not just with meters but potentially replacing them with the pay machines that would also take credit cards. One of the complaints we have received is that currently the meters only take coins. Some of the pay machines we have in the Harbor do take credit cards so we are looking at those and the rates for the actual pay lots. We will need to look into the North Coast Village issue. He is aware that they were allowed to have short-term parking in that lot while they unloaded, but they weren't supposed to park there permanently. He will look into that.

**MAYOR WOOD** was concerned that most people don't have a place to get change for a dollar bill.

He did check out the surrounding cities north and south, and \$1 seems reasonable if not cheap any more.

**COUNCILMEMBER SANCHEZ** stated we haven't changed our rates in almost 20 years, and everywhere else it is at least \$1 and more. The whole idea was to try to pay for the maintenance in terms of making sure it is a clean area. We are not meeting that obligation at this point. The last time it was adjusted was 1991 to try to make sure that the revenues matched the expenditures.

She **moved** for adoption [of **Resolution No. 10-R0305-1**, "...establishing fees for all parking lots and meters and enforcement hours for parking meters," increasing from the current 50¢ per hour to \$1 per hour in the Downtown, Beach, and Harbor Areas].

**MAYOR WOOD** seconded the motion.

**Motion was approved 3-1**; Councilmember Feller – no.

[Councilmember Kern left the dais at 6:45 PM]

26. **Consideration to extend an Interim Ordinance of the City Council of the City of Oceanside pursuant to Government Code Section 65858(A) extending the existing moratorium on the legal establishment of medical marijuana dispensaries for one year beyond the current May 12, 2010, expiration date – Moratorium on Medical Marijuana Dispensaries Ordinance – Applicant: City of Oceanside**
  - A) Mayor opens public hearing – Hearing was opened.
  - B) Mayor requests disclosure of Councilmember and constituent contacts and

- correspondence – All reported contact with staff.
- C) City Clerk presents correspondence and/or petitions – none.
  - D) Testimony, beginning with:

**JERRY HITTLEMAN**, City Planner, stated the current moratorium expires on May 12, 2010, and staff is asking for an extension for one year. The proposed extension will allow us to look into this issue a little bit more and come back to the Council before it expires next year with a report on what the benefits to the City may or may not be for having an ordinance that would regulate medical marijuana dispensaries. We are also waiting for the decision on a court case from the 4<sup>th</sup> District Court of Appeals, Qualified Medical Patients vs. City of Anaheim where Anaheim banned these types of dispensaries. Staff recommends approval of the one-year extension and that would be until May 12, 2011.

Public input

**JIMMY KNOTT**, 127 Sherri Lane, believes that according to State law this is a State business responsibility. It is to be regulated and the standards are to be set by the State. This should be separated and put under State jurisdiction and not ours.

**TIM SMAIL**, P.O. Box 601, Alameda, 94501, was a resident of Oceanside from 1999 to 2000. He is a businessman with 30 years experience. He is also a patient for medical cannabis to control his migraines. Because of that he has had to work the black market and visit areas that are not too friendly to obtain his cannabis. He wants to move back to Oceanside. He resigned his job as General Manager of a model of medical cannabis company in Oakland because he wants to move back to Oceanside and provide fair and safe patient access to medicine. He wants Oceanside to feel safe about this decision and there is a wealth of information he can bring and is offering his services free to the City in any manner that you can take advantage of. He wants children to see this the way they see alcohol and cigarettes on our streets. There is a way to explore models of distribution that will be safe for the City and for patients.

Public input concluded

Mayor Wood closed the public hearing.

**COUNCILMEMBER SANCHEZ** noted that staff has requested additional time, so she **moved** to introduce [and adopt urgency **Ordinance No 10-OR0306-1**, "... to extend an Interim Urgency Ordinance of the City Council of the City of Oceanside extending by 12 months a moratorium on the operation of medical marijuana dispensaries within the City of Oceanside pursuant to Government Code Section 65858," for one year beyond the current May 12, 2010, expiration date].

**COUNCILMEMBER KERN** **seconded** the motion.

**COUNCILMEMBER FELLER** asked if there is any place to get this for patients that are prescribed this by doctors.

**CITY ATTORNEY MULLEN** replied doctors can't prescribe medical marijuana under the Federal Controlled Substances Act. What Proposition 215 and State law SB 420 discuss are recommendations from doctors. They are not able, as he understands it, to give prescriptions. We are still learning a lot more about this. There are no less than 10-15 advertisements in the *Reader* magazine as to where to obtain it. He knows that there are establishments that do provide delivery services for them. This ordinance is really directed at the dispensaries popping up throughout the County.

**COUNCILMEMBER FELLER** asked how they can be a dispensary if they're not getting a prescription.

**CITY ATTORNEY MULLEN** replied the qualified patient needs a

recommendation, either written or verbal, from a medical provider.

**COUNCILMEMBER SANCHEZ** asked if that was the purview of the County.

**CITY ATTORNEY MULLEN** replied the County issues the cards. Our County fought that, but they were unsuccessful in that. Those cards are not mandatory; they are recommended so that patients can provide an ID to law enforcement.

Following the reading of the title, the **motion was approved 4-0**.

27. **City Council: Consideration of a resolution to add to the Fire Department Fee Schedule an annual inspection fee for certain occupancies including hotels, motels, apartments, vacation timeshares, and condominiums of three units or more (3-10 units \$119; 11-30 units \$179; 31-50 units \$238; and \$15 for each additional 10 units), to address unfunded mandates for annual inspection**
- A) Mayor opens public hearing – Hearing was opened.
  - B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Mayor and Councilmembers reported staff contact.
  - C) City Clerk presents correspondence and/or petitions – none.
  - D) Testimony, beginning with:

**COUNCILMEMBER KERN** is the owner of the middle unit of a 3-unit condominium project in Oceana and asked if he can participate in this item.

**CITY ATTORNEY MULLEN** believed he could participate because this fee is generally applicable to all.

**MIKE MARGOT**, Fire Division Chief, stated this is a resolution to establish a fee structure for the Fire Department's annual inspections of certain occupancies. It is a shortened version of what we tried to present last year for a comprehensive fee structure for the Fire Department and were unsuccessful. We went back to the drawing board. We tried to match our non-development related activity to what mandates we have. This was the most significant that we have. We have Health & Safety Code mandates to inspect these occupancies on an annual basis. This is a very condensed version of a single fee for those certain occupancies.

The 1989 Vertex Study established fees for all activities, which were all development related. In 2007 Council adjusted the fees, which had not been adjusted since 1989, and raised fees in 3 phases at 25% a year, with the last phase taking place in January of 2010. What was never addressed at that time is our ability to perform cost recovery on annual inspections that are non-development related. We have a significant responsibility to the safety of the public to perform these annual inspections, not only of State mandated occupancies, but also of hazardous materials occupancies, Target, WalMart, Lowes, etc. We have conducted these inspections for the last couple of years without any cost recovery. There is a mechanism in place for cost recovery for those services. The schedule in the back-up provides that cost recovery. He listed the fees for hotels, motels, apartments, vacation timeshares, and condominiums of three units or more (3-10 units \$119; 11-30 units \$179; 31-50 units \$238; and a nominal fee of \$15 for each additional 10 units). Staff recommends that Council adopt the resolution.

With no one wishing to speak, Mayor Wood closed the public hearing.

**COUNCILMEMBER KERN** stated in Oceana there are a lot of 3-unit condominiums. They are all clumped together. Are there going to be inspection fees on those?

**CHIEF MARGOT** replied if it fits into the Health & Safety Code mandate, which is 3 units or more, yes it would.

**CITY ATTORNEY MULLEN** advised Councilmember Kern that he has not

conducted a detailed analysis because he wasn't aware that Councilmember Kern owned a condo, but if he feels more comfortable, in the absence of having a researched opinion, he can step down from the podium and recuse himself from the matter.

**COUNCILMEMBER KERN** felt it was prudent that he do that.

[Councilmember Kern left the meeting at 6:59 PM]

**COUNCILMEMBER SANCHEZ** stated this is like a pass-through. There is a requirement by the State, and it's an unfunded mandate for annual inspection. There is a fee.

She **moved** for adoption [of a resolution establishing a fee schedule for annual fire inspections for specified occupancies].

**MAYOR WOOD** **seconded** the motion.

**COUNCILMEMBER FELLER** asked who does the inspections.

**CHIEF MARGOT** replied the inspections are about 1,200 occupancies fitting that description, and we have 3 inspectors on our staff.

**COUNCILMEMBER FELLER** asked if they are on call for any other duties.

**CHIEF MARGOT** responded they also do arson investigation and public education, as well as many other duties.

**COUNCILMEMBER FELLER** would rather see this with all of the other budget items included in next week's budget presentation because it's going to be all comprehensive at that point. We have to figure out where \$9,000,000 is coming from. He doesn't know if this is going to offset what else the department comes forward with next week. He would rather not vote on this tonight.

**MAYOR WOOD** commented that the State mandates that the Fire Department does this, yet they don't give us the money. He thinks with the economy the way it is and public safety needs, we need to do this.

**CITY ATTORNEY MULLEN** noted that since this is a resolution, it requires 3 votes.

**Motion failed 2-1;** Councilmember Feller – no; Councilmember Kern – absent due to potential conflict of interest.

28. **City Council: Consideration of an ordinance authorizing the Fire Department to recover from insurance companies costs associated with motor vehicle accident (MVA) response and fire rescue services, limited to only the insurance carriers of involved parties living outside the City of Oceanside; approval of a two-year professional services agreement with Cost [Fire] Recovery USA, Inc., for billing and collection of costs related to MVAs and fire rescue services, with compensation to Cost Recovery USA in an amount not to exceed 20 percent of costs recovered**
- A) Mayor opens public hearing – Hearing was opened.
  - B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Mayor and Councilmembers reported staff and public, and Councilmember Feller had a conference with an insurance person.
  - C) City Clerk presents correspondence and/or petitions – none.
  - D) Testimony, beginning with:

**DARRYL HEBERT**, Acting Fire Chief, stated this is a program that is taking off statewide. He has talked to several other Fire Chiefs that are actually using Fire

Recovery, and they've been very happy with them. They come highly recommended by the IFC.

**MIKE RIVERA**, Chief Business Development Officer of Fire Recovery USA, stated we are seeing a decrease in taxes coming in and a consistent or increasing demand for emergency response calls. Your options in California are to either raise your community's taxes, lower service to your community, or bill the responsible party for some of the services your fire department is providing.

The tax idea in this economy is not a good idea. If you lower the services, you start to see longer response times and less personnel on scene, which is a dangerous situation. Billing the responsible party seems to be the most feasible course of action. It's basically holding those responsible for the costs to the City for their actions.

We are basically a billing service. We bill on the City's behalf for the mitigation services that your fire department provides during a motor vehicle accident (MVA), vehicle fire and those types of incidents. The items we can bill for in your area are: 1) fluid-based MVAs where there are fluids on the ground requiring the use of absorbents to clean up hazardous materials on the ground; 2) non-fluid based MVA's, but that's only when there is a real service provided, not fender benders; 3) vehicle fires; 4) water incidents; 5) Hazmat cleanups even if not involved with MVAs; 6) special rescues; 7) gas pipeline incidents; and 8) power line incidents.

What happens is the fire department responds as they normally would. They are already filling out an incident report on scene for your current RMS Software system. When they come back to the station, it will automatically upload to our system. The fire department will have the ability to verify each claim prior to us putting it into action. If it's a go, we bill it and collect the funds. On the first week of each month, we send the City a check for all money collected the prior month. We have 46 clients in California. We have 150+ clients nationwide.

This is not a tax or double taxation. Basically we are just recovering your actual costs to provide these services. It's fully legal and has been legal in California for over 20 years. Council will have to pass an ordinance, which is their authority to bill.

The federal government and the Federal Emergency Management Agency (FEMA) recommend that fire departments recover costs. We recommend billing only the at-fault driver, especially in California. We are only going after the insurance companies which cover this type of incident. We average about \$500 per accident recovered. These aren't new claims; the insurance companies are already getting claims for repairs, and this is a small additional part for that claim. We have worked out rates for what we recommend you charge based on your actual costs: apparatus costs, personnel costs, etc. This isn't a profit vehicle; it's simply cost recovery. This has never caused insurance policies to increase based on this program. Rates may go up because the person got into an accident but not because of this program.

We are the only fire billing service in the nation that's endorsed by the International Association of Fire Chiefs (IAFC). They've done a long-term investigation on this service and, after meeting with various companies in the nation, they said that our system is the most fair and works the best. We have all the laws available and can help the City with its ordinance; we have specific expertise. We specialize in insurance billing and work with insurance companies, rather than fight with them. We don't go after individuals. If the insurance policy doesn't cover it, we walk away. We are not a collection agency; there are never liens or threatening letters. It is simply a billing service that knows how to bill for this type of service. Our recovery rate is the highest in the Country with a 70% overall collection rate, and their collection rate for MVA's with fluids on the ground is over 90%. There is no cost to the City, and we would bill only non-residents.

**MAYOR WOOD** asked how they get paid.

**MR. RIVERA** replied we get a percentage of what we collect.

Public input

**WOODROW HIGDON**, 2544 Rudder Road, was surprised that this item was on the agenda, feeling that the City and Police Department have blocked criminal prosecutions of insurance companies by citizens. At the same time, they are now talking about collecting fees when we have an accident in the City. You need to protect your citizens from insurance fraud.

**JOHN McMAHAN**, 1687 Trotting Horse Road, has been in the insurance business for over 30 years and represents a major property casualty insurance company. The proposed fees are not covered under most insurance policies. In California the Department of Insurance defines what a chargeable accident is and when they surcharge it; there's a dollar penalty. When that surcharge exceeds \$750, it becomes a chargeable accident. A small accident could be triggered into a chargeable event with this type of a surcharge.

We pay taxes for these services, and he is not sure this is an appropriate approach to try to recover more money for these types of services. He would like to have known about this so he could have brought more expert testimony to better inform Council. He represents the largest insurance company in the Country, and it is not a covered event. Those claims are going to be denied.

Public input concluded

**MAYOR WOOD** closed the public hearing.

**MR. RIVERA** stated it is covered. We have a 70% collection rate overall and a 90% collection rate for MVA's; that's nationwide and in the State of California. The biggest payer is State Farm. It is legal, and we only bill on what is in the policy. If what he said is true, then we aren't going to get paid and there is nothing to worry about. We show the companies what is law and what is covered by the policy, and they pay accordingly. We are not charging anybody in Oceanside who pay taxes for these services. We are only going after the people who don't live here and pay taxes here.

**COUNCILMEMBER KERN** asked what happens to the uninsured motorist.

**MR. RIVERA** replied that if somebody is uninsured, they are already living outside of the law. They still have a responsibility to pay, but there's not much we will probably get out of that. Depending on how Council wants the system set up, we would typically write them a letter explaining that they are responsible; however, we are not a collection agency. If the person couldn't afford to pay the insurance premium, they probably aren't going to pay this bill.

**COUNCILMEMBER KERN** stated we spend a lot of money trying to get people to come here from other states; if a tourist has an accident and it's not their fault but the other driver is an uninsured motorist, what happens?

**MR. RIVERA** replied nothing. Only the at-fault drivers get billed.

**COUNCILMEMBER KERN** asked what about a tourist with a rental car.

**MR. RIVERA** replied if they have rental insurance, that would be the insurance that would pay, or their private insurance would pay. If they have coverage, then we try to file a claim. If they don't, then we can't.

**COUNCILMEMBER KERN** has some problems with this. He is looking at the

attorney's analysis, and questioned State Code that pertains to this.

**CITY ATTORNEY MULLEN** responded there are several State Codes. There is clearly statutory authorization to charge a responsible party if they're intoxicated. There is clearly authorization under the Health & Safety Code if there is negligent operation and a discharge of hazardous materials or fire. Where we have a little bit of caution is we haven't seen any published Court of Appeals decisions on ordinary traffic accidents where there is negligence but no discharge of hazardous materials and no fire. That doesn't mean you couldn't do it under general police powers. It does mean we haven't seen any published opinions on that.

**MR. RIVERA** stated for the past 20 years, the authority to bill is the City passing an ordinance. The non-hazmat and non-fluid MVA's have a very low collection rate, because it depends on their policies; some policies cover it and some don't. But if there are fluids or hazardous materials on the ground, then there are statutes for that. About half the MVAs have that.

In response to Councilmember Kern, **CHIEF HEBERT** stated we wouldn't send anyone a bill for just a simple fender bender. We run well over 950 accidents a year, and a majority of those occur on freeways that require multiple units to respond to them; we are using the Jaws of Life, laying down absorbent, sweeping up glass and using a lot of personnel hours. Those are the types of accidents that we would bill on. We are not looking to create a negative image in our fire department to our visitors. We are just trying to recoup some of the costs from non-residents.

**COUNCILMEMBER KERN** asked what happens if they are in an accident in front of Camp Pendleton.

**CHIEF HEBERT** responded it would only be within the jurisdiction of Oceanside that we would bill the non-resident, at-fault drivers. The analysis we ran showed that out of those 950 accidents, the majority of them do occur on Interstate 5, Highway 76 and Highway 78, where this would apply.

**COUNCILMEMBER KERN** stated it is the luck of the draw then where you get in an accident and pay.

**CHIEF HEBERT** responded that Carlsbad and Encinitas are looking at doing this as well. North County has been doing this for a year. We have waited and watched them, and they've recovered quite a bit of money. They don't have near the number of accidents that Oceanside has. They are doing all residents and non-residents of North County. We didn't want to do that to our citizens.

**MAYOR WOOD** stated this is standard procedure for the police department to collect money for drunk drivers, etc., so this is just moving to the fire department.

**COUNCILMEMBER SANCHEZ** sees this in arraignment court every day. If there is any kind of response or damage to City property, the Judge would order full restitution as a condition of probation. It's not a new concept. She has thought about this, and it makes sense that we would want to recover some of these costs that are being incurred by other than taxpayers in our City.

She **moved** for approval [to introduce an ordinance, "...establishing a program for recovery of fees for emergency services," authorizing the Fire Department to recover from insurance companies costs associated with motor vehicle accident (MVA) response and fire rescue services, limited to only the insurance carriers of involved parties living outside the City of Oceanside; approval of a two-year professional services agreement **[Document No. 10-D0306A-1]** with Cost [Fire] Recovery USA, Inc., for billing and collection of costs related to MVAs and fire rescue services, with compensation to Cost Recovery USA in an amount not to exceed 20% of costs recovered].

**MAYOR WOOD** seconded the motion. This is a way for Oceanside to recover some costs. This is for people who are at fault and have insurance. He would support this. We don't collect from out citizens.

**COUNCILMEMBER FELLER** asked if this is a contract that had to go out to bid.

**CITY ATTORNEY MULLEN** believes this is a professional services agreement, and so Council has the authority to approve it directly through the Council. Typically under Chapter 28 you would go through a Request for Proposal (RFP) process, but the Council has the authority to waive that and just contract directly with the provider.

**COUNCILMEMBER FELLER** asked if there are other providers.

**CHIEF HEBERT** responded yes. We talked to 3 other providers. The reason we are supportive of Fire Recovery is because of the backing of the IAFC, and they've been proven by their collection rates. We called several different fire departments who had used other providers, and they weren't as favored as this group was.

**CITY ATTORNEY MULLEN** clarified that this is not the expenditure of funds per se with this consultant. It doesn't really fit neatly into our administrative directive on purchasing. If it's above a certain amount than you do an RFP, but they get paid out of the proceeds that they collect.

**COUNCILMEMBER FELLER** stated that could be a significant amount of money for the company. How long have you been doing this?

**MR. RIVERA** responded 4 years, but we come from a background of insurance billing and moved into fire service 4 years ago.

**COUNCILMEMBER FELLER** stated it says in the last line of the analysis that to date no California court has opined on the validity of any emergency services cost recovery measure. Is that a problem?

**CITY ATTORNEY MULLEN** replied it is just an issue we wanted to point out; there are several statutes that would authorize a fee for emergency service response costs. But again, as to an accident where there is no fire or spilling of hazmat materials, there is a potential issue there. He thinks we would have the authority under our general police power, but that's not necessarily been tested in the courts.

**COUNCILMEMBER FELLER** stated under 'background' is says negligence (non-resident), so why not residents.

**MR. RIVERA** responded that some of the concern when he talked to some Councilmembers was the issue of double taxation. He knows that a lot of the residents are hurting, and they are already paying for the fire department to respond. We didn't want to impact them. There is significantly more money when you add the residents; it doubles what we could potentially collect based on the 2009 numbers.

**COUNCILMEMBER FELLER** was one of those that thought it would appear to be double taxation. He requested a break for further consideration.

[Recess was called from 7:30 PM to 7:38 PM]

**COUNCILMEMBER FELLER** is not going to support this until after the workshop if it's going to be part of that. He's not comfortable with it.

After the titling of the ordinance; **motion was approved 3-1**; Councilmember Feller – no.

Mayor Wood determined to hear Item 13 at this time.

**GENERAL ITEMS – Continued**

13. **City Council: Approval of a budget appropriation in the amount of \$75,000 from unallocated TransNet funds to the Jeffries Road Access Study account, to study the feasibility of establishing alternate public road access from the Jeffries Ranch neighborhood to State Route 76**

**MAYOR WOOD** stated there has been some inaccurate information over a period of time regarding Jeffries Ranch and Highway 76. This particular agenda item really is only about the \$75,000 unallocated TransNet funds, not about Caltrans or anything else. He got some up-to-date information that he will let the City Manager explain.

**CITY MANAGER WEISS** stated we received notification, although not in writing at this time, that Caltrans has revisited the design criteria for once Highway 76 is finished regarding a right-in/right-out at Jeffries Ranch Road. They have indicated to us that they will not permit that at this point, and that the long-term design will not include a future right-in/right-out at Jeffries Ranch Road.

**MAYOR WOOD** has personally talked to Caltrans, as have other Councilmembers. He talked to them at a workshop recently out at one of the Tribal Council meetings. He was surprised about some of the aspects. He didn't know there was going to be a traffic signal at the packing shed and had not known that Caltrans had pulled the right-in/right-out at Jeffries Ranch Road. A lot of things have changed over the years. But this agenda item is really just about the \$75,000 study.

**DAVID DiPIERRO**, City Traffic Engineer, stated this item is to request a budget appropriation of \$75,000 to study the feasibility of an alternative access road within the Jeffries Ranch neighborhood. In November of 2008, Caltrans completed the Environmental Impact Report (EIR) for the expansion of Highway 76, which showed Jeffries Ranch Road no longer being connected to their facility. In January of 2010, Caltrans began construction of Highway 76, which is being built as a 4-lane conventional highway from Melrose Drive in Oceanside to South Mission Road in Bonsall, with construction expected to be completed in December of 2012.

On March 25, 2010, a community meeting was held for the Jeffries Ranch neighborhood to address citizens' concerns over the closure of Jeffries Ranch Road. Based on input the staff received from this meeting, it was requested that City staff study the feasibility of establishing a second public access road to Highway 76.

He used a computer graphic to show alternatives that have been suggested to look at if this item is approved. The first one is looking at a frontage road that would run parallel to Highway 76 from Jeffries Ranch Road to the proposed signal at the Singh property on the north side of the road. Another possible alternative is to look at extending Spur Avenue and Jeffries Ranch Road to the east and somehow have it connect into Highway 76. With this alternative, there would likely be shifting of travel patterns within the neighborhood, and some streets could experience more traffic than is currently being driven on these streets today. These are only suggestions, and we certainly plan to meet with the neighborhood to finalize any alternatives before they are analyzed.

The average daily traffic for Jeffries Ranch Road in proximity to Highway 76 is around 1,200 vehicles. As of now, Caltrans plans to close the access to Jeffries Ranch Road at Highway 76 on May 3<sup>rd</sup>. When the widening of Highway 76 is completed, Jeffries Ranch Road will be constructed as a cul-de-sac street with a gate system to allow for emergency access. By approving this item, Council will be directing staff to return with a recommendation to approve a professional services agreement and

funding for the study.

Public input

**THOMAS DEMPSEY**, 3641 Esplanade Street, felt this whole project is a miscommunication and not properly supervised. SANDAG promises money, but in North County we never see any. We need to change that.

**JOAN BRUBAKER**, 1606 Hackamore Road, is in favor of capturing the \$75,000; however, she was talking about extending Jeffries Ranch east and connecting with Secretariat, putting Secretariat back in the Circulation Plan. The idea of Jeffries Ranch Road to Secretariat is the best solution. We'd like to preserve the uniqueness of that area if at all possible.

**CHARLENE McMAHAN**, 1678 Trotting Horse Road, is not sure there is any fair resolution to this problem. We expend \$75,000 to do a feasibility study on an alternative access, but what is the likelihood that we will ever see the development of any alternative? If you are talking about developing a new access to Highway 76 further to the east of our community, is it even possible in terms of Caltrans. The likelihood of getting another stop light or intersection is probably very unlikely. Her primary concern is life safety issues for the residents of this area. One access in and out is not satisfactory.

**JOHN McMAHAN**, 1678 Trotting Horse Road, stated his main concern is the life and safety issue. Added egress points out onto Highway 76 are only going to congest Highway 76 quicker. To him the only logical remedy to this issue is the extension of Melrose. We need to be able to get out of there in a different direction, not pile more people out onto Highway 76.

**SHELBY JACOBS**, 1674 Del Mar Road, stated one way in and out is just not acceptable. He has always believed that additional access to Highway 76 really doesn't provide the residents with a back door out of their community.

**TIM JEFFRIES**, 1256 Sagewood Drive, stated his father developed the subdivision. He provided historical background.

Why has there not been any notice that Jeffries Ranch Road might be closed until recently? Until 2008 there hasn't been any notice about it, and in fact the maps showed that Jeffries Ranch Road did connect to Highway 76 or was at least somewhat vague about it. He would like to see proof that it showed it as closed.

**JIM HOFFMAN**, 5805 Ranchview Road, has the same concerns with the safety issue. He is in favor of this additional study to look at any other alternatives. As part of the alternatives community input to understand the options and be a part of this solution is needed.

**DANA CORSO**, 5838 Ranchview Road, stated the residents at Jeffries Ranch do not oppose the widening of Highway 76 but are very concerned about our safety and how our neighborhood is being impacted. She has close to 500 signatures on a petition to stop the closure. Clearly Caltrans has manipulated their numbers. She has recently requested a counter to be placed on Jeffries Ranch Road for an accurate up-to-date count for 2010. She is sure that the traffic volume has increased. She asked Council to help them by approving the \$75,000 fund to study the necessary alternative routes.

**MARGARET MALICK**, 1611 Hackamore Road, is in favor of giving staff the \$75,000 since it's TransNet money to look at possibly taking Jeffries Ranch out to the east, but not Spur. She asked who is paying for Highway 76, is it State money or Federal money?

**JENNIFER ROBERTSON**, 5838 Spur Avenue, will be greatly affected by the

decision that is made. What's wrong with having Jeffries Ranch Road a right turn in/right turn out? Her concern is traffic and her quality of living.

**JOHN HOLTMAN**, 5834 Ranchview Road, has been to several of the meetings, and Caltrans never said that they were going to close Jeffries Ranch Road. He approves the proposal of the \$75,000, but he is against the proposal of the service road. We need another access. It doesn't have to be on Highway 76; it just needs to be some way out of there.

**ALEXA HARMON**, 5818 Ranchview Road, is angry that they decided to close Jeffries Ranch Road. A stop light would manage traffic. She doesn't trust Caltrans. There is no way to find out any information on what's going on in our own neighborhood. She is opposed to having a frontage road. Defend your resident's right to live safely.

**WILL MATHWIG**, 1629 Wagon Wheel Drive, is one of the original owners. Jeffries Ranch Road has been his access for 32 years. If we spend \$75,000 to study this, the signalized access to Oceanside Produce could be moved down 100 feet to line up with Jeffries Ranch Road. Also, there had been a monument that said Jeffries Ranch and Caltrans said they were going to replace it but there will be no access to Jeffries Ranch. If we're going to spend \$75,000, we need to look at keeping Jeffries Ranch Road open and line it up to Oceanside Produce to make the road work.

**JEFF MASTERSON**, 1615 Hackamore Road, felt that residents should be allowed to get in. There is an exit that they had put in at the lower right hand corner at the top of Belmont Park. There is a gate at the top of that cul-de-sac that was put in for emergency purposes; it is a dirt easement. Perhaps we could pave that as a way out.

**DOREEN STADTLANDER**, 1544 Belmont Park Road, supports looking at other alternatives. We need to limit the scope. We couldn't even get a horse trail through there when we brought this to Council, and now we are talking about putting roads through there. She doesn't think that's feasible. She also understands that there is a right-of-way at Ranchview that's blocked right now. There is a road that is paved, but there is a block wall that was left for access. Maybe we need to look at that. We already have traffic problems in Spur Avenue with speeding. She would like the scope to be limited to something that is feasible.

**BOB NELSON**, 1459 Belmont Park Road, used a computer graphic to show areas where the frontage road could go. He is an architect. The access from Ranchview could be easily made. The City in the past has cut off access, but a few of those streets are still on GPS maps and that's why we have people drive through our neighborhood to get out. Those include Spur Avenue to Hutchinson and more recently Old Ranch connection through to Guajome Park Road. He is aware of the Belmont Park access, but you wouldn't be able to get a car through there. He showed where a major gas line runs through the area, and he believes that is why the access is at Belmont Park to at least allow the people on the other side of that gas line an access out if it ruptures. That will impact the access off of either Spur or Jeffries Ranch, along with the fact that there is a large rock mountain that would have to be blasted. He recommends that Council authorize the study to look at this second access out of the community.

**CHARLES CLANCY**, 1508 Belmont Park Road, approves of the study but feels we've studied this thing to death. He was told 22 years ago when he moved in that Jeffries Ranch Road was likely to close. Then when they developed the development that is going in front of his home, they told us they would put Spur Avenue through to Secretariat. They were supposed to put a light in at Secretariat, and that was going to be the second exit. Caltrans has done things behind their backs, and the City dropped the ball as well.

**JERRY MCLEOD**, 1517 Del Mar Road, suggested keeping Jeffries Ranch open past May 3<sup>rd</sup>. He knows we need another way in and out, but before we even talk about opening Melrose you've got to get East Vista Way taken care of first. If you open

Melrose without that being done, the traffic is going to come right down our neighborhood. You'll need lights at Old Ranch Road and Spur. Traffic will be backed up. We are trying to correct mistakes that were made before.

Public input concluded

**MAYOR WOOD** stated this has been a long drawn-out issue for many years. Council is supposed to improve the City, provide services to the residents and do quality of life issues. He is as frustrated as the residents are. Some of these decisions were made before some of us were even on the Council. He's been very disappointed with some of the options with Caltrans and other people. He truly believed that the extension of Highway 76 all the way out to I-15 would benefit Oceanside, and he never could understand why it was delayed for so long. Highway 56 and Highway 52 got finished before Highway 76. The excuse was always mitigation for land.

He must admit that just about every Councilmember had something to do with this. This entire area has been impacted heavily with Highway 76, dual magnet high schools, etc. The City fought the dual magnet schools in litigation, and we lost. For the longest time one of the ideas was to continue Melrose through because Vista wanted to put in several thousand condominiums and houses, which would impact Jeffries Ranch heavily. Vista couldn't put all of those units in because they wouldn't pass the EIR because of transportation and highways. The only way to do it is to push Melrose through, which means all the cut-through traffic from Temecula would cut through Melrose and go south to San Diego.

Councilmembers attended several meetings over Highway 76. He truly understood that the promise to Oceanside was that there would be a right-in/right-out at Jeffries Ranch Road. Then more recently when they started the newest construction he met with the new Regional Director for Caltrans, along with Councilmember Sanchez, the City Attorney and the City Manager and told him we had some issues. He wasn't aware that they were going to put a traffic light in at the Singh facility near Jeffries Ranch for trucks, and a minimal amount of trucks. He thought the traffic could use it better at Jeffries rather than the packing shed. They brought that up with the Caltrans Director. They also weren't aware of the reason Jeffries Ranch would not be a right-in/right-out. He sees Caltrans' point that it's going to be a faster highway, and making right turns in is dangerous. He suggested moving the traffic light to that location, but they weren't interested, although they hinted they would look into it.

He doesn't know who dropped the ball – Caltrans or the City. He was surprised about some of these changes. He thought Caltrans had promised to continue the closing until August but they didn't. He talked with one of the Directors at a workshop for Tribal Council, and he was under the impression they were going to talk to the residents, but they didn't. It's a State highway. He sits on the SANDAG Board and he talked to them but there doesn't seem to be any movement on it. We don't want Caltrans to stop working on Highway 76, delay the project and then potentially get sued by the contractors. We have to look at the litigation aspects too. We would probably lose because we've already signed off on some of these issues.

We also have other projects pending with Caltrans that are going to help our City, and we don't want to delay those either. There is more than one issue here. Council's job is to get the best they can for the citizens, and they are going to try. This is not over. He will be talking to the Director of Caltrans again about these items including moving the traffic light to Jeffries Ranch Road. He is going to bring that up at the SANDAG meeting. It seems like an easy thing to do compared to the alternative. There are trip lights, which stay green unless someone approaches at the side street to trip it.

We need a second outlet. To the east is all mitigated land for environmental issues. You'd be talking about the Feds here, and we're not going to win that battle. As to back roads, some of those are for SDG&E and others for access, and we may not

have the right to go on them. We all want to help, but we are frustrated as much as the residents are. He was hesitant about spending the \$75,000, but we need to do it. When and if they ever do the Melrose extension, it will have a heavier traffic impact on the residents, and he's not sure the money's there anyway. He asked last week at SANDAG if there were any plans for the Melrose extension and was told nothing is planned and there's no money.

**COUNCILMEMBER FELLER** asked when Secretariat was taken out of the Circulation Element.

**JOHN AMBERSON**, Transportation Planner, responded it was removed as part of the entitlement for the 44 single-family homes in 2006. The developer processed the General Plan Amendment to delete Secretariat as part of their project.

**COUNCILMEMBER FELLER** asked why they took that out of the project.

**MR. AMBERSON** responded there were a number of reasons. First and foremost was the environmental impact that such a road would have to the coastal sage scrub, habitats and wetlands and a substantial amount of rock that needed to be removed. It made it economically infeasible to develop that road. In addition, there was some concern expressed at that time about cut-through traffic. The developer was able to minimize his impact with the development footprint of the environment by reducing the number of dwelling units. He originally had approximately 200 dwelling units, which is down to 44 dwelling units. A combination of all of these factors led to that conclusion.

**COUNCILMEMBER FELLER** believes Highway 76 was started in the 1960s when it was to be an actual freeway. Then it became an expressway. It is being built by Federal money. He heard that we probably need some enforcement on Spur for speeding.

He **moved** approval of the budget appropriation in the amount of \$75,000 [from unallocated TransNet funds to the Jeffries Road Access Study account, to study the feasibility of establishing alternate public road access from the Jeffries Ranch neighborhood to State Route 76]. It is very important to look at every avenue.

If we're going to talk to Caltrans about the relocation of the light, we need to discuss that right away because it won't be long before that grading gets done, and then it won't be possible.

**COUNCILMEMBER SANCHEZ** seconded the motion.

**COUNCILMEMBER FELLER** stated Melrose is in the plans for extension. He knew about the gate at the end of Belmont Park. He didn't realize there was a drop-off, but it's for access in an emergency only. He is sure staff is going to look at all this, and he appreciates the effort to try to mitigate this problem.

**COUNCILMEMBER SANCHEZ** stated that for years the Jeffries Ranch neighborhood was promised a right-in/right-out. These past 10 years she's attended practically every meeting. The one she missed was the Planning Commission meeting, but she called afterward and understood that Jerry Hittleman had believed that Caltrans would accept this right-in/right-out. We did not hear anything at all after that. When she got the call about the taking out of a monument without any notice at all, she was surprised.

The non-responsiveness by Caltrans has to be the worst experience that she's had with an outside agency. This decision via phone call to the City that Caltrans has looked at it and decided they can't do the right-in/right-out doesn't look like they studied it at all. She hopes that the residents will meet with staff and come up with a consensus on what to do.

**COUNCILMEMBER KERN** wants to try and stay focused on the \$75,000 item. His take is that we are going to spend \$75,000, and there are going to be 2 possible outcomes. One is that it's not feasible, and we have wasted \$75,000. The second outcome is that we have a feasible plan, but that will put us next in line for about \$250,000 of environmental review and design. That TransNet money is our money that we get from TransNet. The citizens of Oceanside paid for that in the TransNet sales tax.

Next we would have to acquire the land. We would have to buy the right-of-way back from Caltrans. Some people don't like that idea because it brings the right-of-way closer to their house. He doesn't know if there is enough right-of-way there to do that little frontage road; it may not be feasible. That means we would have to go through the environmentally sensitive area, and we're into the Feds then. Maybe we can acquire the land, but the mitigation for sensitive land is that for every acre that you acquire you have to buy 3 or 4 acres someplace else. The costs are 4 times what you think they are going to be. Then they have construction costs. All of this is on our dime. This is not Caltrans; it is the City's money. Another \$2,000,000 to \$4,000,000, depending on what's feasible. Even if we come back with a feasibility study that says we can do something, we have no money to build it.

Providing all of the stars align and all of this comes to fruition, on a fast track we're talking 5 years; going through an environmentally sensitive area and doing a full EIR. Today is the closing day for the EIR for Melrose. We've been at it for 3 years on that one issue.

Therefore, he is against spending \$75,000 now on a feasibility study for something that may or may not happen. Hopefully with Melrose being close to happening now, that's where we should put our money. We only have a finite amount of funds, and he believes Melrose is the way to go. When he proposed Melrose 3 years ago, he had said that Jeffries Ranch Road would more than likely be closing and that the residents will be trapped and need a second access.

Mr. McMahan talked about catastrophic events it could be an accident at Melrose and Highway 76 with all of those kids. Now people are trapped. That could be a regular occurrence. He thinks we ought to take all of our money and efforts and put them into Melrose and get that second exit. We could probably do it within a year or 18 months because that EIR is done. He cannot support this motion.

He thinks the Mayor's idea of realigning that traffic light is a good solution. Caltrans hasn't listened to us yet, but maybe that is in the future.

**COUNCILMEMBER SANCHEZ** stated we have I-5/Highway 78 that is 10 years from now. We have the widening of I-5, which scares her a lot after this experience, and that's at least another 10 years. We can apply for \$4,000,000 from TransNet in 2012/2013 and another \$4,000,000 in 2013/2014. We don't have the \$30,000,000 to \$50,000,000 that the Melrose extension would cost, but we certainly can build this.

**COUNCILMEMBER FELLER** asked if we could use the money that we threw away on the landscaping on Oceanside Boulevard instead of TransNet funds.

**CITY MANAGER WEISS** responded yes because that was General Fund money; however, that is part of what is left of the \$838,000 in unallocated reserves.

**MAYOR WOOD** is going to SANDAG and fight for this. He is disappointed in Caltrans because they promised things and didn't come through. The lady that is there now wasn't part of the promises, and that's part of the problem. He will ask how hard it is to move that traffic light a little down the road. He hopes we don't have to use the money part of it because things are tough.

**Motion was approved 3-1;** Councilmember Kern – no.

[Recess was called from 9:04 to 9:11 PM]

**INTRODUCTION AND ADOPTION OF ORDINANCES – NONE**

**CITY COUNCIL REPORTS**

18. **Mayor Jim Wood**

**MAYOR WOOD** reminded everyone that the Library will be having its book sale this Saturday, April 14<sup>th</sup>.

Aptera is moving to Oceanside soon. It will bring 400 to 500 jobs. This company manufactures electric vehicles.

He still believes that the City has the opportunity to get benefits from a new solid waste contract with Waste Management. He would like to suggest and have his colleague's support that the City Manager schedule an item for the next available Council meeting to revisit this issue. We would like to keep this waste carrier, and we have the opportunity to come up with a contract that will benefit both parties.

19. **Councilmember Jack Feller**

**COUNCILMEMBER FELLER** announced that Children's Hospital is bringing a new facility with 110 jobs to Vista Way and Rancho del Oro Drive.

He noted that we are spending a lot of money for 2 or 3 police officers to be here. He thinks we should cease that process since he doesn't think we are in any serious danger.

**MAYOR WOOD** has had complaints from people in the audience that are concerned for their safety, not just Council. He was approached by several different ladies who were concerned about 2 of our speakers that get a little irate. Safety comes first, and we address those issues, which came from the Police Chief and the City Manager.

20. **Councilmember Jerry Kern**

**COUNCILMEMBER KERN** announced that on Thursday he attended the San Diego County Water Authority (SDCWA) Board retreat. The big topic was the Metropolitan Water District (MWD) rate increases. The staff recommendation at MWD was a 12.4% increase. MWD came back and decided to do a 7.5% increase on January 1, 2011, and another 7.5% on January 1, 2012. What we are going to get from MWD is a more than 15% increase in water over the next 2 years. He is sure that SDCWA is going to tack on something to their rates when they send it to us and all of the member agencies. He met with our representatives on the SDCWA regarding the MWD issues. He also talked with Keith Wellinger, who sits on Water Planning, and Councilmember Blackburn, who is our representative, to discuss the transportation charges that MWD charges the San Diego region but they don't charge any other agencies. There has been some talk of SDCWA filing a lawsuit against MWD about the way that they charge us for water. Hopefully, we will get some feedback and some resolution since we are looking at a 12-15% increase in water by January 1 since we have to pass on those rates.

He also talked about Rady's Children's Hospital. There are 110,000 children living within 10 miles of the new facility.

21. **Councilmember Esther Sanchez**

**COUNCILMEMBER SANCHEZ** announced the following:

She attended, along with Councilmember Feller, the American Cancer Society's Relay for Life last Saturday celebrating 10 years.

She attended the Vietnam War Memorial Traveling Wall on Saturday at the El Corazon Senior Center.

On Sunday there was a Walk for Life and a Health Fair at the pier.

She took a tour of the Sycamore Canyon Landfill. Their capacity is currently 2050, which assumes the worst case scenario of 50% recycling. We are actually way over that. They are in the process of moving the power lines to get the extra capacity.

Saturday is the Dia del Niño event at Baldaramma Park.

**MAYOR WOOD** commented that he sent his letter to MWD already. He acknowledged the contributions of 3 gentlemen to the new children's facility.

**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

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

**THOMAS DEMPSEY**, 3641 Esplanade Street, urged voters to vote no on the proposed Charter on June 8, 2010.

**JIMMY KNOTT**, 127 Sherri Lane, had a request from someone who had to leave if Council could find a way to let the public know what items you have covered and what item you are on.

We have a very important meeting next week. There is a lot of political grandstanding that's going to take place on the budget. The real elephant in the room is not PERS or the employees; it is poor decisions by the Governor and the State Legislature. They took the money away from our City. Let's put the blame where it belongs.

He would like to have the process be more open and more inclusive. The public has not been engaged. You are having it at 4:00 p.m. A lot of the public is not home at that time. We need to include the public in this important process. We need to examine all ways to handle the deficit. If the number of people who can attend is limited, then you won't get the volume of ideas that you would otherwise have.

**JOHN DOWELL**, 542-A Brooks Street, Dowell Development Company, stated his recumbent bicycle was stolen 3 years ago. He reported it to the Oceanside Police and there was no success in getting the bike back. Last week, about 2½ years after the bike was stolen the bike was recovered. He thanked the police department.

He came to Oceanside in 1962. He retired from the Marine Corp in 1982 and moved onto a sailboat in Oceanside Harbor for 3 years. During that time and forward, he has seen a lot of progress here. The hard work of Councilmembers has allowed the citizens of Oceanside to fashion a great City.

Tonight he got a phone call from the City Clerk's office informing him that he has been certified as an official write-in candidate for the open Council seat. During the process of deciding to do this, he requested meetings with each Councilmember and the Mayor. He thanked those who met with him. He regrets not hearing anything from Councilmember Sanchez.

April 21, 2010

Joint Meeting Minutes  
Council, HDB and CDC

He lives and works in Oceanside and has seen progress and mistakes. Right now the City is spending increasingly more than its income, and without some changes it will go bankrupt. Also, the Council seems to be so divided that it can't get important work done. In the unlikely event he wins the special election, it is his pledge to work with all members of the Council. He wants to solve problems and not play political win-lose games.

**WOODROW HIGDON**, 2455 Rudder Road, filed criminal complaints against Mayor Wood and certain police officers for the alleged corruption they are involved in. He commented on alleged audio tapes and corruption by Officer Dominique.

**ADJOURNMENT**

**MAYOR WOOD** adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 9:40 PM on April 21, 2010. This meeting was adjourned to a workshop on Wednesday, April 28, 2010, at 4:00 PM.

**ACCEPTED BY COUNCIL/HDB/CDC:**

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Barbara Riegel Wayne  
City Clerk, City of Oceanside

NOT OFFICIAL  
UNTIL APPROVED AT SUBSEQUENT  
MEETING OF CITY COUNCIL



California

# CITY OF OCEANSIDE

## JOINT MINUTES OF THE: CITY COUNCIL

TUESDAY, MAY 25, 2010

**ADJOURNED MEETING      4:00 PM      COUNCIL CHAMBERS**

**Mayor**

Jim Wood

**Deputy Mayor**

Vacant

**Councilmembers**

Esther Sanchez

Jack Feller

Jerome M. Kern

Vacant

**City Clerk**

Barbara Riegel Wayne

**Treasurer**

Gary Felien

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**City Manager**

Peter Weiss

**City Attorney**

John Mullen

The adjourned meeting of the Oceanside City Council was called to order and adjourned by City Clerk Wayne at 4:00 PM, May 25, 2010 due to advance notification of cancellation. [Note: The City Council, at its May 5, 2010, meeting adjourned to this date and time; however, the meeting was later cancelled]

The next regularly scheduled joint meeting is 3:00 PM on Wednesday, May 26, 2010.

**ACCEPTED BY COUNCIL:**

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Barbara Riegel Wayne  
City Clerk, City of Oceanside