



California

**MINUTES OF THE  
CITY COUNCIL  
MAY 5, 2004**

**SPECIAL MEETING                      2:00 PM                      COUNCIL CHAMBERS**

**Mayor**  
Terry Johnson

**Deputy Mayor**  
Rocky Chavez

**Councilmembers**  
Jack Feller  
Esther Sanchez  
Jim Wood

**City Clerk**  
Barbara Riegel Wayne

**Treasurer**  
Rosemary Jones

**City Manager**  
Steven Jepsen

**City Attorney**  
Anita Willis

This Special Meeting of the Oceanside City Council was called to order by Mayor Johnson at 2:00 PM, May 5, 2004. The Pledge of Allegiance was led by Councilmember Wood.

**ROLL CALL**

Present were Mayor Johnson, and Councilmembers Feller, Sanchez and Wood. Deputy Mayor Chavez arrived at 2:03 PM. Also present were City Clerk Wayne, City Manager Jepsen, City Attorney Willis, and City Treasurer Jones (arrived at 2:08 PM).

**WORKSHOP ITEM**

**1. Overview of Citywide Special Events Program**

**STEVE JEPSEN**, City Manager, stated the last time that Council met on this issue was last year when Council gave staff some direction. One of the directions was to move toward self-sufficiency. As it stands now, there are 10 special events in the City. There are 2 events in the Harbor: the Harbor Days celebration with the Chamber of Commerce and the Powerboat Races that are funded by the Harbor. There are 8 special events that have an existing City subsidy.

[Deputy Mayor Chavez arrived at 2:03 PM]

Today Council is being asked for direction and discussion on 3 issues: 1) to review and approve conceptual policies for special events; 2) authorize waiver of fees and in-kind contributions, along with an updated request by the Chamber of Commerce asking for an additional \$10,000 cash subsidy for Operation Appreciation (May 15); and, 3) authorize waiver of fees and in-kind fee waiver of services, along with a to-be-determined subsidy for Freedom Days (July 4 – estimated at \$46,000), which may have to come back to Council later because we do not have a business plan for that event yet.

With special events, people bring good ideas to the City with an expectation that the City is going to do something because the events will benefit the community in some manner. However, there are 3 things that every event needs to be successful. They need to have a champion, either an individual or group; they need some kind of funding or backing support; and they absolutely have to do advance planning. They can do 2 of these and still have a reasonably successful event. However, to have a good event that

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MEETING BY CITY COUNCIL**

is successful on a year-to-year basis, there has to be somebody that is in charge of it who has a passion for it and instills that in other people and passes it along so that there is continuity in the event. They have found support either through private sponsors or it is something that the City has adopted or co-sponsored. We absolutely must have advance planning, and that is one of the things that he is going to ask Council for their support on.

The City currently puts approximately \$165,000 a year into special events. Of that \$165,000 we get back about \$25,000 in fees. Most of the City's costs are in the form of employee services. It is picked up out of the existing departmental budgets and does not ever show up as a cost that Council sees on a day-to-day basis.

He reviewed a pie chart of City subsidies, showing \$164,800. The City loses \$15,500 in rental opportunity for City facilities, the band shell and the community center. The City loses \$14,200 through a waiver of parking fees. The cash amount in the pie chart represents money the City has donated to various events. He noted that this pie chart does not include the special event the City had for the returning military. The amount shown is what the City normally spends on a year-to-year basis [\$164,800].

Under that area where the City spends the most amount of money, the lion's share is public safety (police and fire), then public works (barricades), and the harbor has a multitude of services from maintenance to security, and the Parks and Recreation Department does the yeoman's work with regard to all of the advanced planning for over 250 events a year.

Of those events that the City sponsors, he showed a chart listing the events that Council currently subsidizes out of the City's General Fund. In the case of the Senior Expo, the funds come from the General Fund and Community Development Block Grants (CDBG). Most of the costs are for the 2-day Freedom Days event and are related to police and fire services. The City has 2 years left on the Ironman event contract. If Ironman is to stay, we need to get them to a point where they pay their own way. The City has been asked by Operation Appreciation for \$4,000 of in-kind services, in addition to the \$10,000 subsidy.

The Senior Expo has been an on-going successful event for a number of years. The City provides lifeguard services for the Labor Day Swim; it is surprisingly costly for what seems to be a very short duration event. The World Body Surfing event will probably disappear because there is an expectation that they will be self-supporting this year.

The activities for Freedom Days that Council may want to discuss in some detail are the parade held every year for the 4<sup>th</sup> of July. That parade this year will be held on Saturday, July 3<sup>rd</sup>, followed by the 4<sup>th</sup> of July events, which are a continuation of the Street Fair and the fireworks. He understands that this year the biannual Samoan cultural entertainment event will encompass both days of the Freedom Days Celebration. The event calendar is filled for all the venues down at the beach.

As we receive new requests for events, new event promoters prefer to get as close to the middle of summer as they can and as close to the beach as possible. That pretty much assures that their event is going to be successful. However, the City and the businesses downtown need those events spread out during the course of the year. The City is more likely to entertain an event request that is outside of that core period of summertime activity in the beach area.

Operation Appreciation has 3 main components, which are all sponsored by the Chamber of Commerce. They seek co-sponsors in the form of cash and in-kind services. For the entertainment, the City provides main support, in-kind electricians and staff. They have an extensive children's activity in Betty's Lot, and the City provides in-kind services. For the luncheon, which Council has participated in to feed the service personnel, a lot of that is donated and the City gives in-kind services. David Nydegger also has a request for City support in the amount of \$10,000. Not coincidentally, this is

the same amount of money that the Chamber of Commerce gave the City for the event the City held to honor the returning military.

He is asking Council to endorse Operation Appreciation, in addition to giving staff direction. The Freedom Days Celebration issue would be brought back to Council, or discussed today. He asked for the following policy direction and adoption:

- That we have a goal, and it is consistent with what the goal has been of making all of our special events self-sufficient. We realize that we're not going to achieve that across the board, but it is certainly something we want to push for.
- Any new events cannot conflict with existing events or venues.
- That we have sufficient lead time, especially for new events but even for current events. One of the things that is problematic is when we do not have a business plan or an accounting of revenues and expenditures when sponsors show up to ask us for support. The sponsors will just say they are however many dollars short and the City needs to kick in to make that difference up. For local events, staff needs probably 6 weeks to 3 months lead time. For a national event, like Ironman, we need 6 months to a year to deal with the logistical planning for those things.
- Council has given staff direction with regard to major street closures. Staff does not do those without Council's approval.
- Council is also being asked to adopt a position where the Council is required to approve all requests for subsidies and take it out of the hands of the Special Events Committee.

We're to the point where we're not going to have that many new special events that show up on the horizon. Those things that we've consistently supported over the years, along with the 10 events previously mentioned, will probably continue to show up on Council agendas with requests for some level of support. We need to continue to support those things, particularly when there are difficult times. They do contribute to the quality of life.

He recommended that Council have discussion, probably first on Operation Appreciation. He indicated that representatives from MainStreet and the Sister City's Cultural Entertainment were present.

#### Public Input

**DAVID NYDEGGER**, 928 North Coast Highway, Chamber of Commerce, said this is the 3<sup>rd</sup> year for Operation Appreciation. We came up initially with the concept to thank Marines and sailors and specifically their dependents, particularly now that they are deployed. This is a one-day event scheduled for Saturday, May 15<sup>th</sup> at the Band Shell.

Approximately 8 or 9 months ago, the Chamber of Commerce received a letter from the Parks and Recreation Department indicating that these special events should be self-sufficient. He took that as a challenge; it is something he firmly believes in. We should not be coming here to the public trough asking for money. We started our initial budget planning for Operation Appreciation last November. In March, we looked at the budget numbers and had an overall expenditure of approximately \$60,000. At that point, we had only received \$11,000 in revenue. So, we had a \$40,000 shortfall as late as the first 2 weeks in April. He got very concerned. The Committee got together, tightened our belts and started calling everybody.

The challenge was that last October when we had the Defenders of Freedom Parade, we raised quite a sum of money for the City. A lot of those people are the same people that he goes back to again to ask them for help. IDEC Pharmaceuticals who once

again came through for us. However, some of the other players that were heavy in participation in the parade couldn't do it. We looked at our expenditures and were able to cut almost \$10,000. He is pleased to report that right now the gap is \$9,400 between what we've raised and what we really need to put Operation Appreciation on. A telethon is scheduled for next Friday on KSON that is specifically designated for this. He has been told that we're already in the \$12,000 to \$15,000 range.

The Committee made the decision this morning that we are not going to ask for any other cash. They asked for a \$10,000 subsidy to help Operation Appreciation, and that is not necessary; we can do it on our own. He did ask that Council approve the in-kind services. Initially, there was an \$8,000 figure, but now it is reduced to \$3,900. We need that to allow us to do even more and greater things down there.

He asked Council to think about what happens next year. Budgets are getting tighter. He understands that the City is going to have some major challenges next year. He just wished that Council would look very closely and adopt a policy that we can all live with. It is incumbent upon us to go out and get the support and do the planning. He understands that. However, he asked Council not to forget the fact that sometimes we might have to ask Council to waive the fees on a parking lot or something like that.

He invited Council to come down on Saturday, May 15<sup>th</sup> to serve the military during Operation Appreciation. We plan to have 5,000 Marines and their families.

**KIM HEIM**, 701 Mission Avenue, MainStreet Oceanside, stated several years ago the 4<sup>th</sup> of July activities were handed off to MainStreet Oceanside from a volunteer group of downtown participants who revived the fireworks after the City's budget crisis. MainStreet has worked on developing that event into one of our primary fundraising mechanisms for the organization over the years. MainStreet was formed approximately 3½ years ago under the concept of a declining funding commitment from the City in which MainStreet was chartered to go out and find sustaining funds. Almost any downtown organization monitored in California utilizes a primary large special event for their fundraising mechanism to help support their organizations. With that, the 4<sup>th</sup> of July event became our natural selection. The crowd levels have historically been large and have exceeded 100,000 even before MainStreet took over the event. Based on the large exposure of Southern California, the importance for sponsors and event participants to access that kind of crowd, the 4<sup>th</sup> of July becomes a natural sell to a lot of participants that can help generate revenue.

What we've attempted to do with all of our events is to begin to take over the actual operational costs. For our other events during the year, we typically handle the street closure expenses and provide our own security. Likewise, with the 4<sup>th</sup> of July event, we provide our own security within the venue. The expenses that the City provides in large part are ancillary support services, such as police and fire protection for the large public that comes down.

He understands that by conducting the 4<sup>th</sup> of July event at the beach, we take on an obligation to provide fireworks for the community. We hope to continue to do that and further increase our capacity to provide a compelling fireworks display and hopefully a whole host of other events that draw a broader group of the community to the ocean for that very important holiday. He requested the City's support and hoped to maintain a collaborative relationship on this. We're going to have a large number of guests on the 4<sup>th</sup> of July at the beaches regardless of MainStreet's particular events down there. We look to try to create a host of entertainment opportunities as the guests and tourists come into town to accommodate them for a full day event and hopefully in certain years a 2-day event.

He noted that MainStreet has an extensive amount of financials on this event. We have an extremely detailed budget for all of the events that MainStreet does. The records of the organization are open to the City.

Public input concluded

**COUNCILMEMBER SANCHEZ** asked with respect to the City subsidies that show \$164,800, the City Manager had said that the City gets \$25,000 back apiece. She didn't understand that comment.

**CITY MANAGER JEPSEN** clarified that the City gets back \$25,000 in fees total. The City's net cost is approximately \$140,000. There were, at this time last year, 25 events that the City subsidized. Through Council's direction we try to make those self-sufficient. Most of those events are still taking place; but we currently have 10 events: 2 are subsidized by the Harbor and 8 continue to be subsidized in one form or another by City resources.

**COUNCILMEMBER SANCHEZ** stated these are the major programs, but there are community fairs that are not on the list.

**CITY MANAGER JEPSEN** responded there are over 250 events in the City, and the table that Council has attached to the staff report lists 25. The report summarizes and focuses on 10 of those events. He noted that 6 events have been discontinued, and Council might want to discuss them. Regarding Van's Triple Crown Skateboard event, we lost the venue; it was a difficult event to put on. Oceanfest enjoyed one year, and there is no return promoter for that event. The Christmas Parade has been discontinued. Taste of Oceanside does not have a promoter, although MainStreet is a contract sponsor. Concerts in the Parks have been discontinued and were not included in the budget for this year. The City's on-and-off again annual Easter Egg Hunt needs a sponsor. The City has been trying to get one of the local service clubs to take that over.

**COUNCILMEMBER SANCHEZ** thought Council was going to have an ongoing discussion or dialogue about trying to get broad support from the community for the Christmas Parade. On the slide with the subsidized events, she did not understand if this is cash or total costs.

**CITY MANAGER JEPSEN** explained that for each of those events, they vary. Total City cost is reflected on the slide. It includes in-kind and cash contributions.

With respect to the Christmas Parade, **COUNCILMEMBER SANCHEZ** understood there would be dialogue with some of the service organizations. Perhaps they could partner with the City. She asked if there has been any progress on that.

**CITY MANAGER JEPSEN** doesn't know of any champions that have stepped forward to take on the parade. We made it part of the contractual obligations of MainStreet, but we didn't do that same thing with regard to the Christmas Parade. The City suspended it for a number of years, then we put it back in place for 3 or 4 years, and it was suspended again as part of the budget reductions for this year. A Christmas Parade would cost approximately \$10,000-\$12,000.

**COUNCILMEMBER WOOD** had some concerns. Council gets people coming into their office and wanting some sort of special event. They usually walk down the hall and talk to each Councilmember. He is not opposed to backing staff's recommendations for these special events; however, Council needs to keep in mind that we have those walk-ins and Council might like to change the policy and say that even though Council has said one thing, they would like to have it addressed by staff on short notice. The one thing he really agrees with City Manager Jepsen on is the business plan. People come in 2 or 3 days before the event and say they need \$10,000 or more without any type of business plan or report telling Council where their costs are, where they are spending their money, listing in-kind donations, etc. It is important that we have those up front for staff and the event organizers. The City Manager's recommendations are appropriate.

**CITY MANAGER JEPSEN** explained that if there is support on the Council for an event and it is significant enough to serve the community, of course we would consider that. The only thing that would be problematic is, for example, if people come

to the City and say that they would like to put a concert on at the amphitheater and the City ought to waive the fees because it is for a good cause and is a nonprofit fundraiser. They go ahead and put that on, and a lot of times it costs us more money than the nonprofit raises to have the event. Even though they are very worthy causes, they need to be valued. There is nothing that staff would just reject out of hand. The business plan and advanced planning portion of that will help clarify those issues as we seek self-sufficiency. He carefully worded that so it did not say that it was absolute. Self-sufficiency is a goal, and he realizes there are events that will require City subsidy and are worthy of City subsidy. They need to be considered on a basis of what they provide back to the community, what the subsidy cost is and their historic context here.

**COUNCILMEMBER WOOD** would like staff's input on the 4<sup>th</sup> of July events. Besides the cost factor and the public safety issue, there are a lot of events going on that particular day. He asked if it's fair to have that many events going at the same time for the entire staff and the public safety aspects, such as the Samoan Cultural entertainment. He is not opposed to it, but maybe it should be at a different date and time. The 4<sup>th</sup> of July is pretty well flooded, but we have several other weekends throughout the summer that would be just as important and maybe bring a little more relief to the public, the staff and public safety. More and more cities throughout California have discontinued the 4<sup>th</sup> of July Fireworks because of the cost involved and/or public safety issues. The Mayor and some Councilmembers have been approached on that recently.

**CITY MANAGER JEPSEN** encouraged Council to have dialogue on the whole 4<sup>th</sup> of July issue. His perspective on the Samoan Sister Cities Cultural Event is that it is an opportunity for people in the community to see culture they are not exposed to on a day-to-day basis. There are other similar events like Juneteenth and Cinco de Mayo. One of the things that is an issue with regard to the Samoan event is that it is every other year. It would be nice if it were every year because every off year the City is looking to fill the void. It would be useful if they had the entertainment for both days of the event, because they are going to fill the amphitheater with entertainment for the 4<sup>th</sup> of July as part of the historic event. If the Samoan Sister Cities group would agree to do it every year, then people would not have to scramble to backfill.

Whether they chose to do it on a different day or not is up to them. They probably should give some thought to it because their opportunity to generate revenue is a little bit more limited because the MainStreet folks have the booths. For Juneteenth and Cinco de Mayo, the promoter has the booths, and that helps cover their costs for expenditures. So, from an activities standpoint, there will be entertainment at the Band Shell. It is important to support the Street Fair, and whether it is the Samoan Sister Cities group or not, they would have to consider that. We would certainly love to have them every year. Council may want to discuss that issue further.

Regarding the issue of the fireworks, one of the things that is helpful this year, and maybe for future years, is that the parade is on a different day. The parade is on the 3<sup>rd</sup> of July, so we are separating some of that activity. Historically for the 4<sup>th</sup> of July, everybody comes down with the kids and all of the beach paraphernalia, stakes out their spot on the beach and are there all day. It is a family event and traditional for a lot of families. They stay until the fireworks and then get in line with everybody else and try to leave. The Police Department did a much better job last year moving traffic. He is not certain if the 4<sup>th</sup> of July fireworks are going to make that big a difference to the crowd at the beach. It certainly would make a difference to when and how quickly everyone dissipates at the end of that day. It is something that Council might want to talk about.

The Police Department is putting on 87 officers to cover the beach for the 4<sup>th</sup> of July for that single day. It is what they call an extra day because most of the patrol is on 3 days a week, 12 hours a day. They are actually required to come in a couple extra days a week, and the 4<sup>th</sup> of July is one of those extra days. So, other than obligating the manpower for that beach service, all of the other police that are on duty are patrolling the City on their regular patrols. They try to do this every year, but it does

not work out every year. A lot of years the City ends up paying officers overtime. The Police Department is comfortable that they have a good plan for security for coverage for the 4<sup>th</sup> of July, and they have sufficient contingency plans should something happen in the beach area or somewhere else in the community.

**ED STOKES**, Oceanside Police Department, stated that every year when we put a plan together, we have what is known as a fill-back day, plus we can make a flex day. We have to make sure the officers involved for the 4<sup>th</sup> of July have a 2-week notice. We've been doing this for the last 3 years.

**COUNCILMEMBER WOOD** was concerned that this is a weekend. We're talking about a parade on Saturday, a Street Fair, fireworks and Samoan cultural entertainment on Sunday. That is a strain not only on City staff, but also on public safety (police and fire). Costs, manpower and a 2-day period of time is taking a toll on staff, and this goes from early in the morning to late in the evening. He asked if we should contemplate looking into having the fireworks on the 3<sup>rd</sup> of July. This is the most expensive day regarding costs to the City, so he asked if staff has any other input along those lines. Council is getting feedback and is concerned about public safety. The crowds at the beaches are getting extremely large, and we get an influx from outside the City that makes a concern, especially with the Samoan Cultural Entertainment on that particular day with the problems we're having in the Back Gate area.

**OFFICER STOKES** explained that the parade is handled by 13 senior volunteers, 4 motor cops and 2 officers. It is a 4-hour event, so it will not be a safety factor. The 4<sup>th</sup> of July will be a big day because of all the activity down at the beach plus the fireworks. Everybody is anticipating the fireworks and will be coming from all over. That is when the 87 police officers will come into play. We will have a traffic plan for that day, and all of the divisions would be put into place. He does not see a problem from his viewpoint.

**ANA ALVAREZ**, Parks and Recreation Director, appreciates Councilmember Wood's concern for the impact on staff to implement an event of this magnitude. Staff is here to serve the public, and the 4<sup>th</sup> of July is one of the most memorable holidays of the year. This is the nature of our job and is one of the commitments we made in going into the profession of serving our community. The larger question should be if the City is in a position to continue providing what the community is expecting and what are the community's expectations in terms of creating communities and enhancing the quality of life of the citizens through those special events such as the 4<sup>th</sup> of July.

**COUNCILMEMBER WOOD** recalled years ago that the fireworks lasted 50 minutes, and last year it seemed like they lasted 15 to 20 minutes. There is a cost factor not only for the fireworks, but staff is out for the entire weekend providing in-kind services, which is extremely expensive for 2 days. He wanted to make sure the City management is comfortable with the 2-day event. In the future maybe the City should move these events to different weekends so it won't be such a long weekend.

**CITY MANAGER JEPSEN** said the issue with regard to the fireworks is probably a good one to discuss. There have been cities that have suspended fireworks up and down the coast over the years based on both cost and incidents that have occurred. The cost of the fireworks is approximately \$30,000, and that includes the barge to shoot them off of. The City does not contribute money toward the fireworks. Fireworks are funded through the revenues from the Street Fair or, as is the case this year, MainStreet is looking for sponsors and private donations. If we didn't have the fireworks, it would lessen the event in terms of the resources that are required from the City, and it would shorten the day. There are people that just want to go see fireworks. Having no fireworks would probably transfer a great deal of the concerns from the beach area over to the Harbor Beach where people would try to watch the Del Mar fireworks on Camp Pendleton. There needs to be more discussion on this and some thoughtful consideration of what we want to do in the future.

**COUNCILMEMBER WOOD** reiterated that his concern was conflicting events.

His main concern is for public safety and the use of staff over a 48-hour period.

**MAYOR JOHNSON** asked how many people watch the fireworks from the beach in Oceanside.

**RAY DUNCAN**, Harbor and Beaches Manager, estimated 85,000–135,000 watch fireworks on Oceanside's beaches.

**CITY MANAGER JEPSEN** estimated there probably is well over 50,000 people.

**MAYOR JOHNSON** asked of those 50,000+ individuals, how many are Oceanside residents.

**CITY MANAGER JEPSEN** did not know but did know that there are a lot of people that come from Riverside, Temecula, Vista, and surrounding cities.

**MAYOR JOHNSON** asked which cities to the south of Oceanside have fireworks on the 4<sup>th</sup> of July.

**CITY MANAGER JEPSEN** responded Four Seasons in Carlsbad and there is a sponsor for fireworks almost everywhere. Vista, Del Mar Fairgrounds, Camp Pendleton and Legoland have fireworks. A number of other cities have fireworks, but a number of other cities have also discontinued them.

**COUNCILMEMBER FELLER** reiterated that the community has come to expect what we do for them on the 4<sup>th</sup> of July and Christmas. Everything that we do in the community defines what we are as a community. It is a free event for our citizens to come to our beach to enjoy the entire weekend if they want, and it is one of our 10 grandfathered events that we are referring to that we're expected to make happen. He is supportive of continuing with them the way they are. The Samoan cultural event is a great event for all of the residents that come in from Vista, Riverside, etc. to see, along with the days' other events. This community should not be afraid of whatever could possibly happen. If we take preventative measures and provide adequate staff, then we are in great shape to hold another great event. Businesses in the downtown area benefit and even businesses out in the eastern end of town benefit from people going to the beach for the day. He asked for confirmation that the City has 10-grandfathered events that we've asked to try to be self-sufficient the further we go along.

**CITY MANAGER JEPSEN** displayed a list of 8 events that were grandfathered in. Staff wants to be certain that the events have a business plan, with a goal of making them as self-sufficient as we can. They will always require some level of subsidy by the City, with maybe the exception of Ironman, who we have a contract with. Then there are the 2 Harbor events (boat races and Harbor Days).

**COUNCILMEMBER FELLER** noted that Council heard from Mr. Nydegger that Operation Appreciation would be less than his previous request. He is in support of the plan presented and said there will always be an instance where we need to react quickly. He **moved** approval [of staff's recommendations to:

1. Approve a conceptual plan for special events supporting the following major policy positions:
  - Goal of Self-Sufficiency – Any request for subsidy must be based on a business plan showing all costs and all revenues for proposed events.
  - May Not Conflict with Existing Event or Venue – Placement on event calendar must avoid congested seasons/venues.
  - Sufficient Lead Time for Permits and Logistics – Six weeks to three months for local events, six months to one year for national events with coordination through the City's Special Events Committee.

- City Council approval required for all public fund subsidies or major street closures.
- 2. Authorize waiver of fees and in-kind contributions in the estimated amount of \$4,000 for the May 15, 2004 Operation Appreciation Event.
- 3. Authorize waiver of fees and in-kind contributions in the estimated amount of \$46,000 for the Freedom Day Events – July 4, 2004.

**COUNCILMEMBER SANCHEZ** met with several representatives from the community, including MainStreet, the Chamber of Commerce, Special Events, Police Department, the community, the City Manager and the Parks and Recreation Director regarding the 4<sup>th</sup> of July. If we talked about the cost to the City versus the revenues to businesses, we would probably either come out even or be more at a loss. However, that is not the reason why we do this. We do this as a community event, something that we have done traditionally for many years.

The concerns that she had in bringing the people together in yesterday's meeting had to do with what is happening this year and the fact that we have a smaller police force per person than we have had in a while. Concerns she got from the community had to do with the shootings throughout the City and whether or not there would be an adequate response of police at the beach as well as in the different neighborhoods. Lieutenant Tom Jones and Captain Castillo yesterday indicated that they had this plan of 87 officers using the backfill day, and this was something they could do on certain days of the week. We're talking about a 3-day weekend, possibly even a 4-day weekend because that Monday is also a holiday. We will probably have to have coverage as well for those who are going to be vacationing and staying on the extra day in Oceanside. What we had was an assurance. We are confident that we will be able to handle this 4<sup>th</sup> of July. The dialogue on the 4<sup>th</sup> of July expectations is something that we need to continue looking into, if not this year then next year.

Suggestions could be having Sister City events on a different day; the City has other Sister Cities. We have a committee who presents this to Council. Alternating the years could give an opportunity for the other sister cities to come up with something or for other sponsors to come up with other events with the other Sister Cities. This is a good dialogue to have, and we need to continue to have these conversations.

She shared the concerns that Councilmember Wood had and was able to get some information yesterday. She does appreciate the information that we will be able to handle the 4<sup>th</sup> of July weekend this year and enjoy it. She looks forward to further discussions regarding the 4<sup>th</sup> of July. She **seconded** the motion.

**DEPUTY MAYOR CHAVEZ** is supportive of the Freedom Day Parade and the Samoan events. These are what define a community and a culture. He supports staff's recommendations. A year ago this list was longer, and Council had asked staff to help the events become self-sufficient, phasing it in over a few years. Staff has taken that guidance and done a great job. It is important to note that \$164,800 is less than 2/10 of 1% of the City's budget. When you talk about the character of the City, if the City does not have fireworks on the 4<sup>th</sup> of July, then we'll have to get rid of apples, ice cream, etc.

**CITY MANAGER JEPSEN** asked for a point of clarification. He assumed the motion included the in-kind support for Operation Appreciation Day and the in-kind support for Freedom Days. He understands no additional cash contributions are necessary for either Freedom Days or Operation Appreciation. If something is needed for Freedom Days, staff would bring it back to Council the first meeting in June.

Councilmembers concurred.

**Motion was approved 5-0.**

May 5, 2004 - 2 PM

Special Council  
Meeting Minutes

**ADJOURNMENT**

**MAYOR JOHNSON** adjourned this special meeting of the Oceanside City Council at 3:05 PM on May 5, 2004. [The next regularly scheduled meeting is at 4:00 PM on May 5, 2004]

**ACCEPTED BY COUNCIL:**

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Barbara Riegel Wayne  
City Clerk, City of Oceanside



California

# CITY OF OCEANSIDE

## MINUTES OF THE CITY COUNCIL

May 12, 2004

**ADJOURNED MEETING                      10:00 AM                      COUNCIL CHAMBERS**

**Mayor**  
Terry Johnson

**Deputy Mayor**  
Rocky Chavez

**Councilmembers**  
Jack Feller  
Esther Sanchez  
Jim Wood

**City Clerk**  
Barbara Riegel Wayne

**City Treasurer**  
Rosemary Jones

This adjourned meeting of the Oceanside City Council was called to order by Mayor Johnson at 10:00 AM, May 12, 2004, for the purpose of a Mayor and Council Workshop. The Pledge of Allegiance was led by Deputy Mayor Chavez.

**ROLL CALL**

Present were Mayor Johnson, Deputy Mayor Chavez and Councilmembers Feller and Wood. Councilmember Sanchez was absent. Also present were City Clerk Wayne, City Treasurer Jones, City Manager Jepsen and City Attorney Willis.

**WORKSHOP ITEMS:**

1. **Overview of the proposed FY 2004-06 Biennial Budgets – Steven R. Jepsen, City Manager, and Carol Swindell, Financial Services Director**

**CITY MANAGER JEPSEN** presented an overview of the City's 2004-06 budget and the 5-year forecast; Council was provided a line item budget.

The proposed budget is primarily a roll-over budget, with the same services provided next year as this year. Any changes will be noted during the individual department budget presentations. In the last budget process Council requested that staff highlight any proposed fee increases. Fee increases will be presented for utilities, solid waste and others. The reason for highlighting the increases early on is so that people will have the opportunity to address those issues without surprise.

Budget goals for the next 2-year cycle include the following:

To work smarter:

- Focus on best business practices and innovations
- Measure success on outcomes, not products

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MEETING BY CITY COUNCIL**

- Tie the City's goals and objectives into the budget process so that Council is assigning resources based on the consistency of the departmental objectives and how that fits in the overall Council goals

Focus on Public Safety – The proposed budget includes incremental services in this area:

- Coordinated strategic planning (Fire/Police/Harbor)
- Enhancing police resources/reserves
- Focus on regional fire services

Improve tools for service delivery:

- Provide a new citywide financial software platform. Although changing the City's financial software is a labor-intensive endeavor, the current system does not track encumbrances, which has been a problem for the departments
- Look at accounting consolidation to bring the accounting sections in each department under one umbrella
- Consolidate purchasing programs

**CAROL SWINDELL**, Financial Services Director, reported that, as part of last year's 5-year projections, staff anticipated facing some challenges this coming fiscal year, primarily due to the sharp increase in Public Employees' Retirement System (PERS) rates. In preparation for that, Council last year cut the budget by \$2,300,000 in unfunded positions and other operational cuts. The business license tax credit was also eliminated, which provided an additional \$400,000 in revenue. That put us \$2,700,000 to the good in preparing for the upcoming budget.

For the next 2-year budget cycle, we've unfunded \$690,000 worth of positions. The budget also includes a \$150,000 shift from the General Fund to the Gas Tax Fund for operational costs. In addition, there are some revenue initiatives proposed that would bring in \$900,000 worth of additional revenue. We've created capacity in the budget of \$1,700,000 to net against some of the challenges that we have this coming budget cycle.

The following chart gives a snapshot of the next 4 years:

	<b>FY 2003-04 Proposed</b>	<b>FY 2004- -05 Proposed</b>	<b>FY 2005-06 Proposed</b>	<b>FY 2006-07 Proposed</b>
Revenues	\$85,800,000	\$91,000,000	\$94,000,000	\$98,100,000
State takeaways	(\$3,200,000)	(\$2,200,000)	(\$2,200,000)	(\$700,000)
Adjusted revenues	\$82,600,000	\$88,800,000	\$91,800,000	\$97,400,000
Projected Expenditures	\$82,000,000	\$87,900,000	\$93,000,000	\$97,500,000
Surplus / Deficit	\$ 600,000	\$ 900,000	(\$500,000)	\$ 600,000

We expect to end this year with a \$600,000 surplus. The proposed State takeaway of \$3,200,000 includes the Vehicle License Fee (VLF) revenue loss of \$3,000,000 and the loss of reimbursements for mandated costs, which is approximately \$200,000 a year. The mandated cost reimbursement is supposed to be deferred and come back to the City at some point, but we're not holding our breath. We are expecting expenditures of \$82,000,000, which leaves us with a \$600,000 surplus.

For fiscal year 2004-05, the revenue would have been \$91,000,000. However, the Governor had proposed an additional Educational Revenue Augmentation Fund (ERAF) shift of \$1,500,000. Additionally, a \$500,000 in booking fees will go away, and the \$200,000 loss in mandated cost reimbursements continues. After \$2,200,000 in State takeaways, our projected net revenues for next year is \$88,800,000. This amount does not include the revenue initiatives that will be reviewed later in the presentation. When you net out the \$690,000 in position cuts, our projected expenditures for next year are \$87,900,000, leaving us with \$900,000.

In 2005-06 we end up with a \$500,000 shortfall, based on the continuing ERAF shift. Tomorrow the Governor will release his May revised budget. She understands that a deal was struck with the city representative groups, that the Governor will be taking away \$1,300,000 in total tax revenue Statewide for 2 years. That revenue will then be restored in 2006-07. We have factored that into our projection, but this situation will likely change since the State budget has not yet been adopted. In order to be consistent with putting into the projections the best information we have right now, we've restored that. If that money is restored we will end up with \$97,400,000 that year, netted against projected expenditures of \$97,500,000. We'll be about \$600,000 positive.

The 5-year projections show the restoration of the \$1,500,000 in ERAF money in 2006-07, which leaves us about \$400,000 to the good by 2008-09.

There is some good news as the City begins the next 2-year budget cycle:

- The economy is improving, as seen in increases in Transient Occupancy Tax (TOT) and sales tax
- There are new retail outlets in the new Quarry Creek Shopping Center and the recent renovation to the El Camino North Shopping Center, which is boosting up the City's sales tax revenue
- The trend of strong property valuation increases is expected to continue this year. However, the markets are anticipating an increase in the Federal Reserve rate, and mortgage rates are going up. These increases will have a dampening effect on property values. On the other hand, the interest rate increases should improve the City's investment income, which has decreased over the past several years as rates have dropped.

#### State Budget

The Governor will present the May revise of his budget tomorrow. The current State budget proposal includes the following impacts for the City:

- ERAF shift of \$1,500,000 - This is expected to be a 2-year loss.
- The Triple Flip – We have a one-time deferral. This is where the State takes our 1% local sales tax and reducing it by .25% the State will back-fill that money with property tax revenue. There may be timing differences and administrative costs, but the assumption for now is that the City will be made whole, and whatever is lost in the .25% drop in sales tax will be made up with property tax revenues.
- Vehicle License Fee loss for this year of \$3,000,000 - This amount is scheduled to be repaid to the City in 2006.
- Mandated cost reimbursement loss of \$140,000 per year.
- Booking fees reimbursement loss of \$500,000 per year.

She referenced a chart illustrating the City's cumulative State budget takeaways.

When the State went through the last budget crisis in the early 1990's they took property tax revenue from cities and put it into ERAF for schools. That amount of money, over time, would be the equivalent of \$7,100,000 for us next year. In addition there is the \$1,500,000 ERAF shift that the Governor has proposed. We're losing, on an ongoing basis, \$8,600,000 in property tax revenue. The Redevelopment Agency also has an ERAF shift for next year of approximately \$500,000. The total ongoing loss for the major items is \$10,000,000.

The rates the City pays for retirement to the Public Employees' Retirement System (PERS) are a function of the City's demographics, how long staff members have paid into the system, and when staff members plan to retire, as well as the investment returns that PERS makes on their money. The investment return is the primary driver of our PERS rates. There is a 2-year lag until the investment returns show up in the PERS rates because the PERS agency uses a smoothing technique.

During the last stock market boom, when investment rates were very high, we were super-funded for our Miscellaneous Plan, and rates were very low for our Public Safety Plan. The City instituted an enhanced retirement benefit for public safety, which increased our rates. Then the market collapsed, and rates went up even further. The projected PERS rate for the next 5 years assumes that PERS will make its 8.25% projected investment return. If PERS makes more than projected, our rates will be somewhat less, but if PERS makes less than projected, our rates will be higher. We've assumed they are going to make the 8.25%, and we've included that in our 5-year projection. This year, the additional PERS cost is \$3,000,000 for the General Fund, and next year it is expected to be another \$1,200,000. This is having a significant impact on our budget.

Three new initiatives, totaling \$763,000, are included in the 2004-06 budget:

- Second Senior Center operating costs of \$350,000
- San Luis Rey River maintenance costs of \$325,000
- Morro Hills Park maintenance costs of \$88,000

These are the only new initiatives that are included in the budget figures shown to Council earlier. The City's population is increasing by about 2% per year, but service levels have not been expanded to deliver to that populace due to the budget challenges that we're facing. Oceanside is in a better situation in the budget challenges than its counterparts because of the preparatory actions taken by Council last year. The Southern California cities are generally doing better than those in Northern California.

**COUNCILMEMBER FELLER** noted the 5-year projections indicate that the City will have a \$400,000 surplus in 2008-09. Is that for that year or is that a net for the next 5 years.

**MS. SWINDELL** replied that is where we will be in ongoing revenues, minus ongoing expenditures, by that year. So, the City would have \$400,000 worth of capacity to assign for that year.

**COUNCILMEMBER FELLER** asked staff to comment on a rumor that we're not going forward with the second Senior Center.

**CITY MANAGER JEPSEN** confirmed that this budget includes the funds for the new Senior Center, unless Council chooses to take it out. He noted a lot has changed since the last discussion on the budget in February of this year, in response to the unfolding State budget crisis. The economy has improved precipitously, and he hopes it continues to improve. We've done some conservative projections; however, with the uncertainty going on in the world one could also say that maybe we overestimated. So, there's a risk in the budget process; it is an estimate of the resources we think are going to come in and what we're going to expend.

This Council has done a good job of being fiscally responsible. The reductions that

were made by Council last year to take approximately \$2,300,000 out of the City's budget, mostly through addressing attrition in vacant positions and the enhancements to the revenue stream, have left us in an admirable position compared to other communities. The economic development policies carried out by this Council are bearing fruit as shown in the enhanced revenue stream.

The State this last year took \$3,000,000 from us, that they are calling a loan, in Vehicle License Fees. When Council last met they authorized him to use up to \$2,300,000 of reserve money to cover that loss. Not only did we absorb the \$3,000,000 in State takeaways, but we plan to end this fiscal year \$1,000,000 to the good. That all rolls forward in getting ready for the issues of the State taking additional money away from us to solve their fiscal problems, as well as the extraordinary cost increases we've had in PERS as a result of the market economy and the losses PERS has had to absorb in their investment portfolio.

City employees are a big part of the reason why the City could absorb the \$3,000,000 in Vehicle License Fees and end the year in the black. They have gone without vacancies filled for most of this year and have picked up that slack. These vacancies have taken a toll on the organization, but we are now in the position where we need to put some of that back.

He displayed a chart showing the bottom line. Without adjustments we would finish the year about \$1,000,000 to the good next year. However, primarily because of the one-time PERS hits we're going to have to absorb, we would end up to the negative from that point on without making further adjustments.

The recommended budget includes the following revenue enhancement opportunities that will be matched against incremental services built back into the budget:

- Add a 3-person Police Incident Response Team
- Add a 2-person Police Response Team to add incremental services to the downtown area
- Add \$300,000 as a placeholder to address fire dispatch issues
- Use reserves for the second year of the 2-year budget to provide an ongoing balanced budget

Ms. Swindell had noted that we had \$150,000 that we were going to transfer out of Fuel Tax into Operations. That needs to be corrected. He was informed yesterday by the Public Works Director that the \$150,000 is the money that we use to pay for the residential tree-trimming program. That is something we're going to have to look at putting back in, which means we would ask for Council's support to use reserve funds in the second year of the budget, but we should be fine moving forward.

Recommended revenue enhancements include the following for consideration:

- Parking fees/fines - These fees and fines need to be in line with the rest of the cities in the County. This would provide the City with additional revenue of \$500,000 that could be used for services in the downtown and beach areas.
- Ambulance fees - \$300,000 is a conservative estimate. Our ambulance fees need to pay for themselves. Staff is currently reviewing that, along with service enhancements in the ambulance area. This may become supplemental to the budget at a later date
- False alarm fees [\$100,000] - Council will consider 3 alternatives regarding false alarm fees next Wednesday. If alarm fees are not increased, every taxpayer in this City will continue to subsidize people with alarm systems. The alarm systems need to pay for themselves. The City has a high

incidence of false alarms and we need to get a handle on that.

**COUNCILMEMBER FELLER** referenced the computer chart showing 2006-2007, the numbers don't add up the way they do in the other columns.

**CITY MANAGER JEPSEN** corrected that the bottom line for 2006-07 should be a positive number instead of a negative number. It actually adds up correctly, it just shouldn't be shown with the brackets around it. The number for 2005-2006 is a negative number.

Continuing with the presentation he noted that we have reduced \$650,000 to \$700,000 in positions. Six positions are currently either vacant or soon to be vacant and are recommended for elimination. The following 7 positions are recommended to be unfunded:

- City Clerk's Office, Administrative Analyst II (remaining ½ of position) - The Clerk's office began data imaging demonstration programs approximately 2½ years ago, and it is important to find a way to keep that going. The ability to retrieve records electronically will be very important to the community in future years
- Fire Department, Assistant Fire Chief – This is one of 2 Assistant Fire Chief positions
- Parks and Recreation Department, Recreation Specialist (32 hour)
- Parks and Recreation Department, Aquatics Technician (32 hour)
- Library Department, Library Clerk II (30 hour)
- Library Department, Computer Operator
- Police Department, Police Records Technician

These are areas that Council might consider in terms of where we have reduced services in the community if they are looking for increments of restoration.

**DEPUTY MAYOR CHAVEZ** noticed that representatives of some of the bargaining units are present, but others are not. He questioned if the bargaining units were notified of the budget meetings.

**CITY MANAGER JEPSEN** doubts it. They have been invited in the past and are welcome and encouraged to attend all the budget sessions. He will make sure the notice gets out for the afternoon session.

**DEPUTY MAYOR CHAVEZ** thinks it is important that the bargaining units understand the macro perspective of the City so when they are dealing with their micro issues they understand that there is only so much. He noticed last year when we went through this is that in the last phase Councilmembers started wanting to make changes to the budget. We need to do the dialog at this point, rather than in the final phase.

He has met with some of the bargaining units, and the work smarter budget goal is particularly important. If we don't invest in our employees, then we will lose them. Outsourcing is where we're going. It's important to invest in our people with training, education and technology.

Regarding the police safety, he would like to see an even graduation of police officers every year. It can be dependent on population growth, the Consumer Price Index or some other measurement, but we've been flat-lined too long. As our population grows we need more police officers and fire personnel.

The consolidated purchasing is a great idea. He advised finding similar activities

across departments so you can collapse them and save money through technology. This could help to provide the money for training and police officers.

With respect to the proposed fiscal year 2004-2006 budget on the projected expenditures, he would prefer to see how our historical projections have been. He'd like to see the last 5 to 6 years regarding what we predicted and how close we were to our predictions.

He would like to know how Oceanside's PERS employer rates compare to other cities' rates.

The City is in the position it is today because of the City Manager's leadership and staff's efforts. If we pay attention to the larger issues of working smarter, addressing the issues of public safety and collapsing organizations through technology, we'll be able to do this.

**CITY MANAGER JEPSEN** noted the current proposed budget does not propose any additional outsourcing. We did review historic trends, and that is the reason that the revenue profile was adjusted. We have missed that in the past and what Council is seeing is a reflection of a more positive look at where we think the economy is going, compared to where it has been in the past, although there are risks associated with that because of the volatile economic times.

Our PERS costs are higher than most other agencies in the State. This has to do with the disability retirements and the demographics, such as the age of our employees. It's not a huge amount, but we're paying a little more than average on a per employee basis.

**DEPUTY MAYOR CHAVEZ** would like those numbers. He recognized that the 5-year projections include assumptions. The City's sales tax revenues have increased in the last few years. The natural inherency of government is to grow.

He recommended looking at best practices and outsourcing options. The City can partner over a 5-year period of time to determine which activities can be outsourced while maintaining positive relationships with employees so that there are no jobs lost. This is better for the employees and for the citizens, because there is a more efficient government.

**COUNCILMEMBER WOOD** commented that the public should know that \$10,000,000 of the City's money has gone to the State because of their budgetary situation. It is money we could use in the City. Even though there is a new Governor and the State has made some changes, there are problems. He and City Manager Jepsen attended the California League of Cities meeting and had a phone conversation with a group regarding the State budget. Some of the dollar figures discussed in that meeting are different from the presentation today. For example, in today's presentation, the 5-year projections slide shows a \$1,500,000 ERAF budget cut. He recalls, at the League of Cities meeting, that 2-year cuts would cost \$1,700,000. He noted the proposed FY 2004-06 budget reflects the Vehicle License Fee refund of \$3,000,000 in 2006. He asked if that was added into the calculations (if the City will get that money back).

**MS. SWINDELL** responded no, because it's a one-time loss. What we're looking at going forward is ongoing revenue versus ongoing expenditures.

**COUNCILMEMBER WOOD** understands but in the 2004-2006 proposed budget it shows in brackets at the bottom as a deficit of about \$500,000. At the League of Cities meeting we were looking at maybe getting a \$3,000,000 windfall back on that particular year, which would bump us back up to \$2,500,000 above.

**CITY MANAGER JEPSEN** replied the dollar amount that the State is proposing to repay us is all of the VLF that they took this year, which totals \$3,000,000. The State is proposing to repay all cities, which amounts to about \$1,000,000,000 in one year. If the State economy improves to the point where they can pay off the \$15,000,000,000 debt

that they have and the additional \$1,000,000,000 that they owe the cities, Oceanside will get that \$3,000,000 back.

However, the State still owes us money for the San Luis Rey River project that has been owed for years. They carry it on their books, dutifully saying they are going to pay us back. When we get that money back we cannot use it for on-going operational costs because it will be a lump. The third year of the budget shows that as we project forward we're not out of line with what we are recommending to Council. If we get the \$3,000,000 back it would change the bottom line for that year, but we could not use it for operating expenses because there would be no way of continuing those operational functions after that point.

**COUNCILMEMBER WOOD** commented that the City was prepared in comparison to other cities that had to take even larger hits from the State. Referencing page 12 of the slide presentation, he noted that the items were separated. It was brought up at a previous Council meeting that people view these revenue potentials (increases in parking fees/fines, ambulance fees and false alarm fees) as fee increases or tax increases. He wanted the labor groups and others to be aware that the increases in these fees/fines affect the citizens of Oceanside. Parking fees and fines certainly are big issues to the citizens that go to the beach and park at the metered spaces.

Regarding the use of the reserve funds, the reserve funds are there for the purpose of not taking hits on services to the community. We must still pay for these services in some form, and next year it's going to continue. He would like input from the public regarding the fee increases. This is a budget crisis at the State level, which means our reserve funds might have to be used, even to an extent further than expected, to resolve some of these problems.

Everyone in the State is forecasting that the budget status will probably improve in a couple of years. So the use will get the City through this crisis without hindering services to places such as the Library. Public safety is a #1 priority all of the time and certainly during an election year. We need to know that the reserve funds are there to use for a couple of years, although we don't like to touch them. He asked the amount in the Reserve Fund.

**CITY MANAGER JEPSEN** responded there is \$29,000,000, but that is cumulative and includes all the cash. A lot of the funds have been earmarked for special purposes and for one-time capital expenditures, including the Senior Center construction, the front money for El Corazon and a number of other City projects. Staff will bring back to Council a snapshot of the reserve funds showing what is committed and what remains for temporary use or for other capital projects. Once we spend the Reserve Funds, there is no way to recapture them.

**COUNCILMEMBER WOOD** understands but they are there for a reason. The budget issue is a problem that the City might get through in a year or two. Staff should keep that in mind.

The staff cuts over the years have required the remaining City employees to fill in for the missing positions, and they have done a great job. There are some wish items that we'd like to have, such as the Police Response Team or something in Redevelopment. He questioned whether Redevelopment or the Police Department would fund the two officers.

**CITY MANAGER JEPSEN** responded that his proposal is for the Redevelopment Agency to pay for one of the officers and the General Fund to pay for the other one. That's because the downtown area encompasses more than just the Redevelopment Area. We're looking at a focus on commercial areas in the downtown and adjacent neighborhoods. About 50% of that area comprises the Redevelopment Area, so he is proposing to split the cost of those 2 officers.

**COUNCILMEMBER WOOD** sees we are trying to budget a fire communications/dispatch system, which we probably need. However, he is concerned that we are getting ahead of ourselves in installing a fire dispatch system when a year or two from now the County will have switched to a regional fire system.

**CITY MANAGER JEPSEN** responded that the amount was put into the budget as

a placeholder. The Fire Chief has indicated that it would be prudent for us to wait on directing the dispatch activity until the completion of the Regional Fire Study, which is scheduled to begin in July. If we reserve the money, then the resources have been allocated and they can be directed appropriately when the decision has been made. Both alternatives would cost more money than we're currently putting into our dispatch system for fire.

**COUNCILMEMBER FELLER** clarified that we are not responsible government if we spend the reserve funds on ongoing expenditures. With projects such as the Senior Center, a road, an intersection or an interchange, there are ongoing expenditures. We can't grow government unless we grow revenues. He is not in favor of very much expenditure out of our savings to take care of ongoing expenses. What we need to do is grow our revenue, and that will solve the problem.

2. **Presentation and discussion of the proposed FY 2004-06 Biennial Budgets**

A) **City Manager**

**CITY MANAGER JEPSEN** noted the department has attempted to make the budget formats simple. Rather than a detailed line item budget presentation, he presented an overview of the budget changes in the City Manager's office and the magnitude of the changes, since this is a rollover budget.

The mission of the City Manager's office is to provide support to the City Council, direct activities of City departments, oversee financial planning and budget preparation, media relations, government affairs (lobbying efforts)/advocacy, and coordination of economic development.

Oceanside has one of the smallest City Manager offices in the County. We have one Deputy City Manager, Mike Blessing, and one Assistant to the City Manager, Michelle Lawrence. Mike Blessing handles all economic development, building and planning issues. Michelle Lawrence runs the day-to-day activity inside the office.

FY 2003-04 accomplishments include:

- Developed strategies in response to the State fiscal crisis.
- Oversaw some of the major capital and economic development projects such as the downtown parking structure, the Pier Resort timeshare project and the Beach Resort Hotel project.
- Coordinated the El Corazon Planning Committee efforts.
- Successfully secured \$3,000,000 in Federal appropriations, including almost \$2,000,000 to help support the City's 800 Megahertz radio system.
- Introduced cost efficiencies to the City's *Oceanside Magazine*, which takes in about \$80,000 per year in revenue. Measured against expenses, the magazine costs about \$13,000 an issue; there are 4 publications per year.
- Coordinated the City Manager task force on composts and biosolids, which fits in with the El Corazon planning efforts. Hopefully these two topics will converge at the appropriate time.

The budget year objectives are to continue doing the following:

- Coordinate economic development activities
- Seek out federal appropriations for priority projects

- Develop and coordinate a public safety strategic plan
- Bring forward a proposal for an innovations team that would report directly to the City Manager and would be comprised of achievers below the department head level
- Get a good head start on the new financial accounting platform. That new platform will require dedication of a portion of the reserve funds, since such systems are not inexpensive.
- Move forward on a General Plan Element update. It has been a number of years since this has been done. There are some components of the Transportation Element that remain contentious in the community. We need to understand the overall network implications. There has also been a change in what is necessary from the development communities to support the implementation of our current Transportation Element, and City fees are in need of update in that area
- Move forward with the development of the beach/pier resort
- Facilitate the process for the El Corazon planning effort, hoping to get a conclusion over the next year
- Conclude task force work on compost and biosolids

Their current budget will roll-over to the next budget year with the normal increases. He explained that the jump in the Contingency Fund from \$12,800 to \$50,000 is because there is \$35,000 of contingency money in a management account outside of the City Manager's budget that we want to roll into this budget. It's not actually an increase but a transfer of those funds. The City Manager's office currently has control of those funds. These funds are used for any unanticipated expenditures, such as for special studies. There is always something that needs to be taken care of right away, which is what these funds are for.

Our changes are minor, such as an increase in postage for the *Oceanside Magazine* and the consolidation of the Contingency budget into the City Manager's office. We had 8 positions this year; however, we left one of them vacant. We are proposing that the vacant position be unfunded. The vacant position is an Administrative Secretary. However, the Secretary to the City Manager is retiring at the end of June and we need to seek the appropriate level for replacement. We probably won't be replacing that position at the same level, but we do see a need for continued clerical support. We continue on with 7 full-time employee positions, although this current year's position is unfunded.

In summary, our expenses for the next fiscal year are 2% less than the current year. We don't project any dramatic shifts unless there are positions or funds transferred in from other departments.

#### B) **City Council**

The City Council mission is to be the Board of Directors and legislative body of the City. They establish City policy, set citywide goals, and have fiscal authority and responsibility for the expenditures in the City.

City Council FY 2003-2004 - accomplishments included:

##### City Image

- Established shared vision and priorities
- Improved numerous neighborhoods and parks
- Beautified several gateways and corridors

Safety

- Reduced crime rate by 7%
- Recognized as the 3<sup>rd</sup> safest city in the County
- Continued fire service regionalization efforts

Budget

- Managed unprecedented State budget deficit effects
- Approved mid-year budget reduction to avert layoffs
- Included the additional \$1,500,000 State takeaway

Economic Development

- Improved the City's revenue position
- Facilitated job growth - Ocean Ranch and IDEC brought jobs that the entire country sought

City Council budget year objectives include:

Continue City image enhancement

Improve economic position through projects such as:

- The Pier resort hotel
- The Watkins' timeshare
- The downtown parking structure
- Business park development enhancements
- Continue work in public safety enhancement coordination, looking for ways to provide incremental service enhancements in police and regionalization in fire

Ensure the fiscal health of the City with:

- Revenue enhancements
- Adequate reserves
- Confirm the vision for El Corazon - Hopefully bring the committee work to a conclusion

The pier resort and the El Corazon property are two opportunities for Council to set the direction and create the image of this community for years to come. Not many communities have a beach and the opportunity to build a resort adjacent to the beach.

The opportunity to plan for 450 acres at El Corazon is a once-in-a-lifetime experience for the Councilmembers as well as the residents of this community.

General Fund Budget Summary

This is basically a roll-over budget with no major enhancements.

The proposed budget changes include:

- A salary adjustment for Council, which adds \$6,000 per year. This is the salary adjustment amount allowed by law.
- A \$1,000 increase in postage.
- A reduction in the training budget of \$9,000 - The training and travel budgets for Council were consolidated. Funds were set aside for the annual lobbying trip to Washington, D.C. Although the trip throws the expenditures on comparable Councilmembers out of skew, the City has been very successful in getting between \$2,000,000 to \$3,000,000 a year out of Washington, D.C.

There is no change in the number of positions. There are 10 positions now.

**DEPUTY MAYOR CHAVEZ** has a problem with the 5% increase when, to his knowledge, every department made a budget cut except City Council. The Council should take the appropriate percentage of reduction because of our leadership role. He does not support the increase.

He has taken some time to look at the budget and we have personal services, which is the pay of the people. In the non-personal operating there is \$66,423 in 2003-04. Those are broken into 5 subcategories of office supplies, postage, printing materials, cell phones and then conference, travel, dinners, events and training, which is \$41,000. We cut the \$9,000 from the training but he's gone through the records and noticed that we are also paying for concerts, luaus, casino nights, bottled water, club membership dues, Cox internet access at home, etc. That \$66,423 needs to be looked at. In these austere times it isn't appropriate that we're having Cox at people's homes or paying to go to casino nights, etc. He recommends that we make an appropriate cut to this \$66,423 of 50%, or maybe we can just agree to cut out that whole area of conference, travel, dinners and events, which is \$41,000.

**COUNCILMEMBER FELLER** stated the pay for Council is not very much considering the number of hours required to attend additional events. Many of us aren't independently wealthy enough to write a check for every event we have to attend. People don't usually send complimentary invitations for their non-profit events. He agreed that some of these expenses could possibly be reviewed, but \$34,000 a year salary divided by 45 to 50 hours a week is not a very good salary. We do this because we care for the community.

Paying for each event would not only cut our salary but also cut our participation in events. This is not an issue of leadership; it is an issue of what the community wants us to be doing. He doesn't believe the community would want the Councilmembers to forego attending their events if we're not independently wealthy enough to write a check for every issue.

#### C) **City Clerk**

**CITY CLERK WAYNE** reported that the mission statement of the City Clerk's office is precise and clear; therefore, they have not made any changes in the verbiage for many years. It states that the City Clerk's office serves as the City's source for informational, historical, legislative and election services for the community, the public and City agencies.

The City Clerk's office was before Council 2 years ago and made a thorough presentation of what each program provided. At that time details regarding budgets and positions were provided, so not as much of that information will be provided this time.

#### Organization

The City Clerk's office is still maintaining the 4 programs known as Legislative Services, Central Records/Archives, Elections and Political Reporting, and Document Imaging. Two years ago, we had 9 full-time staff members. Last year we made a presentation to Council on the 2003-2004 budget. At that time we reviewed the 5%

budget cut that we were able to provide the City. This meant that we only had 8 full-time staff members since our Administrative Analyst retired and, due to budget cuts, we agreed to let that position go unfunded for a while.

Although the position is unfunded in this new 2-year budget, we do want to emphasize that we do at some point need that position. It's a position that not only helps us to implement our records management program, but it is also a part of keeping the Document Imaging program going. Consequently, with this position unfunded, not all of our goals can be realized so we are going to be again stretching our remaining people and resources. We are doing as much as possible to work smarter.

The good news is that although we have been without a Minutes Specialist for quite a while now, we have received the list and were able to fund the position, so we now have a full-time Minutes Specialist on board. The City's minutes are very specialized and detailed, so it will take quite a few months of training to be totally functional in that field.

FY 2003-04 accomplishments include:

- Transcribed over 2,500+ pages of very detailed, summarized minutes from over 125 meetings
- Logged, tracked and processed over 1,100 documents
- Researched and responded to public records requests
- Provided membership services to 25 advisory groups with approximately 230 members
- Researched, delivered, retrieved and re-filed 3,200 records request transactions
- Completed the conversion to the new Records Management Software, including bar-coding all containers and storage spaces
- Installed 700 linear feet of new shelving units in the Central Records Center
- Disposed of over 1,000 boxes of City records, in accordance with legal requirements
- Processed Statement of Economic Interest Filings for 225 designated employees and advisory group members
- Served as filing officer for political campaign finance reporting for all locally active political action committees
- Scanned 400,000+ additional images into the Document Imaging Program
- Expanded access to the imaging system to include the City Council, City Manager, City Attorney offices and Water Utilities
- Purchased and installed a new digital postage machine to comply with increased postal security requirements
- Provided meeting agendas/summaries and election information on the Internet web site to keep with the Department mission statement to provide the public with access to its government
- Advertised and mailed public hearing notices, much of which is on the City's web site and responded to all historical, legislative and election inquiries by the public

- Assisted all City departments with their historical data research and legislative inquiries

FY 2003-04 budget year objectives include: The objectives of the upcoming budget are similar to the Department accomplishments of the past fiscal year.

- Provide accurate, detailed minutes of City Council meetings and other legislative bodies and process documents
- Continue to coordinate with IT to develop an advisory group membership tracking software program in conjunction with the existing database
- Perform the duties as required of the filing officer for Campaign Statements and Statements of Economic Interests
- Conduct the November 2, 2004, General Municipal Election
- Scan additional documents into the Documents Imaging Program and expand the program to additional departments

#### General Fund Budget Summary

This is not really a roll-over budget due to the fact that we have significant cuts in our budget. We were able to meet the City Manager's goal of 7% for our budget reduction and we gave back more based on the concerns we heard and still hear of the State's takeaways and the City's financial crisis.

When you take into account the budget, there is a mandate and that is the election, which increases the budget amount. The budget summary shows in 2003-2004 with a \$900,000+ budget, we gave up the \$49,000 so we have \$884,000. In the 2004-05 budget, we have \$947,000; we have decreased the budget by \$27,000. The budget summary shows only 8 full-time staff members due to the unfunded Administrative Analyst position.

The budget summary by program shows large budget cuts based on the good work of those who manage these programs. However, staff may return to Council if unexpected issues arise.

City Clerk Wayne emphasized how important the records of the City are. Many times they are the City's vital records and documentation that is needed for City business. Without a good records management program it could cause the City a lot of grief. Therefore, within the next fiscal year, they hope to bring forward a citywide Records Management Program ordinance to better clarify for all departments what is needed for that program.

However, eventually all the pieces to implement this program will need to be in place, which includes the funding for the Administrative Analyst position. The Administrative Analyst at some point in the future is going to have to, as part of the Records Management Program, which goes hand in hand with the Document Imaging Program, prepare or assist in preparing a records retention schedule for all City departments so that their records are properly processed.

Another big factor in the 2004-05 year is the election, which is a huge workload. We process the election with the same amount of staff, which means other areas of our workload take a back seat to the election process. We added estimated costs, which are provided by the San Diego County Registrar of Voters' office. The City Clerk's office contracts with the Registrar to provide a lot of our election services. Their estimate this year is approximately \$90,000; however, we do not know what will happen in relation to the voting systems. The Registrar may be coming back to the City to ask for additional funding.

We have taken all of these budget cuts, and what you don't see in the budget cuts are the increases that have been made in interfund service charges, which include general

insurance, IT charges, etc. For example, in going into the 2004-2005 budget year the interfund service charges amount to approximately a 10% increase in the budget. In the 2005-2006 year it amounts to an additional 4%.

We have cut to the bone and any out of the ordinary items during the year will require us to come back to Council to request additional funding. We wanted to do our part in giving what we could to help the City's financial system based on the State's issues. However, if the situation turns out to be better, we would like to have another chat with Council about the budget.

**COUNCILMEMBER FELLER** has calculated the difference between 2003-2004 and asked if the Clerk's office had to do anything for the primary.

**CITY CLERK WAYNE** responded no. We're not involved with the primary other than helping voters get to their polling places.

**COUNCILMEMBER FELLER** stated there is a \$132,000 difference between an election year and a non-election year.

**CITY CLERK WAYNE** asked Council to understand that the program is an election/political reporting program, so it's not just money for the election. It's also money for the political reporting aspects. We have the political action committees and the employees in designations who have to file Conflict of Interest statements that are all part of that program. We do carry a certain amount of funding in off election years to assist with those functions as well.

**COUNCILMEMBER FELLER** asked how much a Special Election would cost the City.

**CITY CLERK WAYNE** responded around \$200,000 as a rough guess.

**CITY MANAGER JEPSEN** noted there are departments that he has no budgetary control over. The City Clerk's Office and the City Treasurer's Office are 2 of those departments. They have done an extraordinary job of being team players.

**MAYOR JOHNSON** added that the City Clerk and City Treasurer are elected officials. Too often they are overlooked in the community as such.

**CITY MANAGER JEPSEN** commented that his direction to the departments after re-evaluating the City's position in February and March was to do a roll-over budget with the exception of the positions that had been identified for unfunding or for elimination. He suggested going back to all departments to make sure that was in fact done, as in the case of the City Clerk's office. He believes the City Clerk has taken out more than is necessary and will be adjusted.

**MAYOR JOHNSON** suggested the City Manager discuss it with the City Clerk.

D) **City Treasurer**

**CITY TREASURER JONES** presented an overview of the City Treasurer's office operations. We are one of the City's smallest departments with only 3 employees: an elected official and two full-time employees. There is also a consulting firm, United American Capital Corporation, which we are gradually phasing out.

In comparison, the level of responsibility the office holds is large. Our budget this year will be \$287,266, which represents 1/3 of 1% of the general budget for the year.

The Treasurer's office is responsible for investing City funds at the highest rate of return, while ensuring funds are available to meet obligations. Other responsibilities of the Department include:

- Management of banking relationships between the City and its designated bank

- Assisting in the administration of the City's bonded debt and special assessment districts

The main focus for the Treasurer's office is:

- Management of an investment portfolio, which now stands at over \$200,000,000

The portfolio is conservatively invested in:

- U.S. Treasury Securities
- Federal Agency Securities
- State Local Agency Investment Fund (LAIF)

Staff uses extensive cash flow analysis, state-of-the-art market pricing and information services and investment management software to aid in meeting the City's cash needs and monitoring the portfolio performance.

The past year has been a challenge for the investment of public funds. Despite the interest rates being at historical lows, the Treasurer's office has been able to maintain a respectable yield on the portfolio. Because the City's portfolio is actively managed, we are able to employ changing investment strategies as needed. The Treasurer's office is able to take advantage of major market price moves and enhance portfolio yield within the guidelines of the City Investment Policy and State Code.

The Treasurer's office also works closely with the Financial Services Department in the issuance of the City's bonded debt. As part of the financing team of the City, the Treasurer's office provides pertinent information to bond counsel and the trustees. Once the bonds are issued, the Treasurer's office is responsible for the investment of the project and reserve funds.

**Michele Lund**, Treasury Manager, stated the organization and responsibilities are broken down into 3 major responsibilities, which include:

- Investing the City's portfolio and accomplishing that through cash management
- Managing the banking relationship
- Assisting in the management of the bonded debt and special assessments

FY 2003-2004 accomplishments include:

- Maintained an average yield-to-maturity of 2.85% on the City's \$200,000,000 portfolio during a record low interest rate environment. However, we are looking forward to higher interest rates during the next fiscal year. It becomes more of a challenge to invest in a bear market because as soon as you buy something it is no longer worth what you bought it at that day. The City will earn more, but unrealized gains will start to diminish. Please be reminded of this as future reports are reviewed.
- Assisted in the issuance of 4 refunding bond issues and one new bond issue.
- Assisted the Water Utilities Department with the financial management of the San Luis Rey Wastewater Treatment Plant Expansion Project funds. As they expended the funds, the Treasurer's office drew down the bond proceeds to ensure optimal use of the money.

- Development of procedures for the reimbursement process relating to the Morro Hills East Community Facilities District, insuring the bond proceeds funds were brought back into the City and used in a timely manner so that the cash can be used rather than sitting with the bond trustee.

FY 2003-2004 Budget Year Objectives are:

- To be more aggressive in investing the bond reserve funds and the bond project funds to take advantage and maximize yield on the bond issues. This will help to offset costs related to debt payments during the year.
- Work in conjunction with the Financial Services Department to develop a cash handling policy and procedures manual.
- Develop and conduct cash handling training courses to ensure the revenue is brought into the City in a timely manner from those outlying departments such as Library and Recreation.

The measure of the department's major service provided is the yield on the portfolio. We are definitely beating our benchmarks, and we will continue to do so as long as we follow market trends and actively manage the portfolio.

The base line expense for this current year is \$277,000. Budget reductions totaled \$15,000, primarily in the area of contracted costs. The contracted cost is for the investment management advisor, which will gradually be decreased over the next few fiscal years. In 2004-05 our budget will be \$287,000, with a reduction of \$20,000; of which \$18,000 are for contract management. We have an additional reduction of \$10,000 in the 2005-06 budget year.

The 2 full-time equivalent positions will remain the same.

3. **Public Communication on City Council Matters (Off Agenda Items)**

**THOMAS J. DEMPSEY**, 3641 Esplanade Street, commented that the Quarry Creek Shopping Center has more problems than just traffic. An emergency route is supposed to go from the end of Marron Road through Carlsbad to Haymar Road and there is no designation of this. At the end of Marron Road now there is a rock channel, which proceeds north into a holding pond of stagnant water. This issue was reported, and a process is underway to remedy this situation.

When you drive into the shopping center down Marron Road, the first entrance is by the bank where they are building the car wash and gas station; and that road should be closed. There is still construction going on but the gates are open and construction material is blowing around. Also, the equipment belonging to the contractor is staged in the parking lot. It should be fenced or walled off to keep an accident from occurring.

**JIMMY KNOTT**, 124 Sherri Lane, suggested that Council consider taping the budget presentations for the public.

According to the Department of Homeland Security, public safety now includes the public infrastructure such as water and sewage, although this is not shown in the budget. Regional applications should be taken advantage of for more than just public safety and studied to see if they produce cost savings for the City. The commissions and committees can be used to assist in this process.

The City budget should reflect 3 different budgets: a restricted budget, an anticipated budget, and a windfall budget. The reserve funds should be used for emergencies.

He believes the investment portfolio should be trifurcated: 1/3 to purchase land, 1/3 for job investments for local jobs, and 1/3 actual cash reserves.

**CITY MANAGER JEPSEN** advised that the water, sewer and other enterprise budgets

will be presented separately at another time; only the General Fund portion was presented today. The commissions reviewing the operating budgets as well as the capital budgets for the departments they have primary involvement with.

The investment portfolio is partitioned in terms of where the interest money sits and is attributable to the departments and enterprises that own a percentage of the portfolio. For example, 100% is returned on Water's portion of the portfolio, and Sewer will be up to 75% at the end of this 2-year budget. The City is on schedule to restore the Sewer at 10% per year.

The money is kept separate for those Enterprise funds that have an interest balance. However, the projected annual interest for the General Fund portion is included in the operating funds. If Council wished to identify that interest as being separate and used for other purposes, we would have to reduce what we have proposed in the operating budget.

**ADJOURNMENT**

**MAYOR JOHNSON** adjourned the adjourned meeting of the Oceanside City Council to a Mayor/Council Workshop on Wednesday, May 12, 2004, at 2:00 PM. This meeting of the Oceanside City Council was adjourned at 11:46 AM.

**ACCEPTED BY COUNCIL:**

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Barbara Riegel Wayne  
City Clerk, City of Oceanside



California

# CITY OF OCEANSIDE

## JOINT MINUTES OF THE:

### CITY COUNCIL SMALL CRAFT HARBOR DISTRICT BOARD OF DIRECTORS COMMUNITY DEVELOPMENT COMMISSION

DECEMBER 1, 2004

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

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

**Mayor**  
**HDB President**  
**CDC Chair**  
Terry Johnson

**Deputy Mayor**  
**HDB Vice President**  
**CDC Vice Chair**  
Rocky Chavez

**Councilmembers**  
**HDB Directors**  
**CDC Commissioners**  
Jack Feller  
Esther Sanchez  
Jim Wood

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

**Treasurer**  
Rosemary Jones

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**City Manager**  
**HDB Chief Executive Officer**  
**CDC Executive Director**  
Steven Jepsen

**Interim City Attorney**  
**Interim HDB General Counsel**  
**Interim CDC General Counsel**  
Pamela Walls

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

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

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB) and Community Development Commission (CDC) was called to order at 4:00 PM, December 1, 2004, by City Clerk Wayne.

#### **ROLL CALL**

Due to the advance notice of no Closed Session needed, there was lack of a quorum; City Clerk Wayne recessed the meeting to the 5:00 PM Council meeting.

[Recess was held from 4:00 to 5:00 PM]

#### **CITY COUNCIL, HDB, AND CDC CLOSED SESSION ITEMS** [Items 1 & 2]

- [1. CONFERENCE WITH LABOR NEGOTIATOR ON STATUS OF NEGOTIATIONS**

**PREVIOUSLY AUTHORIZED IN OPEN SESSION (SECTION 54957.6)**

- A) **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) and Unrepresented]

**No closed session needed or held**

**[2. CONFERENCE WITH REAL ESTATE NEGOTIATOR ON TRANSACTIONS PREVIOUSLY AUTHORIZED IN OPEN SESSION (SECTION 54956.8)**

1. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR** – Property: Marina Towers, 1200 N. Harbor Drive (APN 760-080-23); Negotiating Parties: Oceanside Small Craft Harbor District and Oceanside Marina Towers Association; Negotiator for the District: Douglas E. Eddow, Real Property Manager; Under Negotiations: Price and Terms]

**No closed session needed or held**

**5:00 PM**

Mayor Johnson convened the meeting in memory of long-time resident and City employee, Helen Nelson, who passed away on Thanksgiving Day in her home. She served as the Library Director in Oceanside from 1968 to 1994. Services will be held at the King of Kings Lutheran Church on Friday, December 3<sup>rd</sup> at 2:00 PM.

**INVOCATION** - Pastor Weaver of Walker Chapel

**PLEDGE OF ALLEGIANCE** - Deputy Mayor Chavez

**ROLL CALL**

Mayor Johnson, Deputy Mayor Chavez and Councilmembers Feller and Wood were present. Councilmember Sanchez arrived at 5:08 PM. Also present were City Clerk Wayne, City Treasurer Jones, City Manager Jepsen and Interim City Attorney Walls.

**PROCLAMATIONS AND PRESENTATIONS**

Certificate of Recognition - presented to Alexander Michael Cave for achieving the highest honor of Eagle Scout

[Councilmember Sanchez arrived at 5:08 PM]

**CLOSED SESSION REPORT**

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

**CITY CLERK WAYNE** announced that since Closed Session was not held, there was no report.

**PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS**

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

**Advance written request to reserve time to speak:** None

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

**DAVID MANLEY**, Housing and Neighborhood Services Department, spoke regarding the holiday toy drive coordinated by several City departments and the Fire Association. Santa will be on the Fire Engine delivering toys on December 20<sup>th</sup> through the various Resource Centers. Unwrapped gifts can be dropped off at fire stations or City Hall.

**THOMAS J. DEMPSEY**, 3641 Esplanade Street, remarked that residents of the Lake area want to thank Council for directing Transportation Manager Frank Watanabe and his staff on August 18, 2004, to set up a community meeting. The meeting is set for 6:30 PM at the Salvation Army Complex on December 9th. Items of discussion will be the Mira Monte Drive access to Carlsbad Elementary School and the Esplanade pedestrian gated access to College Boulevard, which includes school access, shopping access, public safety and any other issues related to public access and safety within the Lake Boulevard community. Notices will be hand delivered in the neighborhood. Mr. Watanabe will report the results and recommendations to Council on December 15th.

**RHEA PORTER**, Oceanside resident, expressed appreciation for the many years of service that Mayor Terry Johnson has given to this City. We appreciate him and have seen him over the years standing up for what he thought was right for Oceanside. He was always available to the citizens. She thanked Mayor Johnson for his tremendous support of the youth of Oceanside. Mayor Johnson previously wrote a letter of recommendation for her son who obtained a scholarship and graduated with honors with a degree in Business Management. Her son went on to get his MBA in Business Management. Her family appreciates Mayor Johnson's support and wishes him the best of luck in his future endeavors.

**DONNA MCGINTY**, 2405 Mesa Drive, has seen several mayors come and go. Mayor Johnson is one of the best the City has had. She likened the election to a runaway train, and said there needs to be another election to fill the vacant Council seat in order to prevent a total derailment at City Hall. As 3<sup>rd</sup> highest vote getter in the election, Mayor Johnson should receive the appointment to the vacant Councilmember seat, if one is to be made. However, she would not blame Mayor Johnson if he did not want to take the appointment. He has served with honor and helped achieve many milestones for the future of this City. He will be missed. He has been an honorable representative.

**JIMMY KNOTT**, 124 Sherri Lane, inquired if an election will be held or an appointment made to the vacant Council seat. Council needs to develop a structure procedure for both with a blue ribbon ad-hoc committee with citizens, to be led by the City Clerk, who would be a neutral party to explore avenues. The committee should come back to Council with recommendations. He asked Council to consider this and take action.

**Changes to the agenda**

**CITY CLERK WAYNE** announced that Councilmember Feller has removed Item 23 from the agenda.

**CONSENT CALENDAR ITEMS** [Items 5-18]

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.

**CITY CLERK WAYNE** reported there were requests to speak on Items 17 and 18.

**DEPUTY MAYOR CHAVEZ** pulled Item 9 for discussion.

The following Consent Calendar was submitted for approval:

5. City Council/Harbor/CDC: Approval of Joint Minutes of the Small Craft Harbor District Board of Directors, Community Development Commission and City Council of March 7, 2001, 2:00 p.m. regular meeting and Minutes of the City Council of August 1, 2001, 10:00 a.m. adjourned meeting
6. City Council/Harbor/CDC: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)
7. City Council: Approval of a purchase and sale agreement [**Document No. 04-D950-1**] and joint escrow instructions with Southern California Housing Development Corporation for the purchase of real property located at 3232 Mission Avenue [La Misión] and two adjacent parcels (APN 160-271-39, 40 and 41), in the amount of \$2,446,500, for the redevelopment into a mixed-use affordable multi-family residential rental complex and commercial/retail development; authorization for the Mayor to execute the document, the City Clerk to accept the deed conveying the property to the City [**Document No. 04-D951-1**], and staff to open escrow and conclude the transaction; approval of a lease agreement [**Document No. 04-D952-1**] with Roberto Gonzalez for the lease-back of the property at 3232 Mission Avenue through June 15, 2005, for \$3,700 per month, and authorization for the City Manager to execute the document [**Document No. 04-D953-1 (lease commencement)**]; adoption of **Resolution No. 04-R954-1** "...amending the budget for the 2004-2006 Fiscal Years" appropriating \$2,566,300 from the Inclusionary Housing In-Lieu Fee Fund for the property purchase and predevelopment costs reimbursements; and authorization to submit an application to the Planning Commission for project entitlements
8. City Council: Approval to upgrade and fund a currently unfunded Administrative Secretary position in the City Attorney's Office to Legal Secretary utilizing salary savings
9. **Removed from Consent Calendar for discussion - Council**
10. City Council: **Adoption of Resolution No. 04-R956-1** "...approving and authorizing the forgiveness of the third one-fifth installment of the \$300,000 forgivable loan made by the City to Poinsettia Center for The Arts to purchase the Star Theater and provide community theater activities for the benefit of the citizens of Oceanside", to forgive the third \$60,000 installment.
11. City Council: **Adoption of Resolution No. 04-R957-1** "...authorizing application to the California Coastal Commission for funds to support environmental education programs under the FY 2004-05 Whale Tail Grants Program" in the amount of \$40,696 in grant funds for the Parks & Recreation Department to support environmental education programs, and authorizing the City Manager to execute the grant application and contract documents [**Document No. 04-D958-1**]
12. City Council: **Adoption of Resolution No. 04-R959-1** "...approving an employment agreement between the City and Pamela J. Walls", approving an employment agreement with Pamela J. Walls, Interim City Attorney, and authorizing the Mayor to execute the document [**Document No. 04-D960-1**]
13. City Council: Approval of a professional services agreement with the Oceanside Boys & Girls Club in the amount of \$50,000 for supplemental maintenance services at Libby

Lake Park for the calendar year 2005, with a retainer for services of \$12,500 upon approval of the City Attorney and submission of all supporting documents; authorization for the City Manager to execute the professional services agreement [**Document No. 04-D962-1**]; and adoption of **Resolution No. 04-R961-1** "...confirming the public purpose and benefit of the Oceanside Boys and Girls Club Libby Lake Program and Club 55 Senior Fitness Facility and authorizing a professional services agreement in the amount of \$50,000 to support the Oceanside Boys and Girls Club"

14. City Council: Adoption of Budget **Resolution No. 04-R963-1** "...amending the budget for the 2004-2006 Fiscal Years", accepting \$7,000 from the California State Library awarded to Oceanside Public Library to implement the Services for Small Businesses grant program and transferring these funds to the Library Department
15. City Council: Adoption of budget **Resolution No. 04-R964-1** "...amending the budget for the 2004-2006 Fiscal Years", appropriating \$40,000 from the General Fund Unallocated Fund Balance for the purchase of one police car, and transferring those funds to the Fleet replacement account to add to previously approved funding for three additional police cars; approval of a purchase order in the amount of \$92,419 to Ken Grody Ford for the purchase of four police sedans; and authorization for the Financial Services Director, or designee, to execute the purchase order
16. City Council: Adoption of budget **Resolution No. 04-R965-1** "...amending the budget for the 2004-2006 Fiscal Years", transferring \$850,000 from the San Luis Rey River Drainage District 1, Zone 1A, fund balance to the Douglas Drive Storm Drain at El Camino Real Project account; approval of a reimbursement agreement with Western Pacific Housing, Inc., in the amount of \$3,150,000 for the Douglas Drive Storm Drain project; and authorization for the City Manager to execute the agreement [**Document No. 04-D966-1**]
17. **Removed from the consent calendar for discussion – public request**
18. **Removed from the consent calendar for discussion – public request**

**DEPUTY MAYOR CHAVEZ** moved approval of the balance of the Consent Calendar [Items 5-8 and 10-16].

**COUNCILMEMBER SANCHEZ** seconded the motion.

**Motion was approved 5-0.**

**Items removed from Consent Calendar for discussion**

9. **City Council: Adoption of a resolution approving an amendment to the 2004 Regional Transportation Improvement Program (RTIP) to reallocate \$694,000 in funding from three existing projects in the current 2004 RTIP into the El Camino Real Bridge Widening project**

**DEPUTY MAYOR CHAVEZ** pulled Item 9 because it deals with the Melrose Drive extension at North Santa Fe and Spur Avenues, which is an issue he does not support.

**MAYOR JOHNSON** moved to adopt **Resolution No. 04-R955-1**, "...amending Oceanside's adopted Five-Year Transportation Improvement Program".

**COUNCILMEMBER FELLER** seconded the motion.

**Motion was approved 4-1**, Deputy Mayor Chavez - no.

Items 17 and 18 were heard together.

17. **City Council: Approval for the expenditure of \$470,000 for weed abatement, planting and the installation of a centralized irrigation control system; and adoption of a budget Resolution No. 04-R967-1 "...amending the Budget for the 2004-2006 Fiscal Years", transferring amounts of \$35,000, \$300,000 and \$135,000, respectively, from the reserve funds to the respective operating funds of the Mar Lado, Santa Fe Mesa, and Del Oro Hills Landscape Maintenance Districts for the work; approval to amend the FY 2004-05 operating budgets to reflect the transfers; and authorization for staff to enter into agreements [Document No. 04-D968-1 (Mar Lado); Document No. 04-D969-1 (Santa Fe Mesa); and Document No. 04-D970-1 (Del Oro Hills)] with contractors to consummate and pay for the work**

**JIMMY KNOTT**, 124 Sherri Lane, asked when the City would begin to use reclaimed and recycled water. It will save costs in the long run after the initial infrastructure is built. He asked when the City will start to use reclaimed water for the landscaping districts.

**and**

18. **City Council: Approval of a real property purchase [and sale] agreement [Document No 04-D971-1] and joint escrow instructions [Document No. 04-D971-1] with Robert and John Siegel in the amount of \$3,345,408 for the purchase of approximately 4.8 acres of vacant land located between Mission Avenue and State Route 76 Expressway east of Foussat Road for the Fire Station No. 7 Relocation and San Luis Rey Basin Groundwater projects; authorization for the Mayor to execute the agreement and the City Clerk to accept the deed [Document No. 04-D972-1] conveying the property to the City; and direction to staff to open escrow and conclude the transaction**

**JIMMY KNOTT**, 124 Sherri Lane, supports the purchase of the 4.8 acres of vacant land. But vacant and buildable land in the City is rapidly disappearing. The City has no plans to look at what is needed for the future for parks, police or fire, etc. The City needs to look at it using this as an example to take some of the reserve funds and start purchasing buildable property because it is disappearing.

**MAYOR JOHNSON moved** approval of Items 17 and 18.

**COUNCILMEMBER FELLER seconded** the motion.

**Motion was approved 5-0.**

Due to the time, Item 21 was heard at this time.

#### **GENERAL ITEMS**

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

21. **City Council: Approval of Parks and Recreation and Youth Commission recommendations for the Coca-Cola "Opportunities For Youth" and "For Youth By Youth" grant funding cycle 2004-2005, totaling \$21,000**

**MEGAN BRADY**, Program Specialist, gave a presentation on the competitive grants for youth through the Coca-Cola revenue fund that the City gets from the Coca-Cola machines on all City properties. The funds go to youth programs throughout the City, not just City programs, and it is competitive for any agency to apply.

This year the City had a total of \$21,000 available between 2 youth grant programs. Those are the "Opportunities for Youth" and "For Youth By Youth" grant Programs. Nearly \$44,000 was requested from over 16 applicants. We did have 16 applicants that qualified for funding, which is recommended to Council this evening. The For Youth By Youth grant is a competitive Request for Proposal (RFP) process, and the Youth Commission helps in the selection process as far as which agencies should receive funding. The criteria for this program are that youth create the opportunity that they are going to participate in; as well, the project should apply to youth leadership in education, recreation or cultural programs. The emphasis is on one-time events that draw a large amount of youth. Staff is focused on reaching 80% of our youth from Oceanside in each program.

The Opportunities for Youth Program is an RFP process that is selected by the Parks and Recreation Commission. We look for funding that is not going to be an indirect cost. We want something that is applied directly to the youth that they can take away with them. We are only trying to support the agency's project and not fund it completely through the City. This year there were ten requests for the Opportunities for Youth Program, and the Parks and Recreation Commission made those recommendations. Those recommendations will only serve direct costs for the programs. We focused on not funding indirect costs such as transportation and lodging because those are very large costs. We can provide more programming to more youth by spreading it out rather than spending it on transportation, bus fees, etc.

The For Youth By Youth request was very similar in the same case, and transportation was omitted as an indirect cost this year as well. Again, these recommendations came from the Youth Commission.

The recommendation before Council this evening is to approve the Parks and Recreation Commission and Youth Commission recommendations as identified in Attachment 1 (FY 04-05 Coca-Cola Youth Grant Recommendations) of the staff report.

**COUNCILMEMBER SANCHEZ** noticed there were two schools recommended to receive funds from the For Youth By Youth Program (King Middle School ASB and Libby Elementary School). King Middle School ASB requested \$4,000, and the Youth Commission recommended funding at \$3,800. Libby Elementary School requested \$5,163, and the Youth Commission recommended funding at \$1,350. The levels of recommendations do not seem to be quite the same, and she asked for an explanation.

**MS. BRADY** explained the Libby Elementary School request included almost \$4,000 for transportation costs. It was a charge for bussing that would bring El Camino High School students over to Libby Elementary School and provide the tutoring program. The bussing that they would need to pay for would be transporting 3 to 7 high school students each day at a very high cost. They are coming over to work with approximately 150 youth at Libby Elementary School, with one high school student per classroom.

Most of the requested funds from King Middle School ASB were to pay for enrollment in conferences to learn leadership skills. The students would come back to King Middle School and apply the leadership programs to the entire school. So, the cost per youth it was reaching was a much greater value.

**COUNCILMEMBER SANCHEZ** moved approval of staff's recommendations as identified in Attachment 1 to the staff report as follows:

<b>Opportunities for Youth Grant Program</b>		
<b>Agency</b>	<b>Project</b>	<b>Staff Recommendation</b>
Camp Fire Council of San Diego County	NoCaBa-Camp Fire Fun	\$ 1,200.00
Eastside United Community Action	Afterschool Tutoring Program	500.00
Oceanside Ivey Ranch Park Assoc.	Camp Ivey	1,000.00
Oceanside P&R Dept Aquatics Section	Oceanside Water Polo Club	1,500.00
Oceanside Public Library	Page Power	350.00
Oceanside Public Library Teen Services	Special Teen Programs	540.00
Oceanside Salvation Army	Computer Friendship Lab	1,075.00
Oceanside Unified School District	Ballet Folklorico Estrella	2,000.00
Poinsettia Center for the Arts	Stars in their Eyes	1,000.00
Soccer Club of Oceanside	Referee Service Awards	875.00
<b>For Youth By Youth Grant Program</b>		
Camp Fire Council of San Diego County	Teen Directed Services-CF Route 66/Outdoor Program	1,750.00
El Camino Steppa'z	Uniforms for the "Steppa'z"	1,300.00
King Middle School ASB	Lead By Example	4,000.00
Libby Elementary School	ECHS and Libby Reading Tutoring Program	950.00
NAACP – North SD Co. Youth Council	"For Youth by Youth" Education Program	1,000.00
North County African American Women's Association	The Arts and Culture Program	1,000.00

**MAYOR JOHNSON** seconded the motion.

**MS. BRADY** said that the Libby Lake Elementary representative had indicated that they would be able to raise the rest of the funding before the Youth Commission made their decision.

**Motion was approved 5-0.**

**INTRODUCTION AND ADOPTION OF ORDINANCES**

The Council/HDB/CDC have adopted a policy that it is sufficient to read the title of ordinances at the time of introduction and adoption, and that full reading of ordinances may be waived. After the Interim City Attorney has read the titles, the Council may introduce or adopt the ordinances below in a single vote. There will be no discussion of the items unless requested by members of the Council or the public.

- 29. **CDC: Adoption of Ordinance No. 04-OR975-1 "... amending the text of the "D" Downtown District of the Zoning Ordinance to allow wine tasting establishments within the Downtown "D" District" (ZA-201-04) (Introduced 11/17/04, 5-0 vote)**

Following the reading of the title, **COUNCILMEMBER FELLER** moved to adopt the ordinance.

**COUNCILMEMBER SANCHEZ** seconded the motion.

**Motion was approved 5-0.**

- 30. **City Council: Adoption of Ordinance No. 04-OR976-1 "... amending the zoning district map from Residential Medium Density-A Historic (RM-A-H) to Planned Development – Historic (PD-H) for Property located at the western**

**terminus of San Dimas Drive, north of San Ramon Drive and west of Rancho del Oro Road" (Introduced 11/17/04, 5-0 vote)**

Following the reading of the title, **COUNCILMEMBER FELLER** moved to adopt the ordinance.

**COUNCILMEMBER SANCHEZ** seconded the motion.

**Motion was approved 5-0.**

**CITY COUNCIL REPORTS**

24. **Mayor Terry Johnson** – no report

25. **Deputy Mayor Rocky Chavez**

**DEPUTY MAYOR CHAVEZ** recognized Jack Risley, who has taken a leadership role at North Beach, which includes neighborhoods in the Redevelopment Area and up to the harbor, and has hosted a number of meetings at his house. He also recognized Linda Stagner, who is the leader of the President's Streets neighborhood. They are doing a number of things in their community to make it better.

On December 10<sup>th</sup> at the Oceanside Museum of Art, the City will recognize Terry Johnson for 12 years of service to the City. All are welcome to come and thank him for the 12 years of service that he has given to the City.

**PAM WALLS**, Interim City Attorney, announced the reception planned for Anita Willis, City Attorney, since she is leaving to go to the City Attorney's Office in Inglewood. The reception will be held on Wednesday, December 8th, from 5:00 PM to 7:00 PM at the Oceanside Museum of Art.

26. **Councilmember Jack Feller**

**COUNCILMEMBER FELLER** noted that SANDAG has a regional stakeholders working group that they are taking applications from anyone interested for until December 9<sup>th</sup>.

He too thanked Mayor Johnson for his 12 years on the Council. The effort that goes into the job of a Councilmember is not taken lightly. There is a great deal of stress involved, especially because the Mayor leads the meeting and has to keep track of where Council is on the agenda. Everyone owes Mayor Johnson a debt of gratitude for his 12 years of service.

27. **Councilmember Esther Sanchez**

**COUNCILMEMBER SANCHEZ** joined Councilmember Chavez in recognizing the President Street Neighborhood Association. Frank Watanabe, Transportation Manager, has been the one staff member that has been to practically every meeting, including their planning meetings. He has provided that extra thing that he does not have to do, coming in after hours and providing the technical support.

She invited the public to the swearing-in of the new Council which will be Tuesday, December 7<sup>th</sup> at 10:00 AM in the Council Chambers.

28. **Councilmember Jim Wood**

**COUNCILMEMBER WOOD** stated his neighbor's son was recently killed in Fallujah. He was 24 years old, and his name was William James. He asked everyone to

pray for the James family and for all of the Marines that are serving the United States overseas.

**MAYOR JOHNSON** noted that prayers and condolences go out to the family of William James. Too often young men and women are put in harm's way.

**Off agenda** - Presentation

**MAYOR JOHNSON** introduced Randy Mitchell. A few weeks ago, we celebrated the passing of one of America's true heroes, General Raymond Murray. Those who understand military history, particularly the United States Marine Corp, will know what this man stood for. Mayor Johnson had the privilege of knowing him for a short time. Mayor Johnson's father served under General Murray during WWII.

**RANDY MITCHELL** said we're trying to erect a flagpole in General Murray's honor out by the Murray Bridge. We promised the City we would raise some money and we have raised \$3,700 already. They do not know what the total cost is, but we had in mind \$7,500.

**MAYOR JOHNSON** noted that at the time, several community members and some Councilmembers, including himself, made a pledge and offer to assist in raising money for this worthy effort. Over the years, Councilmembers have supported many worthy contributions. The Friends of Terry Johnson Committee has raised approximately \$400,000 and has given away a tremendous amount of money. One of the last gestures he would like to make as Mayor is to donate \$500 to the effort. He presented the check to Mr. Mitchell, from the Friends of Terry Johnson, made out to the First Marines Division Association. This mission needs to be completed.

**MR. MITCHELL** recounted that the flagpole was intended to be a surprise for General Murray's 92<sup>nd</sup> birthday next January. Unfortunately, General Murray left before then. We have reached half of our goal. Checks can be made payable to the First Marines Division Association. Mr. Mitchell had the good fortune serving with General Murray on Camp Pendleton. General Murray was the highest decorated Marine on active duty at that time. Mr. Mitchell was proud to be part of General Murray's staff.

[Recess was held from 5:50 to 6:00 PM]

**6:00 PM - PUBLIC HEARING ITEMS**

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

19. **CDC: Consideration of a resolution approving Tentative Parcel Map (P-203-04), Development Plan (D-204-04) and Variations (V-206-04, V-207-04) for a four-lot single-family subdivision located at the southwest corner of North Freeman Street and Neptune Way; project site is located within Subdistrict 9 of the "D" Downtown District and is situated within the Townsite Neighborhood – Claire Villas – Applicant: James Snow, PMF, LLC**

- A) Chairperson opens public hearing – hearing was opened.
- B) Chairperson requests disclosure of Commissioner and constituent contacts and correspondence – Mayor Johnson, Deputy Mayor Chavez and Councilmember Feller reported contact with staff. Councilmembers Wood and Sanchez reported no contact.
- C) Secretary presents correspondence and/or petitions – none.
- D) Testimony, beginning with:

**RITA BAKER**, Senior Planner, reported the applicant is proposing to subdivide

two 5,000 square-foot lots at the corner of Freeman and Neptune Way into four 2,500 square-foot lots. Currently there is a single-family home on the site and a vacant lot next door to it. The single-family home was evaluated for its historic significance. It was found to have an interesting history; however, it will be photo-documented and demolished as part of the proposal.

**MAYOR JOHNSON** inquired if this was the property directly east of the Harbor Café.

**MS. BAKER** answered yes. Using computer slides, she showed a birds' eye view of the proposed landscape plan and the houses which are described as California row-home architecture with an emphasis on relating to the streetscape. There are two floor plans. One is 2,490 square feet, and the other is 2,583 square feet. The overall height of the building is 33 feet, which is under the maximum height of 35 feet. There are two variations requested in this application. The first is in Subdistrict 9. There is a requirement that the aggregate area devoted to row-homes be 30,000 square feet, and this is an application for 10,000 square feet. There is also a request of reduction in the corner side yard from 10 feet to 3 feet. Staff feels both of these variations are supportable. We have found that the aggregate in Subdistrict 9 on the west side of Coast Highway of 30,000 square feet has not exactly happened that way. There have been evolutions over time; there is a very attractive streetscape and staff feels that there will be a variety of development on this block. Secondly, the corner side yard is also supportable. There has been a variation granted on the west side of Coast Highway and has created a very interesting streetscape.

The Redevelopment Design Review Committee and the Redevelopment Advisory Committee (RAC) have both reviewed these applications and recommended their approval. No opposition has been indicated in the time of the public notification. Staff recommends that Council approve the applicant's request [and adopt the resolution].

**COUNCILMEMBER FELLER** noted that the background information says that the subject size is approximately 10,000 square feet, so that is the total of four 2,500 square-foot lots. He asked what 'approximately' means.

**MS. BAKER** replied it is information that the Engineer has given us on the map.

**COUNCILMEMBER FELLER** remarked that Council has been generous on these lots on other applications. Preciseness is necessary to prevent the project from coming back to Council.

**MS. BAKER** said the Engineer's record has indicated that we are smaller than that; staff has indicated that through a variation to Council.

Applicant

**GARRETT COLBURN**, Associate Planner with the Lightfoot Planning Group, 5750 Fleet Street, Carlsbad, is representing the applicant, PMF LLC who is present along with the project architect and engineer. We concur with staff's presentations. He highlighted some further aspects of the project for Council. Claire Villas will be the first project on the east side of Coast Highway to introduce the highly successful row-house product type. The project is well below the base density, and the proposed row homes will maintain and encourage the development of single-family homes rather than condominiums or apartments in an area that the zoning allows.

The Neptune and Freeman streetscapes will be improved in landscaping. Along the public rights-of-way, new concrete walkways will separate the privately maintained landscaped areas on Freeman Street. The project will also be providing additional curbside parking by eliminating an existing curb cut on Freeman Street. Other off-site

improvements are in the alley and include relocating an existing power pole, undergrounding overhead utility lines, extending a sewer line and installing a rim and gutter. All of the off-site improvements will serve as an example for future development on the block to follow. The superior architectural design will be similar to the successful row homes on the west side of Coast Highway. Claire Villas will provide an attractive in-fill project that will help beautify the area, while providing homeowners with ocean and sunset views from rooftop terraces. This project will be a catalyst for the development of similar product types on the east side of Coast Highway and the Redevelopment Area.

In response to **MAYOR JOHNSON**, Mr. Colburn said that Tom Richardson will be the General Contractor on the project.

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

**COUNCILMEMBER FELLER** indicated that this is just the beginning of development on the east side of Coast Highway. He hopes this project generates other types of development, not just in the Redevelopment Area, but of the same type and make up all the way down south. This is really going to start the clean-up of that area. This is a great start.

He **moved** approval [to adopt **Resolution No. 04-R973-3** "...approving Tentative Parcel Map (P-203-04), Development Plan (D-204-04) and Variations (V-206-04, V-207-04) for a 4-lot single-family subdivision located at the southwest corner of North Freeman Street and Neptune Way - Applicant: James Snow, PMF, LLC"].

**MAYOR JOHNSON** **seconded** the motion. As this project is being developed, he hopes that representatives of this project would speak to their neighbor to the south and encourage him that apartment development is not the way to go. Homeownership brings about pride and the upgrading of the area, and that is what Council is looking for.

**COUNCILMEMBER SANCHEZ** noted that higher density is appropriate for this area. The agenda says it is within the Townsite area. People do not like the Townsite designation, so Council hears words like North Beach. She is sure Council will be hearing other words of pride in their neighborhood and pride in ownership. This project is appropriate for this site but perhaps not in the middle of the City where they have more families, traffic and larger lot homes. The City needs to maintain the lower density within the center of the City.

**Motion was approved 5-0.**

20. **CDC: Consideration of a resolution approving a Tentative Parcel Map (P-200-04), Development Plan (D-200-04), Conditional Use Permit (C-200-04), Variation (V-201-04), and Regular Coastal Permit (RC-200-04) for a 4-unit residential condominium project located at 313 South Myers Street; project site is located within Subdistrict 5 of the "D" Downtown District and is situated within the Townsite Neighborhood and the Coastal Zone – Sombrilla Condominiums - Applicant: Russ Cunningham**

- A) Chairperson opens public hearing – hearing was opened.
- B) Chairperson requests disclosure of Commissioner and constituent contacts and correspondence – Mayor Johnson, Deputy Mayor Chavez and Councilmember Feller reported contact with staff. Councilmembers Wood and Sanchez reported no contact.
- C) Secretary presents correspondence and/or petitions – none.
- D) Testimony, beginning with:

**RITA BAKER**, Senior Planner, reported that the applicant is proposing a 4-unit condominium to be located at 313 South Myers Street. Earlier this year, the Community

Development Commission unanimously approved a Regular Coastal Permit to demolish the existing house on the site, and the demolition has occurred.

The architecture is described as a contemporary urban theme. It is 3 stories in height, located over subterranean parking and there are 2 at-grade parking spaces, all served off of the existing alley. There are 4 floor plans proposed, ranging in size from 1,892 square feet to 1,931 square-feet. She showed the 2 side yards and the site plan. As part of the application, a Conditional Use Permit is required because the density is 29 units per acre, which is above the base of 15 dwelling units per acre. It has excellent design features, and the parking is a measure as to whether or not the density is warranted.

The applicant is requesting a series of variations from the development standards relating to setbacks. She showed a computer slide of the subterranean parking near the front of the property and pointed out the steps and the profile of the fences. The applicant is requesting a reduction in the parking stall size from 19 feet to 18 feet 8 inches. In reviewing the application, the Redevelopment Design Review Committee brought the applicant back twice and wanted to see in clear form what this might look like. To accommodate that, the applicant prepared the model sitting before Council. The variations allow for a very interesting streetscape, as opposed to the normal setback with landscaping, which is a very attractive urban form. They are bringing in a Jane Jacobs style, bringing the building and the applicants' future homeowners to the street. The front and the back are very similar in their design, and it is a very bold statement for this area. It is very different from what had been there and slightly different from the immediate area, which are 1-story units, but consistent as the Redevelopment Area emerges here in height and scale. Both the Redevelopment Design Review Committee and the Redevelopment Advisory Committee were very enthusiastic about this project and recommend their approval, and staff recommends approval of the project as well.

#### Applicant

**RUSS CUNNINGHAM**, 405 South Myers #3, applicant, said the project speaks for itself. We began the process nearly 1½ years ago when we acquired the property. We appreciate the City's interest in seeing the neighborhood evolve from blighted to beautiful. We look forward to working with the City again on other projects that will contribute to the City's ambitious vision for the Downtown area. As a resident of the area, he has a very compelling, personal interest in its future. With this project, we are investing in the South Myers Street neighborhood and in the quality of life that it affords. This neighborhood is in need of a catalytic project such as this one. This project will help to create neighborhood identity and pride. The City should expect future exemplary projects such as this one.

With no one wishing to speak, **MAYOR JOHNSON** closed the public hearing.

**COUNCILMEMBER FELLER** said this is a great project that will be a catalyst for improving the neighborhood. He **moved** approval [of **Resolution No. 04-R974-3** "...approving a Tentative Parcel Map (P-200-04), Development Plan (D-200-04), Conditional Use Permit (C-200-04), Variation (V-201-04), and Regular Coastal Permit (RC-200-04) for a 4-unit condominium project located at 313 South Myers Street – Applicant: Russ Cunningham"].

**MAYOR JOHNSON seconded** the motion. Looking at the design, it is a very exciting urban contemporary design. It has a bit of Miami flavor to it and it will be a great addition to the City. Hopefully, Council will see more development like it in that area.

**Motion was approved 5-0.**

**GENERAL ITEMS (continued)****22. City Council: Introduction of an ordinance approving parking restrictions for unattached trailers and oversized vehicles on City streets**

**PETER WEISS**, Public Works Director, explained that this item is a proposal to introduce an ordinance that will restrict unattached trailers on public streets and oversized vehicles, primarily recreational vehicles. The item before Council has been an item of discussion for some time. In fact, the Planning Commission took up this item on several occasions, including a public workshop. They appointed an ad-hoc committee to review other cities' regulations and requirements. Most recently, the Planning Commission had their formal public workshop and are forwarding this recommendation to Council with their approval.

The City currently allows vehicles to park on City streets for up to 72 hours. That includes unattached trailers and oversized vehicles. Within the last year and a half, staff has received on-going complaints in regard to vehicles in certain neighborhoods parking for extended periods of time. Provided that the vehicle moves a minimum of a tenth of a mile within the 72-hour period, the owner can bring the vehicle back and park it in the same location. That has caused a significant amount of problems within some of these neighborhoods and has been considered to be a nuisance and intrusion. This has generated the process that we entered into that culminates this evening with an ordinance for Council's consideration.

Part of the discussion with the Planning Commission and their ad-hoc committee broke the item down into 2 distinct phases: unattached trailers and oversized vehicles. As it relates to unattached trailers, because they have no security device or no ability to adequately secure them, and in most cases as people drive around town and look at some of the utility trailers or boat trailers, the only thing that is keeping them in place is a brick behind the tire or in some cases a chain. They do present a safety concern to the community. Staff is recommending that those types of trailers, when they are unattached, be prohibited on City streets. They must be attached to a vehicle. If they are attached to a vehicle, they are perfectly fine. If the trailer is in a condition of being loaded or unloaded, they are fine. But when they are entirely unsecured, staff recommends that those be prohibited on City streets.

The second one that is a little bit more difficult to deal with are the oversized vehicles, primarily the RVs, and how the City deals with those. As mentioned, we currently allow vehicles to park on the street for up to 72 hours. There are a number of locations in neighborhoods where that has been problematic. We are recommending, in concurrence with the recommendations from the Planning Commission, that the time restriction be reduced to 24 hours. We do recognize, and the ordinance does contain provisions for people to load or unload their RVs for a trip. A built-in provision in the ordinance identifies a fairly straightforward permit extension process whereby an RV may be parked on the street for up to 72 hours to allow for loading and unloading. The ordinance will not be entirely banning parking RVs on the street because we recognize that people need to have access to their vehicles to get them ready to go away or when they are coming back. So, we do have provisions built in where vehicles will be allowed to be parked on the street for up to 72 hours with an extension permit.

Other than that, we are recommending that the storage of the vehicle on the street be limited to 24 hours. The way we would measure that includes a proximity clause, which requires that in order to be considered moved, the vehicle must be relocated a minimum of 1/2 mile away from its initial location. Currently, if a vehicle is driven around the block and it is more than 1/10<sup>th</sup> of a mile, it is considered moved, even if you then park it back in the exact same place. We would recommend that, based on those parameters, the enforcement also be based initially on a complaint

basis. There is no desire on our part to go out and actively pursue this. In most cases, it is a complaint driven issue within certain neighborhoods. Currently a number of neighborhoods are having these problems. It is not a wholesale issue with all of the RV owners. In fact, he would say that the majority of the RV owners are considerate of their neighbors. It is a number of these where we're having the problems that were exhibited through the public process where those issues need to be addressed.

Part of the issue would be appropriate signage. Should Council approve this, we will be putting in signage. Our intent would be that once the ordinance has been adopted, there would be a 30-day period before we put the signage up, and then there would be a 30-day warning period before any active enforcement would begin. Staff recommends that Council introduce the ordinance, recognizing that there are 2 separate issues – unattached trailers and RVs.

**DEPUTY MAYOR CHAVEZ** had the opportunity to meet with a number of people in the City, and this is an issue of complaints. The majority of people who own RVs are responsible and going through the process. He has been reading emails and talking to people quite a bit this week. Something that stuck in his mind was the individual who said that he has been parking his vehicle on their street between his and his neighbor's home for 16 years, and no one complained until a new neighbor moved in on the block. For 16 years, that person has been in violation of the ordinance until somebody actually brought the complaint issue forward.

The ad-hoc committee and the Commissioners brought up some good issues, in particular the trailers, on the blocking of it. He referred to the statement on the proximity clause about the movement and the distance of 1/10 of a mile to a larger area. He noticed that it is 1/2 a mile and asked if there was any reason why staff didn't pick a mile. He asked what was significant about 1/2 a mile.

**DIRECTOR WEISS** replied that it had been an item of discussion with the ad-hoc committee. It was a far enough distance where it would be a deterrent to just driving around, and it would be a minimum of 1/2 mile from where the vehicle was initially parked. The 1/10 mile is difficult because in most neighborhoods driving around the block is 1/10 of a mile. It was selected to not be so much of a burden to the owner of the RV that it would cause a significant problem, but enough of a deterrent so that it would prohibit the practice of driving around and parking back in the same place.

**DEPUTY MAYOR CHAVEZ** felt that the issue is to move it. When he meets with people, the issue with RVs is when it is in front of their house, and they move it down to the neighbors' house for a couple days and move it back. They are basically storing their vehicle on public streets. Section 10.29 defines an oversized vehicle as one that exceeds 20 feet, and he asked where the 20 feet came from.

**BRYAN FORWARD**, Code Enforcement Supervisor, explained that we modeled the size restriction in the ordinance from similar ordinances that had been adopted in Southern California cities. Cities from Del Mar to Santa Barbara have similar size restrictions, and the restrictions are also called out as to size in the Vehicle Code. It was not arbitrary.

**DEPUTY MAYOR CHAVEZ** researched and found that the Ford Crewcab has a length of 20 feet 4 inches, and the Ford Crewcab with an 8-foot bed has a length of 21 feet 8 inches. Staff may want to look at the length. There is still more work that needs to be done.

There are a lot of people here tonight, and it is important to the public process that they speak their mind. He has talked to a lot of people in the past few weeks, and this needs more staff work. This issue needs to go back to the Transportation Commission. A couple of gentlemen said they would like to be on another ad hoc

committee to deal with this. It is part of the public process. The proximity clause, the trailers and the complaint process are really good work, but more work needs to be done. He looks forward to hearing from the public.

**MAYOR JOHNSON** said after discussing this with the City Manager, staff and the public, he too feels there should be more dialogue and input on this item. He feels very strongly that the unattached trailers should be prohibited from being parked on the street.

**COUNCILMEMBER WOOD** pointed out that this has been an issue for at least 2 years. Council receives calls constantly from people in different neighborhoods regarding mainly RV parking. It is usually dangerous ground because it is neighbor against neighbor. Somebody is upset with the RV parking, backing out, etc. However, he would like to split this up right now and have a motion regarding unattended trailers and go forward with that and send it back to staff for the RV part. People have inundated Council with emails and issues that all Councilmembers were not aware of: other city policies, State issues regarding parking, signage, etc. Council doesn't want to do this and find out it is a real problem and have to do it all a second time.

The lengths of vehicles don't have to be RVs anymore; some of these vehicles go over 20 feet. The other one he thought was very important that people told him is what if family and/or friends visit from another state in an RV and park it in front of a home. How long can they stay there? That needs to be addressed. These are not minor issues. The moving of the vehicle – how is that monitored. He realizes as a policeman of a long time, one can look at the odometer and see if it has been moved. Most RV owners are very good about this. A lot of them store them someplace else. If a person has a \$200,000 motor home, they can put it somewhere. The problem is that Council wants people to be able to move the RV in front of their own house and take some time loading it and unloading it for their vacations. Council does not want owners to move their RV to their neighbors' parking lot and then move it back 2 days later to get around the City's ordinance, which is happening.

Staff needs to go back and address this. Some of the other cities policies are very restrictive. They allow like 2 hours for people to park their RV, not 24 hours. So, there are restrictions throughout the State. The other thing we see a lot is that RV owners in other cities have taken this to court and lost on these issues and said that it's not fair because of no signage or whatever. We need to address this because we want to be fair.

He **moved** to go forward on the unattached trailers, put it into effect now, and send the second issue back to staff to further look at the guidelines.

When residents send emails, he asked that they attention the staff. If somebody has legal opinions that are different from other States that Council is not up on and are new policies, he asked them to come forward. Council has been hit with things regarding 72-hour State parking and the State laws, signage because it will cost the City money, everything that people can think of. Citizens need to tell their neighbors who are not in compliance that the worst thing they can do is try to move the vehicle back and forth 5 feet or 2 feet just to park it again for another 72 hours. Seniors cannot see around them; they cannot pull out of their driveways, they cannot see blind corners and there are a lot of issues. His recommendation would be to go forward with the first phase of this on the trailer aspect and send the second phase back to staff for a follow up for some of these issues. He asked how many public hearings there have been that nobody showed up for.

**DIRECTOR WEISS** answered that there have been 3 opportunities at the Planning Commission, one of which was a public workshop that had many attendees. The last workshop had one person opposed to the proposal, and the majority of the

people were supportive of it.

**COUNCILMEMBER WOOD** reiterated his motion to approve the first part of staff's recommendation regarding trailers and send the second phase regarding RVs and large vehicles back to staff for a follow up.

**MAYOR JOHNSON** seconded the motion.

**COUNCILMEMBER SANCHEZ** received a number of emails pro and con on this issue. She wants to hear from everyone. Is the intent of Council to allow the loading and unloading of these vehicles for some reasonable period of time and then completely have them gone and stored somewhere else; or is it to allow these vehicles to park on the streets and just be moved from one neighborhood to another. Pushing it out to another neighborhood is not a solution. She doesn't get real excited when she sees them in her neighborhood when she knows that the person doesn't even live there, especially since there are a lot of kids in her neighborhood.

She again asked if we want to allow a reasonable period of time for loading and unloading; to have opportunities to have people come and visit with them for a brief period of time; and have the vehicle stored somewhere else. Or does Council just want to have them moved around so that the burden is shared by everybody in all neighborhoods. The way this is stated almost sounds like Council wants to share the burden with other neighborhoods. She doesn't really like that idea and is more inclined to allow the loading and unloading. If the issue is that there's no place to store these, then that is the thing that needs to be addressed versus trying to come up with this merry-go-round of who is going to be inconvenienced.

Is the problem basically that a person has such a vehicle and no place to park it and is then forced to move it around, causing all these problems for neighbors; or do people feel comfortable bringing the vehicle to their home and having it there for whatever period of time it is. She would really like to have the City come up with the best solution. This has been a problem for more than 2 years. She has been hearing this for the last 4 years since she is on the Council, but she's sure this has been going on forever. After hearing from the public, she probably will want to have this go back to staff. She is not clear on the intent.

**COUNCILMEMBER FELLER** chose to reserve his statements to follow hearing from the public. He inquired whether this would be complaint-driven enforcement instead of an officer driving around looking for motor homes parked on the streets.

**DIRECTOR WEISS** replied yes.

**COUNCILMEMBER FELLER** asked about tractor-trailers.

**DIRECTOR WEISS** responded they are included.

**COUNCILMEMBER FELLER** reported that over Thanksgiving weekend on Mission Avenue, 3 tractor-trailers were parked just east of the Mission for 96 hours. He asked if they would be in violation of State code.

**DIRECTOR WEISS** explained that if Council adopted the 24-hour limit, they would be in violation after the 24-hour period. They were in violation of the 72-hour State limit.

**CITY MANAGER JEPSEN** clarified that the City has limitations on parking semi-trailers on residential streets; they are prohibited. Mission Avenue is not a residential street.

**COUNCILMEMBER FELLER** asked for further explanation regarding the permit process for the 72-hour extension up to 4 times a year.

**DIRECTOR WEISS** explained that the initial recommendation was 4 times up to 72 hours. We don't know if 4 times a year is enough or not. The intent was to keep the extension permit process relatively simple and easy to use. Initially, it was going to be that staff would publish a phone number where people can call in. But, in reviewing the issue with the City Attorney's Office, an issued formal permit is more appropriate.

**COUNCILMEMBER FELLER** asked if the RV owners would have to come in every month or 2 months to do it, or if they could do it once for those 4 times a year.

**DIRECTOR WEISS** explained that more than likely, it would be when they needed it.

**COUNCILMEMBER FELLER** asked if the City is not going to enforce it, if somebody complains, that is used as one of the times.

**DIRECTOR WEISS** said if the owner wanted to do it that way.

**COUNCILMEMBER FELLER** questioned why the staff report noted no fiscal impact for signage because there is probably some impact.

**DIRECTOR WEISS** explained that the fiscal impact for signs would be minor. There are signs now, and staff routinely updates those signs. It is not something that would happen tomorrow because we would have to update those signs.

**DEPUTY MAYOR CHAVEZ** pointed out that in Section 10.27 regarding unattached trailer, non-motorized vehicles parking restrictions states that no person shall park an unattached trailer or non-motorized vehicle on any street except while that trailer is actively being loaded or unloaded. If you are a fisherman and you want to get out at 4:00 AM, you might pick up your trailer the night before from storage. Since it is not good for the vehicle to have the trailer hooked up overnight, that person may unhook it, that would make them in violation of this ordinance.

**DIRECTOR WEISS** said if the trailer is not attached to the vehicle, then the owner would be in violation of the ordinance.

**DEPUTY MAYOR CHAVEZ** noted that from the couple of people he was talking to about this issue who are fishermen in Oceanside and want to get out there at 4:00+ a.m. to do a run, the ordinance would preclude that. He asked about taking this back and looking at it again. Even the trailer element needs to be looked at for the people who fish and have their trailers and boats stored properly somewhere else.

**MAYOR JOHNSON** pointed out that no perfect solution would fit everyone's needs. Whatever decision Council comes up with, someone will not like the decision. Council needs to come to an agreeable resolution that will satisfy most of the residents that live in the City.

**COUNCILMEMBER WOOD** amended the motion to include the issue of RVs and large vehicles going back to the Planning Commission and Transportation Commission. This will require both commissions to have open hearings for the public to express concerns and then staff will come back to the Council.

**MAYOR JOHNSON** stated the **second concurs**.

Public input

**LAWRENCE SHEETS**, 2431 Cerro Avenue, shared his concerns about City official trailers such as construction trailers or police signs with the speed limits that are usually parked for more than 24 hours. They often have nothing more than one wheel and a kickstand to hold it up, and it could be considered a safety issue. He has a 30-foot motor home and contacted 20-30 storage facilities, and they do not have storage for a vehicle that size. That is definitely a concern. People on a fixed income may not be able to afford to have their vehicle in storage, especially considering the lack of storage available. It takes several days to pack an RV for a trip, 24 or 48 hours is not enough time.

**DEBORAH SANTINO**, Serena Avenue, noted this is a sensitive issue because of the money invested in motor homes. Motorhome owners bring revenue to the City. She buys over 100 gallons of fuel in one trip, and that is a lot of sales tax going to the City. She lives on a corner lot, can park in front of her home and has never parked in front of somebody else's house. She also made phone calls regarding recreational vehicle storage and found storage was unavailable. They limit how big of a storage they want because they are charging anywhere from \$100 to \$150, and they will only accept motorhomes that are 25 feet to 30 feet. If a motorhome is 40 feet, a storage yard will not accept it because they can rent to two 25-footers and get twice the money.

It takes a lot of time to load a motor home. She goes on vacation for 2 weeks out to the desert and does dry camping - no water, no sewer and no electrical hookups, so she has to take a lot of supplies. When she returns, she has sewer to dump and a motor home to clean up. All of these things take time. She requested that Council really take into consideration the time that it takes to load and unload and the cost involved in storage, if people can find a place.

**ALLAN RICHARDSON**, 1673 Mission Meadows, challenged the committee's work on this and would like to serve on an ad hoc committee for this purpose as he is an RV owner and retired. He did not see a public notice about the meetings on this. This meeting was noticed in the newspaper, and that is why people are here. He asked if there was an RV owner on the ad hoc committee. He questions the extension permit concept with the fee. We're talking about more bureaucratic red tape, and that is not encouraging to him. He stores his vehicle and goes out monthly in it. Like other people, he takes his vehicle out of storage a couple of days before he goes out, parks it in front of his home, does his servicing and loading to take his trip. When he comes home, he usually lets the vehicle sit there for a day or so until he gets it cleaned up and put back into storage. The proposed ordinance would impact him greatly. He has enjoyed this freedom for 7 years and resents the loss of that freedom.

The 72-hour rule seems applicable. If there is a problem, the problem is in enforcement. There has to be some teeth in the ordinance. If it is going to be enforced, he asked what they are going to do; this is an issue Council should address. There has to be a compromise. He sees some of this as being motivated by neighborhood complainers, and their issue is one of aesthetics not of safety or health. For an ordinance like this, if it is a safety or health issue, that is what Council should address.

**THOMAS J. DEMPSEY**, 3641 Esplanade Street, stated the parking enforcement officers have always responded timely to parking violators. When RVs are parked in unsafe positions and block views of intersections, public safety is involved. The updated parking restrictions should help relieve some frustration of parking enforcement officers. Enforcement of the new ordinance should curb some chronic street parking violators.

**DON MARSHALL**, 3909 Tortuga Cove, is against the ordinance. Councilmembers Sanchez and Wood have addressed some of his concerns. There are some legal issues involved, no matter what other cities have done or what court cases have been lost. Signage at entrance points into the City is a concern. He asked how

fast those entry points are and asked if there will be a little sign talking about oversized vehicles. He asked if there are going to be signs prohibiting parking within 100 feet of an intersection without the curbs painted red. Council cannot expect a person to know that driving into the City. Drivers are looking where they are going, not at parking signs. If Council is going to post signs, they will have to post it on every street just like the street sweeping signs, and then it is going to be a major cost to the City.

This is an enforcement problem. Since he is a retired California Highway Patrol Officer of 30 years, he understands the enforcement aspects and has dealt with the 72-hour rule his entire career. The newspaper highlighted areas where there seems to be a problem. Enforcement needs to be focused on those areas. This is a cat and mouse game, but the cat has to be smarter than the mouse. The City will have to come up with creative ways of how to enforce the 72-hour law.

There were older motor homes parked on Coca Palms for five days. His neighbor asked parking enforcement if they were going to tow it. The answer received was no, but a ticket would be issued. If the City is not going to have any teeth in the 72-hour law, he asked why is the City now making another law on top of that. There is a State law and a County law, and everybody follows the 72-hour law.

Technically, this is discriminatory by targeting one class of people. Those people pay more road taxes than anybody else, giving them the right to park on the street. There are over 800 members of the Good Sam Club in Oceanside, most of which are RV owners. He would like to serve on the ad-hoc committee.

**RHEA PORTER**, 4108 Pepperdine Avenue, pointed out that the Planning Commission sent Council a unanimous vote. She is in favor of the detached trailers requirements. In her neighborhood as she comes around the corner it is hard to see around the RV parked on the street. Mr. McCray lives in Mission Gate and has had traffic hazard problems in his area. When 1 or 2 RVs are parked on the street, others show up, including older ones that are for sale. The RVs are so large as to constitute a traffic hazard.

This is wasting the City's parking and police resources because their time is being taken up with these chronic offenders. We look at cities that have passed far stricter parking enforcement ordinances than what is being proposed tonight. For example, last February Encinitas passed an ordinance prohibiting all overnight RV or trailer parking without a permit, including minivans. The City needs to have ordinances that maintain and preserve the quality of existing housing and keep neighborhoods from decaying.

**CLAYTON PORTER**, 4108 Pepperdine Avenue, spoke in support of the measure. Developable land in the City is becoming very scarce. If the City is going to maintain a good positive image, they must maintain not only the homes but public streets, infrastructure, etc. The City needs to look like a good, safe City.

It is not the intent here to make it difficult for RV owners to use their RVs. It is incumbent on the City that occasional-use vehicles, when not in use, be properly stored either on the owner's own property behind a fence in compliance with current parking regulations or in a storage facility. Allowing these vehicles to be stored on the City streets is not in the proper welfare of the City and to the other residents of the City. RV owners need to be given adequate time to load, unload, and prepare to use their vehicles. There needs to be adequate provisions for out-of-state guests who have motor homes to park their motor homes while they are visiting residents in the City. That needs to be allowed.

**CAROL FEHNER**, 158 Carey Road, is a motorhome owner. She has the same concerns as the previous motorhome owners. There is an insufficient amount of transient spaces to be found within the City for visitors, and there are very few RV parks

for people who want to visit Oceanside. Visitors do have to end up on the City streets. This needs to be addressed if we're going to limit the amount of parking that people can do on City roads. Right now, the City has enforcement by discrimination. Her motorhome and 3 others on the block were all being loaded at the same time and were ticketed. None of the other vehicles that had been sitting there as long as their motorhomes were ticketed because the parking enforcement officer said that he only ticketed motorhomes. That is wrong. The City shouldn't do that to citizens that pay taxes to the City. The cost of enforcing such a proposed regulation is going to be significant. Costs of keeping track of the permits and enforcement costs are going to be significantly more than the current rules.

The livability and friendliness of the City is more important than anything else is. This City has a wonderful area down at the beach and the community is developing in the right direction, but we also have a friendly City, a City that is friendly to visitors. The City does not need to be known as an RV unfriendly City. Not only are there 800 Good Sam Club members, there are thousands of FMCA members and people like her who may not be affiliated with any group. This City needs to maintain an approachability and friendliness to RV owners and to people who visit with RVs.

The proposed ordinance giving owners only 4 times a year to load and unload is unrealistic. A previous speaker noted that he takes a trip every month. There are times that RVs will be in the street for more than 24 hours for every trip taken, and she takes more than 3 or 4 trips a year. She would be willing to serve on any committees involved in this.

**JOAN MADISON**, 4143 Chasin Street, said if people call around to all the storage places in Oceanside, they are packed. None of them have any openings. She called places far away, and they didn't have any places to store RVs either. She lucked out by calling a storage facility, and someone asked that a space be saved for them without leaving a deposit so she was able to get that space. If a person can prove that they have a storage space for their RV, they should be allowed to park in front of their house for 72 hours so that they can load and unload for trips. RV owners need more than 4 times a year.

**RENO RENALDO SR.**, 4019 Pala Road, is a retired Marine living on a fixed income. He opposes the proposal to prohibit parking RVs. Using his RV is a part of his life. There are quite a few oversized vehicle owners who have concrete pads on their lots allowing them to park on their own property, and he asked if that was illegal. He noted that Councilmember Wood hit the nail on the head about the neighbors calling in on people with RVs and trailers. That is Code Enforcement's job to be out checking. He understood the wide trailers and so forth, but the only problem he has seen in Oceanside is the big rigs. He does not understand why parking is not allowed on the concrete pads on privately owned lots. Signs could be posted on narrow streets where drivers are having problems getting by. As far as electric hookup, he guesses that is against Code, too. If he parks his RV out on the street, he has to hook up his power to get his refrigerator going. It is against the law to put out an electric cord.

**DENNIS MADISON**, 4143 Chasin Street, stated most of the speakers have already said what he was going to say. He suggested as a solution for the storage problem that the City somehow promote storage facilities. As people have indicated, they call around all over trying to find RV parking and they are all filled up. Essentially, this is a death sentence for many RV owners if there is no place to park them. We want to be fair to everyone. The 72-hour limit applies statewide. The only problem is that people drive around the block and park in the same place. Maybe they could have an extension of that which would satisfy everybody. It would apply to cars, 21½ foot Ford extended trucks, etc. When they start taking measurements, Council will find out that this will apply to more than just motorhomes. One thing that might satisfy everybody would be to have the 72-hour limit, like they have now, except the vehicle has to be out

of that space for 24 hours. That would keep people from storing their vehicle on the street.

As far as the ad hoc committee that was proposed, he would be happy to serve on it. The committee needs to have some people that have RV knowledge. Council sees that there are still some problems, and some work still needs to be done.

**CHARLES ROSENBERG**, 5727 Shetland Court, spoke to Council on October 20th about this item. The document distributed to Council covers what he said then and what he is going to say now. He is here to try to get TC 13.25 revised. He objects to the new street parking ordinance proposal. He parks on the street because Code Enforcement will not allow him to park on the side of his house. His problem with TC 13.25 is that the side yard fixed structure setbacks are being used for moveable structures. Nobody has told him what the intent of this ordinance is either. A Code Enforcement Officer told him that it was for fire protection. No Fire Code that he knows of addresses this issue. Most cities have lenient RV ordinances, mainly covering safety and leaving the more restrictive to CCR's, Homeowners Associations or the civil courts. He thinks that the Code Enforcement people would like to see the ordinance revised to make it easier and less time consuming to enforce fairly. He volunteered to help staff in any way he can to revise this ordinance. If that is not possible, he asked for some kind of an answer by December 6<sup>th</sup> whether he has any chance of getting this ordinance changed or not. He has now spent over a year on this topic. His time has about run out, but he read to Council a quote from the Sausalito City Manager, Dana Whitson who said an ordinance will only work if a community is flexible. There needs to be a spirit of cooperation between residents, property owners and the government officials and a commitment to the fairness to all.

**RICHARD GONZALEZ**, 3652 Cerro Avenue, said storage is a big issue. He just purchased a motor home in October and has a place to store it. In the summer, he does plan to take several trips and will abide by the ordinance the City has now. He has spoken to his neighbors and they are okay with his motor home being where it is. It seems like it is an aesthetic issue with some people in his neighborhood. He does not think it is a public safety issue. Some of his neighbors also have RVs and now this is something we all have to deal with. We all abide by the current ordinance (the 72-hour law) and it works if the City will enforce it. He supports RV owners.

**ROBERT LaBOUVE**, 1655 Shire, is opposed to the 24-hour parking and has a motorhome. The 24-hour parking limit to get our motor homes ready is not sufficient time.

**BOB DREW**, 3185 Buena Hills Drive, said this ordinance seems to be a cautionary tale of how not to fabricate and present an ordinance. It is too all-embracing and too few words. It addresses no particular circumstance and it is intentionally vague. It just says vehicles and trailers, and there is no definition. That is why he heartily agrees with Deputy Mayor Chavez to take this whole thing back and go through it again. Also, Council must present it to the public in such a way that people realize what is happening. They should see headlines in the *North County Times*. This should not be back in the Public Notice section of the newspaper. People have to know about it because it is a very critical issue.

Perhaps there should be zoning for trailers and some place for them to go. The City has to be able to accommodate trailers/RVs.

**RANDALL VAN DE RIET**, 814 Missouri Avenue #5, said parking 100 feet from an intersection seems ludicrous. Where he lives they have side streets, and if that was enforced, people would have to park in front of people's houses instead of parking on side streets. Also, he complemented Deputy Mayor Chavez for doing his due diligence in finding the length of vehicles. Not much thought was put into this proposal. The main

problem is that the City has a system that reacts to complaints. Neighbors do not like to complain on other neighbors. They finally get to the point where they have had enough of a vehicle being parked out there, and they complain and find out that they get a 72-hour notice. The police should be taking a proactive stance. Councilmember Feller mentioned vehicles that were parked for an exorbitant amount of time. The police see this and could call it in to tag these people. That way the City will diffuse a lot of the anxiety that people have.

**JIMMY KNOTT**, 124 Sherri Lane, commented that RV owners bring in outside money that Council does not have to tax the homeowners with. What alternatives have been considered? Have we looked at all the different areas of town to see which is appropriate and which is not? He asked if the City has considered having an RV area that could have a designated zoning. They need to look at an exemption or forgiveness process. The City needs to look at how they can accommodate both sides.

**JEFF RANDOLPH**, 3322 Heather Lane, stated those in attendance are here because the meeting was announced in the newspaper. He did go to the Planning Commission, and he never got any information on when this ad hoc committee was going to meet.

If a person is going to break the rule for 72 hours, they will break the rule for the half-mile. The parking enforcement officer will not cruise every neighborhood in that effort, and if he did, he would need to cite other motor homes, abandoned trailers, detached trailers etc. Many residents bought property in Oceanside because it had RV space to park on. Buying a home with a RV space on it will cost more money. He suggested that El Corazon be used for RV storage.

**ROBERT EARLE**, 1613 Burroughs Street, is not an RV or trailer owner. He has lived in Oceanside since 1947 and seen many bizarre things, but this ordinance is one of the most bizarre. Sometimes when an RV is parked somewhere other than the property owner's location, they are going to be broken into. In his estimation, if this ordinance is put into effect, the City had better come up with a park to put these vehicles in because the lots are full. Vista recently had a major break-in, and 5 motor homes were cleaned out. The RV owner goes to insurance, and the insurance company says they do not cover that. He has reservations about this ordinance.

**SEANA MEADOR**, 3230 Mira Mesa Avenue, is a single mother of two children, and works 12 hours a day. When she bought her motorhome, she called the City to see if there was a parking regulation, and they said no; so she bought her motorhome. She cannot pull her motorhome into her back yard so she is stuck and cannot afford \$100 for storage. She did move the motorhome to a friend's house, and it was vandalized. She admitted to moving her RV every 72 hours.

**SHARON BELL**, 4637 Cedar Ridge Place, stored her motorhome at Camp Pendleton when she lived in Laguna Hills. She belongs to The Good Sam Club, Coachman International and the United States Submarine Veterans RV Chapter. We bought our motorhome over 20 years ago. Over five years ago her husband became ill, and we could not plan our trips because of his health. There would be no way for her to request a permit for loading and unloading her RV.

The house that we live in has CC&Rs that allow parking a motorhome next to the house. Her neighbor's commercial bus parks next to her house that she would love to get rid of. Most people have room to put their RV next to their home, which is a good safe place to put it. She does not have a spare bedroom, so when her children visit they sleep in the motorhome. Her husband will not be with her next year, but she will still use her motorhome, and 24 hours is not enough time to get ready for a trip. She has health problems and cannot get ready for a trip in 24 hours. There are many people who are physically limited or caretakers. She sees no reason to change the

California Vehicle Code requirement of 72 hours or to force people to get a permit; it is uncalled for.

**TOM OTTENBERG**, 3640 Cerro Avenue, referenced lack of notification for previous meetings. The issue of the permits is impossible. When a person decides they want to go somewhere, they have to come down to City Hall to try to get a permit on top of trying to work and get ready for the trip. That is not going to work. The law now in effect is fine. There are a few people complaining, but for the most part everybody abides by the law and is happy with it.

**KAREN BITKER**, 2018 Valley Road, is an RV owner and has a win-win situation for everyone. Listening to the comments from the RV owners, it is obvious that we are not in favor of the proposed ordinance. It seems to be working right now to have the 72 hour limit. The City does have a few disgruntled home owners who are not happy with RVs parking near them. That is more of an aesthetic issue than a safety issue. If RVs are truly unsafe on the streets, they should not be there for one hour let alone 72 or 24 hours. She proposed that Council shelf the parking amendment and create a committee of 3 or 4 people, consisting of RV owners, non RV owners and one City staff member. When a complaint is submitted, the committee would go out as a group and work for a solution that is agreeable to all parties. To pass an ordinance, Council will make more people unhappy.

Council also needs to deal with the enforcement problem. The ordinance is like one size fits all, but motorhome owners use their RVs in a variety of different ways. She doesn't use her motorhome often, but when she does she is gone for several months. Other people use theirs every weekend. The City cannot legislate how often and how long these people can have their RVs in front of their homes to be loaded and unloaded. With a tremendous shortage of storage facilities available, the only logical answer is to leave them parked on the streets where they are now, unless they are a safety hazard. Someone could phone in, and then the committee could resolve the issue.

**PETER HEESCH**, 3507 Turquoise Lane, stated all of the remarks made against the proposal are valid, especially those made by the preceding speaker. He would like to know if anyone has thought of the lost revenue coming from tourists. If someone wanted to visit their friends in Oceanside but could not leave their motorhome in front for more than 24 hours, they would not be very happy. When he is on vacation in his motorhome, he does not cook or eat in his motorhome but goes to restaurants. That is lost revenue for Oceanside merchants. Enforcement of the existing rules will take away any violations. People have to realize that cars and motorhomes get old. If they look decent and they are parked legally, they have just as much right on the road.

**DONNA SLAUGHTER**, 5216 Via Pauma, is a motorhome owner. Her son lives across the street from her and he and his wife bought a travel trailer a couple of years ago with the understanding that they could park the vehicle on the street for 72 hours to prepare it for travel. They have a truck with which they tow the trailer, and they have a car. When the trailer is there to be loaded, the truck has to be detached because her daughter-in-law still has to do errands. It cannot be left attached. She asked Council to consider that since you are apparently going to vote on the trailer rule tonight. This is just like a motorhome; they need just as much time to load it, etc.

Public input concluded

**MAYOR JOHNSON** noted that there was a motion and second on the floor.

**COUNCILMEMBER SANCHEZ** believes that enforcement is the key. Perhaps the fines or towing should to be examined. How is this going to be cost effective? Council does not want to make life miserable for people. But, at the same time, it will cost the City to go out and enforce these violations. Something Council needs to look at

very seriously is the enforcement regarding fines and towing.

**MAYOR JOHNSON** asked Public Works Director Weiss to address any questions or concerns that were raised by the 21 speakers.

**DIRECTOR WEISS** noted that several questions were raised regarding the ability to park RVs on private property. In general terms, given the parameters of the homes we have, it's pretty much not available for parking in side or rear yards because of the sizes. There are some homes where parking may be a possibility, but for the most part, given the size they are talking about for some of the vehicles, they can't park in the driveway because they would extend out over the sidewalk, which is also a violation. In general, they are not able to park on the street.

Another question was where we came up with no parking within 100 feet of an intersection. That is out of the Vehicle Code. It allows cities to adopt an ordinance that prohibits parking within 100 feet of an intersection. The 100 feet is actually a Vehicle Code requirement.

For the most part, the majority of folks who spoke in opposition to this raised issues in regards to signage. Based on review with the City Attorney's Office, staff has the ability to do appropriate signage that is legally defensible, if Council chooses at some point to move forward. It comes back to a question of what is appropriate.

Another question was regarding enforcement. As an example, if we show up and mark a vehicle on Monday morning, we would show back up on Thursday to see if it has moved, both from the visual (whether the markings had been moved) or whether the odometer has changed. If that vehicle moved on Tuesday, there are neighborhoods that call and want us to show back up on Tuesday. And if they drive around Tuesday afternoon, we'll show back up on Wednesday. That is where the cat and mouse game comes in. We don't just respond on Monday and show up on Thursday. If that vehicle moves and it's a chronic area, then we do respond to neighborhood complaints. As most people said, the majority of people probably are considerate of their neighbors. We do, for the most part, respond to complaints.

Enforcement is a draw on resources because of how the 72-hour regulation works. We don't only do RVs in 72 hours, we also respond to numerous complaints on abandoned vehicles. We do monitor and pursue other vehicles as well. For the most part, we do not tow after 72 hours. We go through a citation process initially. We do provide adequate notice, and the intention is to gain compliance, not to penalize initially. It is an education process to try and get people to comply. But where we do have the chronic issues, we do mark the vehicle and give advanced notice. If it continues, we will do inconspicuous markings to see if the owner monitors the 72 hours.

That covers most of the questions that were specifically asked. A lot of people had comments that we have written down. Those questions will have to be dealt with in other forums as we move forward and look at bringing additional members of the community together to have opportunities for public input and process to see if we can't come up with some type of a solution that will serve the neighborhood needs and reduce those impacts to the neighborhoods, but also satisfy some of the concerns that were raised this evening by the RV owners.

**MAYOR JOHNSON** noted that a few speakers raised concerns about the ad hoc committee and whether or not there were any members that had RV knowledge.

**DIRECTOR WEISS** replied that one of the members did have an RV and pushed for the 72-hour extension process. There was an RV owner as part of that process, and his input was noted.

**PAM WALLS**, Interim City Attorney, noted that the signage matter did come up, and the Planning Commission had been cautioned in connection with the proposal of this ordinance when it first came before them. In the summer, a published case came out of Santa Barbara involving the prohibition of overnight parking of RVs. The court found that it was consistent with the Vehicle Code and not preempted. The court also found that there was no evidence of signage. A City Attorney had testified, which was not considered evidence, that some but not all of the entrances to the City were posted. The court did not agree with the position that a sign would have to be posted on every street that the ordinance would pertain to. They rejected that position in the case and merely found that what the City of Santa Barbara did was not adequate. Their signs were confusing and there was no evidence of signage. She recommended that if Council is interested in moving forward on the unattached travel trailers, staff should be directed to revise the ordinance to deal with just the travel trailers and bring it back for adoption.

**COUNCILMEMBER WOOD** emphasized that Council is trying to improve the quality of life for everyone but they can't make everyone happy. Council gets a lot of complaints regarding trailers or RVs on the street. The enforcement is done by complaint. That is not fair, but it is generally what we get. Speakers have highlighted problems with noticing the ad hoc committee meetings on this issue and other issues. Council follows the guidelines of the law for notification on these meetings, and obviously people don't get them. When it is printed on the front page of the newspaper, people attend. That needs to be worked on.

The enforcement part of it is an important issue. The problem is the cat and mouse game of constantly moving the vehicle.

He **withdrew his motion** for the time being regarding the trailers because of the last speaker.

In Oceanside people put out their boats, work trailers or whatever. He did not think about the camper/trailer aspects. Trailers don't have an odometer. The City puts an enforcement mark on a tire, and it can be washed off so there is no way to second guess if it has been moved or not. It is hard to enforce. They are smaller and can generally be put on property, not like an RV. It is a different circumstance. He will withdraw his motion with the understanding that staff will address all of these issues through the proper commissions. He isn't as open on this one and this issue is easy to address. It is a vehicle that is not manned; it does not have a motor; it is parked out there and there is a brick or a log behind it. It can be a danger, can be moved by people and can be easily stolen. So, he withdrew his motion for that reason.

The other thing he was concerned about is the issue regarding the pads or parking on property. We need to address that again. There are a lot of people out there complaining. The violators are probably other people who are not here tonight. People need to tell their neighbors not to park in certain places. He knows that is hard and that is why we have Code Enforcement.

He would like to see the issue of parking on property addressed along with that. The way houses are now being built, not only is there no side yard, the owners are lucky to be able to walk between the two houses. This issue should be sent back to staff because tonight, not only from the speakers but emails from people that are very knowledgeable, gave Council input that needs to be addressed again. Council spoke to the City Attorney regarding some of the letters and the legal aspects of them. The best way to resolve this is a compromise.

**MAYOR JOHNSON** noted that the motion was rescinded and as the **second**, he **concurs**.

With the item referred back to staff for further work, **MAYOR JOHNSON**

**moved** to deny the staff recommendations.

**DEPUTY MAYOR CHAVEZ** **seconded** the motion.

**COUNCILMEMBER FELLER** inquired if unattached trailers have a time limit of under 24 hours.

**DIRECTOR WEISS** answered that they are prohibited unless they are actively being loaded or unloaded; there is no time frame.

**COUNCILMEMBER FELLER** asked how many complaints the City receives. He has received one complaint.

**MR. FORWARD** explained that staff receives approximately 250 – 325 complaints per month. Of those complaints that we receive daily, about 2 or 3 complaints about travel trailers or motorhomes around town are actively pursued by staff.

**COUNCILMEMBER FELLER** recounted that not many people spoke in favor of the ordinance. He agrees with the 24-hour rule not being sufficient time. He is not interested in side yards at this point.

He remarked that some people use their motorhome as a personal vehicle, and that is something that Council would have to consider because the owners would not be able to park in front of their house over the weekend. Enforcement is the key, and he was not sure how they were going to do that. The blame seems to be on all RV owners, when the problem actually lies with a few bad apples. He supports sending the item back to staff but does not know how a resolution will be reached with motorhome users, trucks and trailers that park on Mission Avenue. He asked how many miles of streets are in Oceanside.

**DIRECTOR WEISS** said the City has just over 400 miles of streets.

**COUNCILMEMBER FELLER** said the City just doesn't have the people to do that. City Hall is closed every other Friday, so this would be a hard time to go in and get those special permits. He is glad Council went the other way on this issue.

**COUNCILMEMBER SANCHEZ** acknowledged there is a problem but did not know what the solution is. The City needs to work on enforcement. By voting in favor of this motion, it will go back to staff to look at enforcement issues. She has received many complaints and looks at this as a public safety issue. She sometimes has to cross her fingers and drive really slowly out of her driveway because there is a huge RV parked on the street. There is a daycare center next door and little tiny dogs, and she is concerned. It is important for people to do their best not to anger their neighbor. If space is available on one's property, they should be allowed to park RVs there. That is better than parking it on the street.

**Motion was approved 5-0.**

**MAYOR AND/OR COUNCILMEMBER ITEMS**

- [23. **Request by Councilmember Feller to discuss the organizational changes of the Fire Department's dispatch system**]

Councilmember Feller removed this item from the agenda.

[Note: Items 24-30 were heard earlier in the meeting]

December 1, 2004

Joint Meeting Minutes  
Council, HDB and CDC

**ADJOURNMENT**

In memory of Helen Nelson and Sergeant William James, **MAYOR JOHNSON** adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 8:13 PM on December 1, 2004.

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

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Barbara Riegel Wayne  
City Clerk, City of Oceanside



California

# CITY OF OCEANSIDE

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

DECEMBER 8, 2010

REGULAR MEETING                      3:00 PM                      COUNCIL CHAMBERS

**3:00 PM - OCEANSIDE CITY COUNCIL (COUNCIL),  
HARBOR DISTRICT BOARD OF DIRECTORS (HDB), AND  
COMMUNITY DEVELOPMENT COMMISSION (CDC)  
- REGULAR BUSINESS**

**Mayor  
HDB President  
CDC Chair**  
Jim Wood

**Deputy Mayor  
HDB Vice President  
CDC Vice Chair**  
Esther Sanchez

**Councilmembers  
HDB Directors  
CDC Commissioners**  
Jack Feller  
Jerome M. Kern  
Gary Felien

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

**Treasurer**  
Vacant

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

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

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

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB) and Community Development Commission (CDC) was called to order by Mayor Wood at 3:02 PM, December 8, 2010.

### 3:00 PM - ROLL CALL

Present were Mayor Wood and Councilmembers Kern, Felien and Feller. Deputy Mayor Sanchez arrived at 3:05 PM. Also present were City Clerk Wayne, City Manager Weiss and City Attorney Mullen.

City Attorney Mullen titled the following items to be heard in closed session: 1 - OPMA, 2A, 2B and 3.

[Closed Session and recess were held from 3:03 to 4:00 PM]

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

**CITY COUNCIL, HDB, AND CDC CLOSED SESSION ITEMS**

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

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

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

**Discussed OPMA; no reportable action**

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

- A. City v. Dow Chemical Company et al, San Francisco Superior Court  
Case No. CGC -05-439807

**Discussed; no reportable action**

- B. City v. Goli Enterprises et al., Superior Court Case No. 37-2009-  
00055509-CU-EI-NC

**Discussed; no reportable action**

**3. CONFERENCE WITH REAL ESTATE NEGOTIATOR (SECTION 54956.8)**

Property: Vacant land lying north of Mission Avenue and east of Fire Station 7 and Old Foussat Road, being a portion of APN 160-270-84; Negotiating Parties: City of Oceanside and Goli Enterprise, Inc.; Negotiator for the City: William F. Marquis, Senior Property Agent; Under Negotiations: Price and terms of sale of real property

**Discussed; no reportable action**

**4:00 PM – ROLL CALL**

Mayor Wood reconvened the meeting at 4:00 PM. Present were Mayor Wood Deputy Mayor Sanchez and Councilmembers Feller, Kern and Felien. Also present were City Clerk Wayne, City Manager Weiss 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 Items 1, 2A, 2B and 3 above].

**CONSENT CALENDAR ITEMS** [Items 5-23]

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.

**CITY CLERK WAYNE** reported there is a request to speak from the public on

Item 11.

**COUNCILMEMBER FELLER** pulled Item 17 for discussion.

The following Consent Calendar 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 following meetings:  
September 8, 2010, 3:00 p.m. Regular Meeting  
October 20, 2010, 3:00 p.m. Special Meeting
6. City Council/Harbor/CDC: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)
7. City Council: Approval of plans and specifications for improvements to the City's traffic signal communications system, and authorization for the City Engineer to call for bids
8. City Council: Approval of plans and specifications for the FY 2010-11 Citywide Sidewalk Repair project for the replacement of damaged sidewalk and other concrete-related items throughout the City, and authorization for the City Engineer to call for bids
9. City Council: Approval of the CDBG Recovery Act Budget for FY 2010-11; approval to appropriate the CDBG Recovery Act funds to the various projects; approval of Change Orders 1 (\$14,074) [**Document No. 10-D0860-1**] and 2 (\$12,401) [**Document No. 10-D0861-1**] to Coastal Air, Inc., for the Country Club Senior Center Room Addition project located at 455 Country Club Lane, for a new air conditioner and new laminate flooring for the existing entryway and hall; and authorization for the City Engineer to execute the change orders; and approval of a budget transfer in the amount of \$20,000 from CDBG Recovery Act funds to the project account to fund the change orders
10. Harbor: Approval of Amendment 5 [**Document No. 10-D0862-2**] to the Lease Agreement with Marina Del Mar Homeowners' Association, Inc., for the premises located at 1202 North Pacific Street, for a one-year extension of the term of the agreement from 2045 to 2046; and authorization for the Administrative Officer to execute the amendment
11. **Removed from Consent Calendar for discussion - public**
12. City Council: Approval of a professional services agreement [**Document No. 10-D0864-1**] with Carollo Engineering, of Oceanside, in an amount not to exceed \$99,673, for preparation of a facility master plan with needs assessment for the La Salina Wastewater Treatment Plant; and authorization for the City Manager to execute the agreement
13. City Council: Approval of a two-year professional services agreement [**Document No. 10-D0865-1**] with Utiliquest, LLC, of Atlanta, Georgia, in the annual amount of \$52,000 for underground facility locating and marking services for the Public Works Department; and authorization for the City Manager to execute the agreement
14. City Council: Approval of the Planning Commission's FY 2010-2011 Workplan [**Document No. 10-D0866-1**]
15. City Council: Approval of a Loan Agreement [**Document No. 10-D0867-1**] in the amount of \$350,000 of HOME funds, Regulatory Agreement [**Document No. 10-D0868-1**], and associated documents [**Document No. 10-D0869-1** and **Document No. 10-D0870-1**] with (North County) Interfaith Community Services for the acquisition of a four-unit residential complex located at 345 Garfield Street, within the Crown Heights/Eastside Neighborhood Revitalization Strategy Area, and rehabilitation of

the units for use as rentals for low-income residents; and authorization for the City Manager to execute the agreements

16. City Council: Acceptance of the Treasurer's Report for the quarter ended September 30, 2010
17. **Removed from the Consent Calendar for discussion – Councilmember**
18. City Council [CDC]: Adoption of **Resolution No. 10-R0872-3**, "...approving and authorizing the forgiveness of one-fifth of the \$606,380 forgivable loan made by the Community Development Commission to the California Surf Museum to renovate the building at 312 Pier View Way and provide community activities for the benefit of the citizens of Oceanside", reducing the balance of the loan from \$606,380 to \$485,104
19. CDC: Approval of Amendment 4 [**Document No. 10-D0873-3**] in the amount of \$78,818 to the Professional Services Agreement with Project Design Consultants, Inc., of San Diego for additional engineering and surveying services related to revisions to the improvement plans, calculations, and related design documentation, and to provide construction engineering and surveying services for the Downtown Storm Drain and Myers Street Improvements project, and authorization for the Executive Director to execute the amendment
20. City Council: Authorization to issue a Request for Proposals for the development of the commercial areas of the El Corazon Specific Plan
21. City Council: Authorization to issue a Request for Proposals for the development of temporary fields for soccer and/or similar field sports on a portion of El Corazon
22. City Council: Authorization to award a contract [**Document No. 10-D0874-1**] in the amount of \$65,620 to Precise Construction Management of San Diego, for the construction of the Henie Hills Reservoir Coating System and Perimeter Fencing project, and authorization for the City Manager to execute the agreement upon receipt of all supporting documents

**COUNCILMEMBER FELLER** questioned if prevailing wage is paid on this project.

**CITY MANAGER WEISS** responded it is not a requirement.

23. City Council: Authorization to award a contract [**Document No. 10-D0875-1**] in the amount of \$135,286 to RMS General Engineering, Inc., of Corona, for the Oceanside Boulevard Slope Improvement project located at the southeast corner of El Camino Real and Oceanside Boulevard, and authorization for the City Manager to execute the agreement upon receipt of all supporting documents

**DEPUTY MAYOR SANCHEZ** moved approval [of Consent Calendar Items 5-10, 12-16 and 18-23].

**COUNCILMEMBER KERN** seconded the motion.

**Motion was approved 5-0.**

#### **GENERAL ITEMS**

24. **[City Council: Overview of requirements to fill the vacancy of the City Treasurer and, if desired, direction to fill the vacancy by an interview/appointment process at a Council Workshop to be held on December 21 at 2 pm; or allocate \$525,000 and adopt the Resolutions calling a Special Municipal Election for June 7, 2011]**

Placeholder item – Council voted Dec. 2 to go through the interview/appointment process set for December 21<sup>st</sup> at 2 pm. The deadline to receive applications is December 9<sup>th</sup>.

25. **City Council: Selection of National Community Renaissance and Community HousingWorks as the Development Team for the development of an affordable-housing, mixed-use project on the City-owned 14.5-acre Mission Avenue Parcel located just east of Mission Avenue and Carolyn Circle; designation of the project site as the Mission Cove Development; and direction to staff to negotiate an agreement**

**DAVID MANLEY**, Neighborhood Services Division Manager, stated Council has a long history on this property and approved a Vision Plan earlier this year. The next step was to issue a Request for Qualifications (RFQ), which we did in the summer. We received 6 submittals to the RFQ and those were reviewed by an internal staff composed of Development Services, the City Manager's office and Housing staff. Three submittals were forwarded for recommendation to the Housing Commission and were discussed at the Commission's October meeting. As a result, National Community Renaissance and Community HousingWorks was selected and forwarded for consideration by the Council.

Key elements of the project are that the Vision Plan approved earlier this year was composed of about 288 affordable housing units, which has a mixed component of senior, special needs and families, as well as a commercial component of about 12,000 square feet. We estimate that this project will actually be the site of several hundred construction-related jobs over the years of construction, 24-36 months, and will help the overall Mission Avenue corridor as far as business for both temporary and long term. Once a developer is selected, we will be forwarding that information to the developer team for consideration.

For background, National Community Renaissance operates 2 highly successful affordable housing projects, as does Community HousingWorks, and are very capable developers. We looked at developer experience, how they adhered to the Vision and if they were capable of doing a project of this magnitude. This will be one of the largest projects in the County that's ongoing. The Housing Commission took under consideration the naming of the project, wanting to name it something that wasn't Mission Avenue and Mission Cove was chosen.

Staff recommends choosing National Community Renaissance and Community HousingWorks as the development team and renaming the project Mission Cove. This action will authorize the selection of them and we will come back to Council at a later date with the actual development agreement.

**JOHN SEYMOUR**, Vice President of Acquisitions, (non-profit) National Community Renaissance, stated the company is 18 years old and he's been with them for 15 years. The company operates in 50 cities and most of those cities we have repeat projects in. If we move forward this would be our third project in Oceanside. Community HousingWorks has two projects in Oceanside and are a North County company. They have served this County for 25 years and will be handling the special needs and senior components. We will be handling the retail and family components. The other member of our team is RRM Design Group, an architectural firm who worked with the community at 3 workshops and received unanimous support from the Housing Commission and Council. We intend to do a lot more community participation work out there. Our developer/retail consultant is Newmark Merrill, who owns and manages 600,000 square feet in Oceanside. We also have Lightfoot Planning Group and Hunsaker and Associates, who knows about the technical drainage and soil issues on that site.

This process will be long and will not be starting tomorrow. It's going to take at least 1 year to go through the environmental review and entitlement processes. Once

that gets done, we will be able to apply for our tax credits. We have proposed this to be in 3 separate phases, but that could change depending on a variety of things.

Public input

**LILA FETHEROLF**, representing Interfaith Community Services, 550 West Washington Avenue #B, Escondido, expressed support for this project. We are a long-time partner of Community HousingWorks and have confidence in the quality of the housing and services that they provide.

**DORIS ELAINE SAUTER**, 3216 Mission Avenue [La Mision], is in favor of this project, which is across the street from where she lives. More baby boomers are getting older and the need for senior housing is great. She is facing retirement with a social security payment of \$450 per month and it will be hard to find housing with that. As she gets older she values a quiet environment more that she used to. She works at home. National Community Renaissance and its employees do the utmost to control noise on the current property and every complaint is met with swift action. In terms of management, her current apartment is one of the best places she has ever lived.

She was delighted to hear in the planning meeting in October that a certain amount of the proposed housing will be set aside for veterans. She asked Council to approve the proposed building.

Public input concluded

**DEPUTY MAYOR SANCHEZ** is familiar with these organizations and is excited about this partnership and thanked the Josepho family for making this opportunity happen.

She **moved** approval of the selection of National Community Renaissance and Community HousingWorks as the development team for the development of an affordable housing, mixed-use project on the City-owned 14.5 acre Mission Avenue parcel located just east of Mission Avenue and Carolyn Circle, designate of the project site as the 'Mission Cove' development and direct staff to negotiate an agreement.

**COUNCILMEMBER FELLER seconded** the motion. Recently we tried to run a carnival through that property and they said the soil was very unstable. That brings to mind what happened across the street and how many miles down we went for each of those pilings. Do we have that same problem here?

**BYRON ELY**, Hunsaker & Associates, stated we do have similar soil conditions to those at La Mision. We are aware of them and there are some existing soil studies that have been done. We intend to do additional studies to find the most cost-effective solution for dealing with that matter. It is a large part of the development process and it needs to be managed carefully.

**MR. MANLEY** added that one difference between this project and La Mision is that La Mision had subterranean parking and this project does not. We have the same soils condition but not the same construction so it should be a little bit less.

**COUNCILMEMBER FELLER** hopes you are planning to protect the homes around the parameter because once you start moving earth around; it's probably going to have some effect on those homes.

**MR. ELY** responded that's right and our plan incorporates strategies for making sure the adjacent properties are not disrupted.

**Motion was approved 5-0.**

**Items removed from Consent Calendar for discussion**

11. **City Council: Approval of a professional services agreement [Document No. 10-D0863-1] with Tamayo & Associates, of Cardiff by the Sea, in an amount not to exceed \$99,000 for development of a Water and Wastewater Strategic Plan; and authorization for the City Manager to execute the agreement**

**JIMMY KNOTT**, 127 Sherri Lane, stated at previous budget meetings it had been suggested that we try to save money by utilizing the knowledge of our citizens. This is the perfect opportunity for that. If after working on the Strategic Plan the citizens find they need help, we can then bring in a consultant.

**CARI DALE**, Water Utilities Director, responded Tamayo & Associates is a professional facilitator and the department felt we needed such a person to facilitate conversations that are technically complex and need to be understood by commissions, Council and members of the department. This is someone who is specific for this task. One of the tasks they are working on is facilitating discussions on the Conservation Master Plan, which is a mandate by the State. We are required to do that work within a very short timeline and it's difficult to get that done within the department using our resources or those of the public.

**COUNCILMEMBER FELLER** asked if we are still going to go forward with this if the water rates don't pass later.

**DIRECTOR DALE** responded this project was budgeted in this fiscal year so there are monies available for that right now, so yes.

**COUNCILMEMBER FELLER** stated we can't afford professional staff mediators in any department that do this particular thing every day. Otherwise that person would sit around half the year doing nothing. He **moved** approval [of a professional services agreement (**Document No. 10-D0863-1**) with Tamayo & Associates, of Cardiff by the Sea, in an amount not to exceed \$99,000 for development of a Water and Wastewater Strategic Plan; and authorization for the City Manager to execute the agreement].

**COUNCILMEMBER KERN** **seconded** the motion. There will be public input on this. It will come back to the Utilities Commission and they will have a chance to weigh in and comment. Part of the process for these consultants is to interview people about where water is going to go in the next 20-30 years. It's Council's goal to be at least 50% water independent by 2030. Every year we are going to be dealing with the water rates until we wean ourselves mostly off of Metropolitan Water District (MWD). We need to move forward quickly and come up with a plan. Once we have a plan we can go out to State, federal and regional Boards and look for funding to implement the plan.

**DEPUTY MAYOR SANCHEZ** stated Council directed staff to do a water conservation plan and she wishes it was more quickly. This is critical to have a Strategic Plan, whether or not the rates are approved. We promised our constituents that we would do everything possible before voting yes on increased rates and we haven't done that. This is a first step towards that.

The State's goal is 50% by 2030. Our goal should be 50% by 2020 because we have a desal private pilot that we should be fast-tracking. We have other things we could be doing in terms of recycling, becoming more efficient and conserving. Conserving and being more efficient will cost us less to do that than to support these billion dollar projects to get water here to Southern California. She supports this and thinks it's critical to our residents that we do this move as quickly as possible to come up with a plan to be more efficient, conserve water and revise our deadline to 2020. We know that is the most important issue, along with public safety, for our residents at this time. We need to focus all of our resources to ensuring that we become as independent as possible.

**COUNCILMEMBER FELIEN** stated the hiring of consultants is always a questionable expense. He asked for more information on what this firm brings to the table that's lacking in our staff that makes this the most efficient use of our resources.

**DIRECTOR DALE** responded this consultant specializes in facilitating discussions and in developing Strategic Plans and has worked with a number of San Diego agencies as well as utility agencies to come up with Strategic Plans. She has worked with this firm before on a few Strategic Plans with agencies she's belonged to and is very impressed with the skills in facilitating discussions and pulling information out of people.

**CITY MANAGER WEISS** stated in the back-up material there is additional information but we can provide Council with the complete proposal that includes the résumés of the individuals who are part of the firm. When we have unique circumstances like this, taking existing staff and dedicating them to a project does take them away from the day-to-day routine so we typically don't hire for specialized services like this. We may have some individuals who may have some of those abilities but it would be hard to put them on a project like this. What we're going to get out of this is fairly significant because we have the opportunity, unlike some other cities, to look at creating more independent sources of water. That's important because we can't see an end to MWD continuing to raise rates, so it's incumbent upon us to look at how we can best meet the needs of our community and reduce those costs as best as possible recognizing that anything we build is going to cost.

**Motion was approved 5-0.**

17. **CDC: Adoption of a resolution approving Conditional Use Permit (RCUP-10-00002) and Regular Coastal Permit (RRP-10-00002) to allow for a pawn shop located at 205 North Coast Highway – Coast Jewelry and More, to confirm City Council action on November 3, 2010**

**COUNCILMEMBER FELLER** asked staff if they've received any other applications.

**SHAN BABICK**, Associate Planner, responded to date we have not received any other applications or phone calls (related to this type of use).

**COUNCILMEMBER FELLER** thinks that no matter how good the people are that are bringing this forward, this is what we were 40 years ago, even though it's a first class business. We're opening up a can of worms here and this was not the intended use after spending so many dollars to make it a family-oriented downtown. He is not supporting this.

**DEPUTY MAYOR SANCHEZ** stated we have placed several conditions on the project and this is a positive project for the City. She **moved** approval [of adoption of **Resolution No. 10-R0871-3**, "...approving a Conditional Use Permit and Regular Coastal Permit to allow for a pawn shop located at 205 North Coast Highway – Coast Jewelry and More – Applicant: David Mueller"], to confirm City Council action on November 3, 2010.

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

**Motion was approved 4-1;** Councilmember Feller – no.

#### **CITY COUNCIL REPORTS**

27. **Mayor Jim Wood**

**MAYOR WOOD** wished everyone safe and happy holidays.

Retired Catalina Fire Chief Jack Goslin passed away on November 28<sup>th</sup>. He was a former member of the Police and Fire Commission. Maureen Fleming is retiring from the Parks & Recreation after 22 years. He will be presenting a plaque to Ovella Tucker who is turning 100 years on December 16<sup>th</sup>.

28. **Deputy Mayor Esther Sanchez**

**DEPUTY MAYOR SANCHEZ** attended the Integrated Waste Commission meeting last week and Nadine Scott was elected as the new Chair. We discussed our new hauler contract and the need to ensure that we streamline the process quickly for the compressed natural gas (CNG) project. We discussed ways of getting people excited about recycling to benefit Oceanside.

Oceanside High School won the CIF championship.

29. **Councilmember Gary Felien**

**COUNCILMEMBER FELIEN** attended Congressman Darryl Issa's breakfast where they were raising toys for military families. He also attended a HAM radio operator meeting and learned more about the vital role they play in our community. He attended the lighting of the Menorah at City Hall.

He introduced his new aide, Diana Palacios.

30. **Councilmember Jack Feller**

**COUNCILMEMBER FELLER** reported David Soames passed away recently. He was an architect who did many projects in Oceanside. Doug Blanchard passed away; he was the PGA golf pro at Camp Pendleton. He attended the Pearl Harbor Survivor's Memorial yesterday.

31. **Councilmember Jerry Kern**

**COUNCILMEMBER KERN** also attended the base reception for Congressman Issa's event and the Menorah lighting at City Hall.

[Recess was called from 4:45 to 5:30 PM]

**5:30 PM – ROLL CALL**

Mayor Wood reconvened the meeting at 5:30 PM with all Councilmembers present. Also present were City Clerk Wayne, City Manager Weiss and City Attorney Mullen.

**INVOCATION** – Pastor Carl Souza

**PLEDGE OF ALLEGIANCE** – team members

**PROCLAMATIONS AND PRESENTATIONS**

Presentation – "Pet of the Month" presented by Elkie Wills, North County Humane Society & SPCA

Presentation – Mayor's Youth Sports Recognition and Appreciation Award – Girl's Soccer team GU14 All-Stars

Proclamation – Day Without a Bag

**Presentations were made**

**MAYOR AND/OR COUNCILMEMBER ITEMS**

26. **Request by Councilmember Kern to provide direction to staff to bring forward, within 30 days, an ordinance to repeal in its entirety Chapter 14C of the Oceanside City Code (Inclusionary Housing), and further, to bring forward voluntary builder incentives to meet the City's affordable housing goals**

Veterans Association of North County presented acknowledgements to Tom Garcia, Oceanside 2010 Veteran of the Year; and Interfaith Community Services, Oceanside 2010 Veterans Organization of the Year.

**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.

33. **City Council: Consideration of the proposed water rate, pass-through charge and wastewater rate increases; introduction of an ordinance amending Chapter 29 of the Oceanside City Code by establishing wastewater user rate increases; introduction of an ordinance amending Chapter 37 of the Oceanside City Code by establishing water user rate and external water provider charge increases; and direction to staff to implement the user rate and external water provider charge increases** *(continued from November 3, 2010)*

- A) Mayor opens public hearing – hearing was opened.
- B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Mayor, Deputy Mayor and Councilmembers reported contact with staff and public.
- C) City Clerk presents correspondence and/or petitions – as a protest hearing, she reported receiving 122 protest letters; out of those 64 are from the Oceana neighborhood. There were 39,429 mailed notices.
- D) Testimony beginning with:

**CARI DALE**, Water Utilities Director, stated this evening we are holding the majority protest public hearing for water and sewer rate increases. The proposed increases include pass-thru costs for Metropolitan Water District (MWD) and the San Diego County Water Authority (SDCWA). A computer graphic was used to show how the cost of water was passed through from MWD and eventually to Oceanside customers.

On January 1, 2011, MWD will be increasing the overall cost of water and water delivery costs by 7.5%, and an additional 7.5% later in the year. In turn, the SDCWA costs are also increasing by 12.2% in January and later in the year. Both MWD and SDCWA costs are not within Oceanside's control.

Oceanside has been working on a small scale project to use well water extracted near the coast. This is considered a local water supply and would help move Oceanside towards water independence from MWD and SDCWA, resulting in more cost control of water at the local level. The pilot project near the beach resulted in an evaluation of the costs to build, operate and maintain a plant sized at 5,000,000 gallons per day or 10,000,000 gallons per day. In the year 2020, we believe that the anticipated costs to produce water from this local supply will be comparable to water purchased from MWD and SDCWA. A graphic showed the demonstration plant located just east of the Harbor.

In the future with more local water supplies, our goal is to have local control of water costs. Until such time, we are subject to pricing determined by others. The rates being recommended tonight are 7.4% effective February 1<sup>st</sup> and 7.8% effective July 1<sup>st</sup>.

The rates meet the following goals:

- Funds annual expenditures
- Meets debt obligations
- Meets debt coverage factor
- Provides a 60-day operating reserve
- Considers water sales reductions and further per capita usage reductions
- Funds future capital replacement

The rates are consistent with the recommendations from the Citizen Advisory Committee (CAC). This CAC was a citizen group comprised of 12 members representing the various user classes and the Utilities Commission. The recommendations of the CAC were released in 2007. Some of their recommendations include:

- Conservative fiscal policies, adequate bond coverage, adequate reserves
- Rate-setting methodologies maintained and consistent with collecting revenues based on the cost of service
- Planned projects in the Water Master Plan are needed to preserve utility assets
- Water rates should reflect inflation as well as pass-thru charges

Rates for a single-family residential customer using 12 units of water per month reflect a 7.4% increase on February 1, 2011, and result in a \$50.82 monthly charge. This same user would see a 7.8% increase on July 1, 2011, resulting in a \$58.83 monthly charge. A slide was used to show water costs for other regional agencies. The regional monthly single-family residential average for water is \$57.52. Both Oceanside's present rate of \$50.82 per month, as well as the proposed rate for February are below the regional average, with July's proposed rate of \$58.83 being slightly above the regional average.

The rates for master metered communities reflect an increase of \$158.57 on February 1, 2011, and \$182.78 on July 1, 2011. A computer graphic was used to show an example of a community with a 6" meter, serving 86 dwelling units and using 525 units of water per month.

In the recent past the City has requested funding through the American Recovery and Reinvestment Act. However, none of the projects submitted have been approved for funding to date. Recently we have pushed back some capital projects, which include the Weese Plant expansion/upgrade and the San Luis Rey Water Reclamation replacement.

The debt in the wastewater utility has grown significantly and consists of 5 separate loans totaling \$5,400,000 per year. In 2008, annual debt payments increased by close to \$1,000,000 due to full principal and interest payments being due for the 2008 bond and for annual repayment of the emergency loan from the Water Fund. The Water Fund will be paid in full in the year 2034. Debt payments account for approximately 17% of the wastewater budget.

Wastewater capital projects have also been deferred, effectively putting the cost of infrastructure repairs onto future generations. A computer graphic showed the capital deferrals in the Sewer Fund. Once Master Plans are updated later this year, the capital list will be updated with costs and projects prioritized according to the greatest need.

The Water and Sewer Funds both experienced major unanticipated expenditures, including the Land Outfall repair on Oceanside Boulevard, the Arroyo slope failure settlement, debt defeasance and TCP litigation. In the Sewer Fund we have no means to pay for any type of emergency repair at this time.

The recommended rate increases for sewer are 9% effective February 1, 2011, and 9% effective July 1, 2011. These increases allow the Sewer Fund to meet the recommendations of the CAC. Some of the recommendations are:

- Fund annual expenditures
- Meet debt obligations
- Meet debt coverage factor
- Provide a 45-day operating reserve by the end of fiscal year 2011-2012
- Establish a minimum infrastructure replacement balance
- Move away from reactive maintenance/infrastructure replacement

For a single-family residential customer with medium (12 units) sewer usage [\$45.48] the February increase results in a \$4.10 per month increase, and beginning in July a \$4.47 increase. A graphic showed other regional agency rates. Although the proposed rate for February is slightly higher than the regional average of \$46.82, the combined water and sewer rates for February are slightly below the combined water and sewer rates for the region.

For a master metered community using a 6" meter and 86 dwelling units, the rate increase for February is 9% as is the rate increase for July.

Special industrial user rates affecting manufacturing and industrial establishments are also proposed to increase 9% effective February 1, 2011, and 9% effective July 1, 2011. The pollutant loadings are calculated annually and are based on actual monitoring data of flow, biochemical oxygen demand, total suspended solids and ammonia.

Tonight's recommended actions are to introduce an ordinance amending Chapter 29 by establishing wastewater user rate increases, introduce an ordinance amending Chapter 37 by establishing water use and external water provider charge increases and to direct staff to implement the user rate and external water provider charge increases.

**CITY CLERK WAYNE** advised that this is a protest hearing and any additional protest letters will be accepted up until the close of this public hearing.

#### Public input

**BRIAN BOYLE**, 3232 San Helena Drive, Chair of the Utilities Commission and Oceanside's representative at SDCWA Board of Directors, is here as the representative of the Utilities Commission who voted in favor of everything that's being presented tonight. This came to us through a lot of careful work and work product done by staff and the Commission. The pain is how little control the City has of this. The work done locally has been good and he knows if there was a way for people to see the infrastructure, they would see it's in terrible disrepair and needs to be looked after. The political and dollar consequences to the community on the other side if these clarifiers shatter or move closer to the beach and dump is astronomical in comparison to whatever these rate increases may be.

The only way to get out from underneath MWD and SDCWA is to create more local supply. The most obvious way right now is through desal and a dramatic and aggressive going after this. This is going to take a lot of political will, but if we can pull away from MWD and SDCWA then we will be in control of our own destiny and it will be much more favorable in the long term for the City.

**MAYOR WOOD** knows there is litigation pending against MWD by the SDCWA and asked Mr. Boyle for an update on that.

**MR. BOYLE** responded all of the member agencies under MWD get charged

various charges in their rate structure. The SDCWA, of which Oceanside is a member agency, is getting charged a transportation charge by MWD. None of the other member agencies, groups or County authorities are getting charged that in their entire area, so the SDCWA is suing MWD because this is unfair and goes against earlier fair rate agreements, etc. MWD has withdrawn the funding to the community for conservation, etc. because of the lawsuit. It's getting intense. At the last meeting SDCWA approved the external legal counsel to prepare the suit against MWD so it could be used as an axe against them in whatever negotiations are going on.

The wringing of necks is taking place with our Board members from SDCWA that sit on the MWD Board. They are screaming and objecting to everything they do there. This body and the people in this community are fighting like crazy for the rate payers.

**JIMMY KNOTT**, 127 Sherri Lane, reminded Council that Proposition 26, which was passed by the voters, requires that any item that has a fee or tax should be brought before the voters to be passed, and he believes this is being circumvented. He also believes that certain portions of this rate increase are user fees, which are applicable. There are other portions of it that are not, such as the transportation fee, which should be withheld until there is clarification. The Clean Water Program fee should also be withheld as it is also covered by Proposition 26. He questioned some of the other charges that appear monthly on the bills and asked for clarification on those charges. He protested this item simply because of the things that were unclear.

**DIANE NYGAARD**, 5020 Nighthawk, representing Preserve Calavera - 2,700 North County families, asked that staff clarify the amount of the Water Fund increase that is funding future capital replacement versus current needs.

She is really addressing the sewer rates; Oceanside is not unique in having a lot of deferred maintenance in their water and sewer system. Recently the National Engineering Association said across this country it's not the roads that are the part of our infrastructure in the greatest disrepair; it's our water and sewer systems that are at the greatest risk. Last month Carlsbad had 2 more sewer spills with fines that will result from them. It's a miracle that it wasn't Oceanside because our sewer system is in worse shape than theirs. In fact, 14% of our system is 50 years or more old. Miles of sewer exists along our creeks and rivers where those failures can cause the most damage.

Nobody likes rate increases like this but sewers can't fix themselves. Council saw how much deferred maintenance there is in the Plan before you. Not fixing these things doesn't mean they are going away. We're only increasing future costs. We urge Council to approve the rate increases with the condition that if the residents are being asked to cough up significant cost increases to pay their fair share, developers should also pay their fair share (referencing Page 5 of the staff report where it notes that along with the budget will come requests to adjust the developer impact fees).

**MIKE FAULKNER**, 3760 Vista Campana South #3, stated at the City hearing on October 14, 2009, there was a proposed rate for water rates and Mr. Thibodeaux stated with the increase in the cost of water and the wastewater rate there was no longer sufficient funds to meet the debt coverage required by the City bond covenants. He asked if the City has paid off its water and sewer bonds and if a 12.5% increase would go to budget line items or on water and sewer. He asked if this fee increase is a Trojan horse in the budget to fund other City infrastructure and if the water and sewer is funded by the City reserves. These are hard financial times and the City gave raises to employees this year. Is the City going to give more raises to the City employees and their pension funds or are you going to freeze those. He understands the pass-thru rates but not the sewer rates.

Council is the overseer of the budget and it is your fiduciary responsibility to keep prudent and tight reins on the City budget and the infrastructure budget. He asked Council not to pass the 12.2% increase at this time. Please go back and revisit

your budget and see where you can cut and slash to get more money to cover the infrastructure.

**LARRY BARRY**, 3973 Brown Street, stated MWD and SDCWA continue to charge these outrageous rates year after year because they can. Residents have let their lawns die and turned off the sprinklers only to see the water bill go up. He asked if, regarding the stimulus package, this was a shovel-ready job. We need to expand the desalinization plant so we can sell the water to neighboring cities. That should be our goal. He is concerned about being under water on the debt when we've been paying these fees for so many years. In previous meetings over the years we have talked about setting aside money for preventive maintenance and we don't know where that money went or how it was spent. We have no choice except to pay these and move toward supplying our own water.

**BOB BERG**, 1700 block of South Pacific, stated about 10 years ago they ran a sewer line through the City for Camp Pendleton because their sewage treatment plant was upside down. He asked for an update on that and if Camp Pendleton paid for the use of the sewer line. He thinks we should look further into desal and what the previous gentleman said.

**JOAN BRUBAKER**, 1606 Hackamore Road, stated in about January of 2009 she and another person met with the Water Department in connection with a damaged sewer and the new school at Highway 76 and Melrose creating a greater load on this sewer system that was in need of repair. We proposed that the school bear the cost of repair. The answer was that it wasn't necessary because we had plenty of reserves to cover it. Now Ms. Dale has been quoted as saying that without the sewer rate increase, the City has no money to respond to emergencies such as pipeline breaks or make repairs to present spills. That doesn't coincide with what she was told by officials at the Water Department a year earlier.

**JERRY McLEOD**, 1517 Del Mar Road, was the other person that went with Ms. Brubaker to meet with the Water Department in January of 2009. The sewer line under Highway 76 is collapsing or is bent and we went to see if the school district could foot the bill and were told that the money was there. Now we find out the money is not there. Why should the citizens pick up the bill for this? The developers need to pay their part. He asked Council to think of the citizens. Mr. Barry's suggestion of making money off the desal plant sounds like a good idea.

**GREG STEWART**, 1713 Marson Street, does not think it's fair to increase his rates after he's been asked to save water and has done so. He asked Council to vote wisely on things the residents have to pay for. We need to take a better look at how we can take care of and design better infrastructure - transportation, treatment, etc.

**CITY CLERK WAYNE** asked if anyone else wished to submit a protest letter prior to the close of the hearing.

Public input concluded

With no further input, Mayor Wood closed the public hearing.

In response to the questions raised, regarding the withholding of the MWD transportation fee, **DIRECTOR DALE** stated if we do that, we will not receive deliveries of water from MWD and the SDCWA and then we're really going to see conservation in the City because we produce about 15% of our water locally and it would mean significant reductions to water that's provided to our citizens and businesses.

In terms of some of the charges from MWD and the SDCWA, a lot of those deal with infrastructure that's been installed by MWD or the SDCWA for massive storage facilities for Southern California, delivery facilities, treatment facilities, pumping facilities

and facilities that deliver water to the public. This goes to the volume of sewer comments as well. Regardless of the volume of water that people are using or the volume of sewage that you're flushing down the toilet, the basic infrastructure that needs to exist to get you that water or to take away your waste in treatment is still a cost that the City and the other agencies have to bear and that is the majority of the costs you are seeing here today.

In terms of the developer impact fees, that is a cost that we're going to be looking at as part of the budget process so when the budget comes forward in the spring, we will be updating the developer impact fees.

In regards to paying off bonds, the earliest bond sunsets in 2016 and the latest one sunsets in 2034. It represents 5 different debt instruments totaling \$66,000,000 of debt.

In terms of Camp Pendleton and their outfall, they are under contract with the City to pay for the use of the sewage outfall. That contract is up for renewal in the next year or so and they are scheduled to come forward and present to Council on the status of their installation of an outfall. We will have an update in a public forum.

She was not here when the conversation occurred regarding the Sewer Fund reserves. However, in the past few years we have experienced several unanticipated expenditures as a result of infrastructure aging to the point of failing and it costs us more money to repair infrastructure when it is broken versus replacing it before it breaks. We've had several instances where we've had a couple of million dollars of unanticipated expenditures that have sucked away the amount of reserves in the Sewer Fund. We do not have any money in the Sewer Fund to pay for any repairs should we have any major break because we would be coming to the Water Fund for money.

Regarding the school previously mentioned at Highway 76 and Melrose, **GREG BLAKELY**, Water Utilities Division Manager, stated the school district acquired the property from Hi Hope Development. Hi Hope is responsible for a lot of the infrastructure to be installed, including the water and sewer lines. The line west of Melrose that was referred to earlier that is failing underneath Highway 76 is still intact but the developer is required to repair or replace that line and upsize it. The school district and the developer have both paid for all of the infrastructure needed for water and sewer.

Regarding the application of Proposition 26, **CITY ATTORNEY MULLEN** stated it does not apply to utility rate increases. Under Article 13(d)(6) of the California Constitution - Proposition 218, water and sewer rates are subject to a majority protest hearing, which we're conducting tonight. There are various substantive legal requirements that are set forth in Proposition 218 that this action is subject to. It is not subject to a voter approval requirement under Proposition 26.

**COUNCILMEMBER KERN** stated nobody likes to raise rates, but after hearing what our Director and the Chairman of our Utilities Commission have said, we have no choice. The water rates are a result of MWD sending us the bill. They're going to send us the bill on January 1<sup>st</sup> regardless of what we do here tonight. We will have to pay that bill or we won't get any water from them.

We saw pictures of our aging infrastructure and sewer and those are ticking time bombs. At one point in time one of those are going to fail and if it fails along a creek or waterway, we will get a fine from the Regional Water Quality Control Board of \$10 per gallon. If we have a 10,000 gallon spill, we're going to have a \$100,000 fine. Also, we have to keep our bond rating up. We have to have sufficient funds in our accounts to cover the cost of our borrowing. Having our bond rating deteriorate will cost us an additional \$500,000 to \$1,000,000 just in borrowing costs. That money goes to the bond holders and doesn't repair one foot of pipe in Oceanside.

He **moved** approval of staff's recommendation of the proposed water rate, pass-through charge and wastewater rate increases; introduction of **Ordinance**, "...amending Oceanside City Code Chapter 29, establishing sewer user rate increases"; introduction of **Ordinance**, "...amending Oceanside City Code Chapter 37, establishing water user rate and external water provider charge increases"; and direction to staff to implement the user rate and external water provider charge increases.

He's not thrilled about it. Mr. Boyle mentioned the lawsuit we have about the wheeling rates that MWD is charging us to get water into the County. We are the only agency that those transportation charges are applied to. We have a good opportunity to get some of that back. But that's not the full cost of that increase; it's only about an 18% charge, so the rates are still going to go up. Hopefully, next year it will offset some of those increases.

Our payback on the Strategic Plan if we do our own desal and water recovery out of the river, won't be seen until 2020. There is a cost involved in being water independent and that cost is infrastructure and plants. MWD rates will continue to rise every year in the 7-8% range, if not more, until about 2018. We're going to be sitting here next year at this same time talking about the water rates for the following year. The impetus now is to be water independent and to work towards that goal. It would be great to be water independent by 2020 but people have to realize the cost involved in getting there.

**COUNCILMEMBER FELLER** seconded the motion.

**COUNCILMEMBER FELIEN** stated having gone through the election we debated many things and had many arguments, but the one unifying theme from the public and all of the candidates was that we need to be independent from MWD. We are being held hostage. He is of the mind that even if projects are temporarily more expensive, they're worth doing in the long run. He attended the MWD hearings and remembers the rates going up forever. As far as he knows, we're not going to have any dependability on prices in that direction and we need to take control of our own destiny to whatever extent we can.

There is an issue regarding developer impact fees and there's always a concern that we have money set aside. Those fees are only allowed to be used for capital improvement projects and can't be used for maintenance, so that has to be kept in mind when analyzing the budget and what funds are available for maintenance. We also have a benefit with the passage of our Charter because we will be able to save money on any project that doesn't involve use of State or federal money.

He went on a tour of the water and sewage facilities and has talked with Director Dale about in the future getting a better breakdown between the capital projects budget, the normal maintenance and the wages and benefits and comparing those specific expenses to other cities. The only way to evaluate whether or not we are doing a good job and being the best custodian of our money is comparing it to other people who are doing the same thing and seeing how we rank in those comparisons. In cities that are doing it better, we need to find out what they're doing that we're not.

He believes from his business experience that with capital projects in the long run you save money by doing it once and doing it right. We should design, budget and pay for the long term. Cutting back on maintenance as a savings is the most expensive loan of all. You only have to look at San Diego to see what the real price is of having cutbacks on your maintenance. These are phony savings and are never the way to go to save money.

When we're in a recession that's the time the costs are the lowest in bidding out projects. We should bring forward any project that we truly need in order to take

advantage of the cost savings we're going to get now. The savings we get on the bidding more than offsets any interest expense if we need to borrow money to fund the project. That fits into the normal countercyclical activity that any government should be doing to try and offset the painful impact of this recession.

He would like to reassure everyone that these rates are never final. They will constantly be evaluated over the next year. As we go through the budget process over the next 6 months, he is determined to tear into these numbers, and he can smell when the numbers are bad, and can make sure this is a field he is comfortable getting into and assuring the public whether or not their money is being well spent. If it turns out we're wrong, then the rates can always be adjusted down or up as new information provides.

Regarding our credit rating, decisions have long-term impacts when you make the wrong decisions. Last year our utility rates for water and sewer became a political football and we had a time where we were violating our bond covenants that we promised in the contract. In the financial community the underwriters don't forget that. We were on credit watch and now that's part of our history forever when anyone researches our City. We will pay the price for that when we want to go out and get public funding. Like individuals, when you behave like an adult, you are treated like an adult and you get a better rate. When you behave like children and you're irresponsible, you have to pay higher rates.

When he took the tour with Director Dale she was saying that she recently had a conversation with an underwriter who was reviewing the City's past history and asked her to fill everyone in on what his outlook was for the City and our ability to fund.

**DIRECTOR DALE** responded she had a long conversation with a lady that issues bonds and picked her brain quite extensively about what Oceanside needed to do in order to be in a financial position to be issued bonds should we choose to do so. Her comments were that she looks at past behaviors of the elected officials; what are their actions and what is their willingness to approve rates that meet the bond coverage and the debt service for the bonds. She asked Rob Grantham to elaborate.

**ROB GRANTHAM**, FCS Group, stated it's important when the rating agencies are looking at a municipal entity; business practices come up. In 1998 it started with Fitch and then Moody's and Standard and Poors soon followed in looking at business practices, let alone just a balance sheet. What have been the past practices in terms of rate increases, how are you putting money aside for depreciation funding to repair your infrastructure, are there any long-term liabilities that may come up again in a sewer line break, do you have money to repair it. They are basically looking at how much of a risk factor would a bond buyer take in investing in Oceanside.

So the financial plan as we've established it is really looking forward on all aspects of that business. Director Dale had previously talked about how both systems are worth about \$750,000,000. That's a lot of money and infrastructure. Are we putting money aside and reinvesting. What's our bond coverage factor. Rating agencies won't say it as definitively, but to get a AA rating, which is a good rating, you need about a 1:5 coverage factor. That's what Sacramento County Sanitation District was just told. Our financial plan, in keeping with the rules and guidelines that the CAC adopted several years ago, we are looking for a 1:5 coverage, depreciation funding and having necessary operating reserves. We're looking at having good business practices in order to secure a low interest rate.

**COUNCILMEMBER FELIEN** believes that as painful as it is, we need to support the staff recommendation and increase the rates and he will be voting in the affirmative.

**DEPUTY MAYOR SANCHEZ** read from a conservation website "that maximizing water efficiency efforts across the State is a faster and cheaper approach than investing

billions of dollars in water supply projects that will take years to build and come at a great cost to the environment, economy and the rate payers. Moving water around the State over mountains to your house and through the wastewater treatment system uses an enormous amount of energy. A draft report from the California Energy Commission notes that these water-related activities use 18% of all the electricity and 31% of the natural gas consumed in California. Factoring in these energy savings further increases the economic benefits of water conservation options.

According to the draft California Water Plan Update we can meet water needs well into the future without taking more water out of the environment. The draft Plan from the Department of Water Resources estimates that water conservation in the urban sector can save 1,200,000 to 2,400,000 acre-feet of water. One acre-foot of water equals 326,700 gallon; enough to serve approximately 2 households with enough water for a year. Another report from the Pacific Institute estimated that up to 1/3 of California's current urban water use, more than 2,300,000 acre-feet, can be saved using simple off-the-shelf technology. The report found that at least 85% of this savings, over 2,000,000 acre-feet, can be saved cost-effectively, meaning less than what it would cost to add new supply..."

Back in 2000, the City borrowed \$50,000,000 from the State to expand our sewage treatment plant, which is being paid back by the rate payers at about \$2,000,000 per year. She asked why we were expanding and not maintaining infrastructure or addressing our debt service at that time.

She has been on the minority with the Mayor for about 2 of the last 10 years and while we've been asking and directing staff to come up with plans for sufficiency, it is irresponsible for the majority to vote to pass these increases without doing anything to address the issues. We made a pact with our residents that we would not be asking for increased rates unless we had done everything under the sun to cut down the costs and/or have programs in place to ensure that we would have our own water sources. We directed staff to come up with a conservation plan over a year ago. We have information that 1,000,000 gallons a day is going through our outfall of tertiary treated water from Camp Pendleton; going straight out to the ocean. We are currently not optimizing the use of recycled water. We have a pilot desal project that needs to go forward and so much more that we could be doing.

In speaking with Mr. Boyle, our representative on the SDCWA, he stated he would personally be against voting for the water rate increases. We should challenge the rate hikes from MWD. While there is an existing litigation regarding transportation fees, we should explore other bases for fighting the rate hikes. We should contact other cities and move for legislation to help us. We still have a lot to do and again she will be asking staff to maximize our ability to be self-sufficient and re-use water. If she asked people if they would be willing to conserve and do everything possible to cut down their water bills, she believes they would say yes.

With these kinds of increases we need to be responsible and respond immediately. We just tonight approved hiring a consultant to come up with the best plan so that our water rates will finally stabilize and we will not be putting such a hardship on our future generations and our seniors.

**COUNCILMEMBER FELLER** asked how much the desal plant is going to cost.

**DIRECTOR DALE** responded the cost for a 10,000,000 gallon per day plant at this time is estimated at \$151,000,000.

**COUNCILMEMBER FELLER** asked where we were expecting to get that money.

**DIRECTOR DALE** responded we are hoping to get some money from the

federal government, which is probably a drop in the bucket; it would come from user rates and we would probably bond and look at alternative sources. The majority would probably come from a bond.

**COUNCILMEMBER FELLER** stated Director Dale showed a couple of charts that were a comparison as of December. He asked if that included all of the other cities that have passed water rates recently.

**DIRECTOR DALE** responded it includes rates that have been passed through the end of November.

**COUNCILMEMBER FELLER** stated we've delayed action on this for a month so far. What is that going to cost at this point?

**DIRECTOR DALE** responded in the Water Fund we're going to see an increased cost from the SDCWA and MWD of \$165,000 and lost revenue of \$209,000, which is a cumulative loss of \$374,000 just for the month of January. In the Sewer Fund it is attributed to revenue loss of \$195,000 for the month of January. Had we delayed the increase in a warm month when we had higher water use, it would have been significantly higher.

**COUNCILMEMBER FELLER** stated we talked about transportation; MWD gets water from the Colorado River and from Northern California through the aqueduct and, unfortunately for us in this location, they have literally shut off our water and will continue to put the Delta smelt before the lives of people. That's unforgiveable. He's going to put people before any animal any time. He agrees with the gentleman who talked about giving no raises to the City employees. He asked Director Dale to talk a little about the partnership with Camp Pendleton regarding recycled water.

**DIRECTOR DALE** responded we met with Camp Pendleton representatives about 2 months ago and took a tour of their waste water and recycled water facilities. We've talked to them about receiving recycled water at the back gate near the Arrowood area as there is a pipeline nearby there. We are talking conceptually right now. We've also talked to them about potentially receiving water more near the coastline where their existing outfall presently lies. These types of plans take a while to materialize but we are in discussions with them.

As well, we are participating with about 12 other water departments and cities to maximize recycled water in the North County area. If there's a pipeline that's close to the Oceanside border, we're talking with those agencies to get water across our border and that's a cost-savings to our rate payers. We've been active in discussions and tours and that ball is rolling.

**COUNCILMEMBER FELLER** stated in the back-up material it says that the SDCWA has cut \$2,400,000 in their 2010-2011 budget, which is probably a drop in the bucket. What's their budget?

**MR. BOYLE** did not know but said roundly that it's in the hundreds of millions.

**COUNCILMEMBER FELLER** stated so they haven't really cut down to the bare bones have they?

**MR. BOYLE** can't speak to whether they have or they haven't. He's new there but is digging in.

**COUNCILMEMBER FELLER** thinks there are a lot of things to consider here. We are in a position at this point that it's going to continue to cost us hundreds of thousands of dollars every month we delay and that money has to come from somewhere. The City has to pay for this water. If you think there's an outcry now, if

we had to cut the transportation out and people went to their tap and nothing came out, there would be an unbelievable outcry. He heard that this City had not done any savings cut-backs. His household is down about 30% and that's pretty much an average.

**MR. GRANTHAM** responded the City water consumption, or purchased water, has been reduced about 30% over the past 3 years. The City across the board has really reduced.

**COUNCILMEMBER FELLER** asked Mr. Boyle if he had stated he would vote against these rate hikes.

**MR. BOYLE** reviewed that the conversation was – was I able to support MWD's increase and he doesn't know what's in that increase; the MWD portion of this. He's not elected to vote but he just can't explain what MWD is up to and that was what that conversation was intended to consist of.

**COUNCILMEMBER FELLER** stated if he asked everyone if they would like a rate increase or not, they would probably say no. Right now we have 124 protest letters out of 39,000 notices. He's not sure if that's indifference, but it is something we have to take responsibility for. We don't have money anywhere to pay for these assessments that we're going to get from SDCWA and MWD.

**COUNCILMEMBER KERN** stated it was his impression that the CAC all recommended we go forward with this. Nobody is in favor of MWD's increases.

Regarding the comment about the new majority raising the rates, on November 3<sup>rd</sup> the other majority had a chance to bring those ideas forward and vote on it. They decided not to vote on it and kick it down the road. Deputy Mayor Sanchez can rail against the increases, but we're going to keep our bond covenant and a solvent department and move forward. When they had the majority, they decided to punt. We now have the ball and we're going to run forward with it because we have to.

By punting and moving the rate increases a month back, that cost us \$165,000 that we will not recover. That's a bill we're going to get in January and these rates won't go into effect until 30 days [after adoption]. It's also a revenue loss of \$209,000 that we can't recover because with Proposition 218 we can't re-notice this hearing and we can't change the rates to recover that cost. We will have to recover this next year in the January rates of 2012 because we can't sustain that kind of loss to the Water Department. We're running on a razor's edge right now.

Our loss to the Sewer Department is \$195,000; a department that is almost in disrepair. We should have had this conversation last month and voted on it and it would have saved us almost \$569,000 in costs. This can't become a political football every year about the water rates. MWD has a gun to our head every year. We're not going to make the big change and bring in more desal; and he doesn't think full ocean desal is the answer because it's too expensive. We need to figure out how to recycle water and that might hopefully come from our Strategic Plan.

**DEPUTY MAYOR SANCHEZ** stated she has voted against the water rate hikes over and over again, stating each time what would cause her to vote yes and that is that we do the maximum possible, and we have not done it. Ten years later we have not done it. She voted against the \$54,000,000 borrowing from the State because she didn't feel it was fair to the residents. We had the opportunity to address the infrastructure then, when she first came on the Council, and we had the opportunity to address our debt service and we have not. We should have started 10 years ago and it wouldn't have been as bad. Perhaps it is a political football but she would have voted no last month just as she is voting no tonight.

**MAYOR WOOD** knows this is a controversial issue. He has issues with this. When this was brought up last month and continued it was because he was asked to continue it to see if there was some way to get around this and not have to be under the thumb of MWD again and again. We are one of the few cities that do our own water. We do desal right now but it's underground water that's brought up and pushed through membranes just like they do desal anywhere else. We've done it for years. He's gone back for at least 6 years to Washington D.C. trying to explain how important water is to Southern California to our 2 federal Senators and our Congressman. He hasn't had much luck and he knows we won't have any luck in the future because they're just not going to do it.

If we go forward with our desal and do more water to bring rates down, we have a possibility of Gregory Canyon Landfill having a leak, which would be a tragedy for the downstream water, including our desal water. We were never against the landfill; we just didn't want it on the edge of our water and that's where it's at. The Tribal Council along with Oceanside is trying to block that and have been involved in litigation.

He thought Oceanside was smart in the sense that we had desal already and we put a small pumping station down by the Harbor to pump that water a mile upstream to our desal center, where it's a combination of downstream fresh water and ocean water. Part of the cost for doing desal is getting the salt and brine out of the salt water. The other part is if you want to build a desal center next to the ocean, you have to get approval from the Coastal Commission, which is a major battle. It isn't that we haven't done anything.

There is also a cost for storage of water. Even when Carlsbad wanted to put in a desal center, there was a requirement that all of that pumped water had to be put in a storage area and retained to be pumped out to different locations. All of the things necessary to pump it out are very expensive.

It is frustrating that Northern California doesn't want to send us water because of the Delta smelt. The cost of bringing water in from the Colorado River and other places is outrageous. There is plenty of snow in the U.S. but we can't get any water here.

He is concerned that this is kind of a tax on the residents. We have asked time and again if we could do something about this because we knew this was coming and we've seen it continue. Last time was a 20% rate increase and this one is over 30% for the coming year. We have a lot of seniors here and they are unable to keep up. He doesn't know how to fix this problem. If you add the water and wastewater increases together, it totals about 32%.

We've asked in the past of staff and the surrounding area of Camp Pendleton, who are allegedly going to do a desal center from SDCWA and that's going to be extra water useable for everyone in North County. But that's not built yet and there's a cost to it.

He is furious at MWD for what they are doing to us and at the State for not sending water south to us. He has to have compassion for citizens who say they can't afford these constant rate increases. Maybe we need to be a little stronger, along with other cities, and just say no. He realizes they can cut our water off but if that happened, we would probably be in a quick court proceeding and end up getting the problem fixed a lot faster than going through the process with the SDCWA. Sometimes it's good to fight and say no more, this is ridiculous. He doesn't know if that will fix the problems and each Councilmember will have to make their own decision.

Although he is furious about the rate increases, he would be more furious to put a desal center off the Harbor and on the San Luis Rey River and find out that the Gregory Canyon Landfill pollutes it and wipes out our desal center. That's a lawsuit

we've already got going.

After reading the titles of the ordinances, the **motion was approved 3-2;**  
Mayor Wood and Deputy Mayor Sanchez – no.

[Recess was called from 7:29 to 7:37 PM]

34. **City Council: Introduction of an ordinance amending the residential building height and parking standards of the 1986 Zoning Ordinance (ZA09-00001) and adoption of a resolution approving a Local Coastal Program Amendment (LCPA10-00002) to apply said zoning text amendments in those portions of the Coastal Zone located outside of the Downtown Redevelopment Area in general, properties lying west of Coast Highway and south of Wisconsin Avenue, with additional properties situated in Eastside Capistrano and in those areas where the Coastal Zone extends inland along designated watersheds, e.g., Loma Alta Creek and Buena Vista Lagoon – Applicant: City of Oceanside**
- A) Mayor opens public hearing – hearing was opened.
  - B) Mayor requests disclosure of Commissioner and constituent contacts and correspondence – Mayor and Councilmembers reported contact with public (emails, phone calls), staff and registered lobbyists.
  - C) City Clerk presents correspondence and/or petitions – emails that were sent to City Council/City Clerk.
  - D) Testimony, beginning with:

**RUSS CUNNINGHAM**, Senior Planner, stated the issue of residential building height comes before Council this evening after nearly 8 months of research, analysis and public discussion. Over this 8-month period a considerable amount of information and opinion has been gathered and disseminated on this issue; more than we could possibly share with you this evening. Much of this information and opinion has been posted to a regularly updated web page that the Planning Division introduced in April in advance of our first public meeting on this issue. We hope the Council and other interested parties have found this web page as it provides a level of detail that cannot be achieved in the time available to us this evening. We also hope Council has had an opportunity to review the attachments to the staff report, which include, among other things, our staff reports to the Planning Commission on this issue.

This evening we will outline what we have identified as the key issues in this discussion, provide background in the form of a timeline on how we've arrived where we are today, clarify the boundaries of the areas that have been the focus of our study, summarize the Planning Commission's recommendations along with some alternatives to the recommendations and share what staff finds to be some of the more important considerations in this discussion. Additionally, to the extent that Council desires, we are prepared to present illustrations of existing conditions that will help us visualize how different development standards produce different forms of development.

Building height is an inherently controversial subject in large part because it inspires competing ideas about property rights and values. While many argue that more restrictive height and story limitations infringe on property rights and reduce property values, others will argue that allowing excessive building height and mass infringes upon the property rights of adjacent property owners and reduces overall property values by degrading the character of the neighborhood. Adding to this controversy in this particular instance is the fact that over a period of roughly 24 years, changes in building height standards, coupled with changing interpretations of these standard, have allowed some property owners to build to 35' and as many as 3 stories, while precluding other property owners from doing the same. One of the biggest challenges in seeking equitable solutions to this height issue has been dealing with the expectations of property owners and other stakeholders; expectations that have largely been created by standards that happened to be in place when a particular property was purchased or occupied by the stakeholder.

Recognizing that it isn't possible to satisfy all of these expectations, staff has worked to understand them and to find a reasonable balance among them. We appreciate all of the public input, we have been listening to it and we have been guided by it in our efforts to find solutions that respect property rights while promoting appropriate urban form and preserving what residents and visitors consider to be the visual assets of our coastal areas.

The principal issue is the reinstatement of what we refer to as the 1986 Zoning Ordinance, which changed residential building height standards for those portions of the Coastal Zone outside of the downtown Redevelopment Area (Study Area). Specifically, the building height limit for many properties in the Study Area increased from 27' to 35'. The basis of building height and the measurement of building height changed from existing grade at all points to average finished grade. Moreover, the 1986 Ordinance does not place any specific parameters on the extent to which grade can be modified for the purposes of development or redevelopment. The maximum number of stories for many properties increased from 2 to 3 as a result of the reinstatement of the 1986 Ordinance.

Neither the 1986 nor the 1992 Zoning Ordinance require façade articulation for stories above the ground level; that is to say that neither require that levels above the ground level step back from the building line at the ground level. This has been a topic of discussion throughout this process. Both the 1986 and the 1992 Codes allow what are called projections above the base height limit, be it 27' or 35', with the 1986 Zoning Ordinance placing fewer parameters on such projections. For example, the 1992 Ordinance limits such projections to 10% of the area of the ground floor footprint of the building on which that projection would occur; whereas the 1986 Ordinance does not provide a similar parameter.

With some notable exceptions, most development in the Study Area, particularly as read from street frontages, falls under the 27' height limit. That is the built environment that we're in now.

Reduced front yard setbacks for beachfront development have, in the words of people we've heard from throughout this process, contributed to canyon and wall effects, particularly along South Pacific Street. An ancillary issue but one that has arisen and generated a considerable amount of input from the public is large single-family homes functioning as vacation rentals that tend to have a greater parking demand than that accounted for by current parking standards, which require that single-family homes provide 2 enclosed parking spaces regardless of square footage and bedroom count.

Summarizing where we've been, in October of 1992, the City adopted a comprehensive update of its Zoning Ordinance. In that process, residential building height was limited to 27' within much of the Study Area. Specifically, it limited building height within those portions of the Townsite neighborhood planning area that are not in Redevelopment and all of the South Oceanside neighborhood planning area, which is essentially all of that area south of Oceanside Boulevard and west of Interstate 5 (I-5). It should be noted that the residential building height limit under the 1992 Ordinance, which is still the operative ordinance in areas outside of Redevelopment and the Study Area, is 36'. That is the maximum allowable height for all residential development types of all allowable densities, from single-family to high density residential.

In December of 2008, while the City was in the process of preparing what's known as the Coast Highway Vision and Strategic Plan - which takes in a portion of our Study Area, particularly those areas along Tremont and Cleveland Streets south of Seagaze and extending all the way down to the City's boundary with Carlsbad, it was discovered that the 1992 Zoning Ordinance, while adopted by the City, had never been certified by the California Coastal Commission, which is a requirement for that document to become an integral part of Local Coastal Program (LCP). Upon making that discovery

and conveying that to the California Coastal Commission, Coastal Commission staff informed the City in December of 2008 that future projects within the Study Area would be reviewed under not the 1992 Zoning Ordinance but rather the previously applicable and certified 1986 Zoning Ordinance. In May of the following year, staff formally informed the Council that the City was legally obliged to apply that 1986 Ordinance within the Study Area and has since that time applied the 1986 standards in its review of development projects within the Study Area.

In January of 2010, following what he believes was the 5<sup>th</sup> approval of a project exceeding the 27' in height, the Planning Commission conveyed its general desire to solicit public input on residential building height in the Study Area. Staff returned in February to ask for direction on that matter and the Planning Commission directed staff to initiate a series of public meetings to discuss residential building height standards. That discussion began right away with dialogue from individual stakeholders, but in May of 2010 we held our first public workshop on this subject and at that time opinion was fairly evenly divided between maintaining status quo, i.e. the 35' as measured from average existing grade of the 1986 Ordinance and reinstating the more restrictive standards of the 1992 Ordinance.

At that time staff provided a comparative analysis of building heights in adjacent jurisdictions from Dana Point to San Diego, and that analysis shows that most jurisdictions have a somewhat more restrictive building height limit than ours currently under the 1986 Ordinance. We discussed with the Planning Commission the extent of their discretion in approving, denying, conditioning projects on the basis of standards and policies we felt were pertinent to residential building height; policies in the General Plan that speak to architectural excellence; policies in the LCP that speak to the compatibility of structures and the preservation of public view corridors; and to high quality design. That was an effort to educate the public and our Commission on the discretionary review process and the extent to which discretionary review could help us deal with some of the concerns about height and the impacts of height.

In July we held our first public hearing where staff recommended that the 35' height limit be maintained but that the point of measurement be changed. Rather than measuring from average existing grade, staff recommended that building height be measured from the lowest existing grade. That was not a particularly popular position to take and, in light of that, the Planning Commission directed us to revisit those recommendations and we did so.

We came back in September and continued to recommend that in most areas 35' be maintained as the maximum building height. We did suggest that beachfront properties return to the 1992 standard of 27', given what we found to be their unique development potential and their unique impacts on public views of the ocean and the coastline. At that meeting in September the Planning Commission recommended essentially the reinstatement of the 1992 standards pertinent to building height with some added controls. In that period of time, from May of last year to present, 5 projects have been approved over the 27' height limit; we have 8 projects currently pending that are proposing height over 27'.

Computer graphics were used to delineate the Study Area, which is that portion of the Coastal Zone that is located outside of the downtown Redevelopment Area. The central portion includes Tremont and Cleveland Streets, from Seagaze southward, including property between the ocean and the railroad, beginning at Wisconsin and extending southward. The Coastal Zone also extends eastward of Coast Highway in a few instances just south of Oceanside Boulevard and the area occupied by the La Salina Mobile Home Park and portions of the Cavalier Mobile Home Park. It continues to extend southward all the way to our boundary with Carlsbad, largely west of Coast Highway but it does take in the larger neighborhood south of Vista Way and abutting Buena Vista Lagoon to the north.

Because of the Coastal jurisdiction reach up into the San Luis Rey River and the coastal canyons of the Eastside Capistrano neighborhood, much of that neighborhood is incorporated into the Coastal Zone as well. The 27' height limit has never applied to the Eastside Capistrano neighborhood, which has had a 36' height limit under the 1992 standards and has lost a foot of height as a result of the reinstatement of the 1986 Ordinance.

The Planning Commission's recommendations on September 13<sup>th</sup> were as follows:

Building height limit – return to the 27' height limit, as opposed to the 35' limit in the 1986 Ordinance.

Basis of measurement – Return to the 1992 ordinance which is existing grade at all points beneath the building recommended, as opposed to current average finished grade in the 1986 Ordinance.

Maximum stories – 2 stories in all zones, as opposed to 2 stories for R-1 and 3 stories for R-T (Residential Tourist) and R-3 in the 1986 Ordinance.

Facade articulation – 5' average setback for stories above the ground level, as opposed to none required in the 1986 or the 1992 Ordinance.

Height projections – Maximum 10' above height limit for the zone and occupy no more than 10% of ground floor building footprint, as opposed to the fact that both the 1986 and 1992 ordinances allow them.

Parking – Existing grade at all points beneath building and that single-family homes with a bedroom count greater than 5 provide 1 additional parking space for every bedroom above 5, as opposed to 2 spaces for single-family dwellings in the 1986 and 1992 Ordinances.

A computer graphic was used to show 3 building envelopes based on the 3 different regimes that have been discussed over the last 8 months as reviewed. The measurement for the average grade is essentially the mean of the highest and lowest points underneath the building. The 1986 Ordinance does not establish any parameters on the extent to which one can modify the grade on their lot in preparation for development. That created some concern for staff and other members of the community. That was a concern of the Planning Commission as well.

In conclusion, it's important to note that stretching from Eastside Capistrano to St. Malo, the Study Area includes a variety of neighborhood types and topographic features. We have single-family and multi-family neighborhoods, flat and sloped topography neighborhoods, etc. That is something that staff has tried to take into account in the course of its evaluation and in its recommendations.

With notable exceptions, residential building height throughout the Study Area generally conforms to the recommended 27' height limit currently. The Coast Highway Vision and Strategic Plan was prepared and approved about 1½ years ago with the expectation that properties along Tremont Street and Cleveland Street, in that corridor which is within the purview of the Coast Highway Plan, could be redeveloped to 35' and 3 stories. There is some question as to whether a mixed-use concept, which is the concept for the Arts/Technology/Environment District that is anticipated for a portion of that corridor, could come to fruition under a 27' and 2-story height limit. The same might be said about transit-oriented development in northern portions of Cleveland and Tremont, closer to the Oceanside Transit Center; whether 27' and 2 stories is a transit-oriented building envelope or not.

Finally, beachfront properties have unique impacts and unique development

potential and that is what resulted in staff's previous recommendation that, while 35' may be an appropriate height for development off of the beach, on the beach 27' seemed to make more sense.

Public input

**DALE SCHREIBER**, 7290 Ponto Drive, Carlsbad, is a property owner and is concerned with the parking and the height. There are several problems coming down the road to Council with this mass transit coming through from San Marcos and Las Vegas in the near future. He can also see problems with cruise ships on the foot of Wisconsin if we can promote that. All of this has to do with height and parking because the land values on these properties are getting far beyond the value of putting small houses on them. They are being driven to where they are going to have to be merged or plotted, especially if we bring in 6,000 to 8,000 people a weekend on these transportation modes. We should give this careful consideration because we need to park these people somewhere. We're finding out in the mini-storage business that 70% of the people that own big houses on the ocean have got their garages converted into units. That means they are now parking on the streets. We're going to need to bond for a parking facility and charge people monthly for each one of those bedrooms that is a vacation rental. He believes the height could go to 55' like the Coastal Commission has given on some of the areas. That will drive the values of the land to where they will get plotted or merged.

**MARY AZEVEDO**, 1783 Woodbine Place, is a registered lobbyist for the South Oceanside Neighborhood Association (SONA) and is a resident. As a result of the proposed amendments to the 1986 Zoning Ordinance, private property owners of South Oceanside/Pacific Street came together and formed the SONA. SONA came together this evening to speak and have sent in their comments because they feel that their private property rights are being attacked. The amendments being proposed will cost many private property owners along South Pacific Street the ability to improve their properties; owner occupied homes as well as short and long-term rentals. These properties produce revenue for the City and are also investments for those property owners.

If Council approves the changes before you this evening, or any other changes this evening, all remodeling and construction projects will come to a dead stop along Pacific Street. Any dollars that would come to the City, i.e. building permit fees, construction dollars, jobs, property taxes, etc., will not come because the changes will devalue those properties and the improvements will not be feasible. For others, the trip to the California Coastal Commission will cause a stop to those projects. Any change to the 1986 Zoning Ordinance will cause a trip to the Coastal Commission for certification and that takes a hefty price tag. It will cost the citizens some \$300,000, which doesn't include what it will cost the property owners themselves if they decide to defend their private property rights. In these tough economic times we should be looking for ways to encourage revenue generation in this City; not discourage it.

These are the reasons why SONA supports keeping the 1986 Zoning Ordinance as it is with no changes. We encourage Council to vote no on the changes and maintain the 1986 Zoning Ordinance.

**MARY LEE TOOKER**, 925 South Pacific Street, bought her property in 1967. In 1969 the beachfront owners united to try to put a leg on the jetty to save the beaches, which would have cost \$4,000,000. We also wanted to put in rip-rap to protect our property but the Coastal Commission wouldn't let us do that. In 1986 the City enacted the stringline and took away more and now Council is going to take away how high we can go. Her property has been devalued tremendously and she's not the only one. She urged a no vote on this and to extend the height to the 35' limit.

**LARRY BARRY**, 3973 Brown Street, stated we're having a big problem with

erosion on our beaches so it would be foolish to extend more out onto the beach area to catch that grade to get up to the 3 stories. He believes we should keep the 35' height limit.

**PAUL STRAND**, 124 South Tait Street, purchased this home 10 years ago with the anticipation that he would retire there with an ocean view, being one block from the ocean. Since that time he now has 3-story buildings around him and on the ocean front he has a 4-story building. He has zero ocean view available to him if Council lowers the standard to 27'. This is all about fairness.

**RICHARD WERBY**, 212 South Tremont Street, owns several properties that will be affected by this issue and commented that the previous gentleman is complaining about buying a property that already isn't on the beach and is subject to rules and restrictions. One of those was that someone could build in front of him and they did. Now he's really upset that he can't see the ocean; however his property is still the same distance from the ocean that it was before. So the value of his property hasn't been reduced, it's just that he wants to keep the height down so he gets a view that he knew he might lose when he bought his property.

The last time he was here, it was to support what was going to be built behind his property because he liked it, even though it took away his view. This comes down to ethics. We bought our property with certain rules and regulations in order and we expect Council to keep them.

**DOUG AVIS**, office - 550 Laguna Drive, Carlsbad, owns properties on South Pacific Street and is opposed to the proposed changes. He asked that Council keep the 1986 Ordinance. He is a real estate developer and deals with design issues on an ongoing basis. The 27' height limitation is one that, in expensive areas like the beachfront, the more you limit, the more design goes away. He asked Council to consider keeping the existing design guidelines in place.

**JEFF POMMIER**, 909 South Tremont Street, owns a business at this address and would like Council to keep the ordinance the way it is because he is treating that property as his retirement plan. He moved his business here in 2000 with the hope of doing what was already established on North Tremont Street. A few properties have been developed that way on Tremont and it's coming along nicely. There are still issues there and there are a lot of graffiti issues but we're staying on top of that. He would like to have the same opportunity as everyone else who's developed their property to the existing standard when he eventually gets there. He's worried about that and the depreciation.

**BILL BIGGS**, 1401 South Pacific, has walked the beach with his wife every day for 11 years and they have seen the character of the beach change over those years with huge homes replacing the Oceanside character. He supports a 27' height limit. Del Mar has a very strict limit and it's appropriate. As we lose the character along the waterfront, we will lose revenue because it won't be as nice a place to live.

**JANE BARRETT**, 1805 South Pacific Street, has lived there for 23 years and this is the first time they have considered rebuilding their 1940's house that has no insulation, the roof leaks and has foundation problems. When she heard about going to 27' in height she got upset because she has 4 [adult] kids that would mean they would have to build man-caves for bedrooms below grade level. You can't build where the sunshine is under this new proposal. Who's going to put a million dollars or more into these homes when we have to put your kids and grandkids down in those man-caves. She urged Council not to do this. It would reduce employment, taxes and construction in the City.

**LANE STEWART**, 425 South Tremont, lives in the Study Area and in front of his house toward the ocean is the Redevelopment Area, which has a 45' height standard.

The 45' condos are what he looks at. It makes more sense to him to keep the 35' height and the 3 stories.

**CHRIS BURGESS**, 1513 South Pacific Street, in Exhibit G, Page 6, of the staff report it states since the 1986 Zoning Ordinance was reinstated in early 2009, the Planning Division has received 15 proposals for residential development and only 5 have been approved. There are pending applications for various projects all being held up due to the Planning Division's attempt to amend the Zoning Ordinance in the Coastal Area. Staff has told numerous property owners and land development professionals that while the 1986 Code is currently in force, the residential standards are under review and subject to change. This does not seem fair. A project we are contemplating for our property is stalled until the Zoning Ordinance decision is made at the Council level. It appears the Planning Division is imposing its own zoning rules against the currently established 1986 zoning rules currently in affect.

The staff report also identifies that their amendments have no fiscal impact on the community. He disagrees. For almost 2 years, all of 2009 and 2010, the City staff has spent countless numbers of hours researching, attending meetings and drafting documents to change the current zoning rules. To him, that equates to a tremendous amount of taxpayer funds. The City and its schools are losing permit fee revenue when projects are not being approved. The City is also losing potential tax revenue when the property tax base is not increasing due to the lack of project development.

The amendment proposals submitted by the Planning Division tonight are way too restrictive to the property owners who desire to develop their property in Oceanside's Coastal Zone. Good design can be successfully implemented under the 1986 Zoning Ordinance. Let's not allow good design to be legislated and let's not put our City in the hands of the Coastal Commission because any action on their part might just open up Pandora's Box for other issues that no one wants or needs. He encouraged Council to end this discussion and send a message to the Planning Division that the 1986 Zoning Ordinance be applied as is currently certified today with no changes.

**JOAN BOCKMAN**, 1017 Alberta Street, stated this is a very complicated issue. This is a quality of life issue. There is a myth that the current height is 35', which is technically correct; however, this issue was solved in 1992 and we've been misrepresented. This is a City mistake that Council needs to fix. She is hearing some demonizing of the process to fix it, but Council needs to do what's right and fix it the way it was decided.

There is also the myth that height equals money. If that's true, why is every other city more expensive and why is South Pacific Street an ugly canyon. We need to get our ocean back. Unbridled development is not okay. We have people who build horrible huge homes. This is not pretty or nice and is not good for livability, which is the issue. We need to solve this and be a lot smarter. Our Planner has done a fantastic job of identifying many of the issues. We have more work to do and we need to do it.

**DAN MATLACH**, 1709 South Pacific Street, has met with most of the Councilmembers previously and urged adoption of the 27' text amendments regarding building height standards. This morning he called senior staff in the Legal Department of the California Coastal Commission in the San Diego District Office, and so there is no misunderstanding amongst our Councilmembers, any appeals are not staff-driven and there is no authorization to instigate an appeal. Furthermore, if you go on line to their web site, on December 15<sup>th</sup> Item 23A and 23B has to do with Carlsbad and has some of the same issues we are discussing there tonight. The California Coastal Commission staff, in those 2 agenda items, is recommending approval as submitted. The notion of not being able to get this through the Coastal Commission is pure nonsense.

If the 35' height limit is left in place, it will trash the South Pacific neighborhoods because staff has indicated that measurement of building height from average finished

grade not only encourages massive facades on the lower side of sloping lots, but also allows for excessive manipulation of existing grade. If the 35' height stays in place, the canyonization will be amplified by the cumulative massing effect of adjacent properties.

**DEENA ALTMAN**, 1823 South Pacific Street, is in favor of the 1986 Zoning Ordinance with no changes. Whatever happens tonight, the height of her house does not change; it remains 27' as you view it from Pacific Street. The 35' referred to in the Ordinance is taken from the average grade of the property and this average is lower than the street level. What the 35' from the average grade does is allow the second story to go further west, which then allows for proper setbacks from Pacific Street. Many beachfront properties share the same grade differences between Pacific Street and the beach.

As a case in point, she currently has a proposed remodel plan submitted to the City. She discovered that if the new amendments are passed, she will not be able to remodel her home in an economically feasible way or in a way that allows any setbacks in the second story from Pacific Street. The house currently has a flat façade and is not very appealing. This unarticulated flat look is the canyon effect that the proponents of the amendments want to see changed. Instead, her hands are tied and she won't be able to change the configuration of her present house because the building envelop with the new amendments will make it impossible for her to move her second story to the west so it can have a setback from Pacific Street, which would have been a nice improvement that fit with the community vision. Her current remodel plans allow for significant setbacks from both Pacific Street and on the beach side, which makes sense for the community, neighbors and architectural beauty of the home but she cannot make these improvements under the proposed amendments. The City and citizens will be stuck with her old house as well as many others in the same situation. The 1986 Zoning Ordinance as-is allows for a better use of the building sites. Our Coastal Zone is the pearl of Oceanside and should be enhanced and not squandered.

She attended all of the workshops regarding this issue and does not remember the Planning Commission making some of the amendments that were brought forth tonight.

**ERIK SCHRANER**, Attorney with Seltzer, Caplan, McMahon & Vitek, 750 B Street, San Diego, representing Beach, LLC, the owner of a unit at 901 South Pacific Street, located in the Coastal Zone. We support the 27' height limit and the other amendments.

The Local Coastal Program (LCP) was certified in Oceanside in 1986. The program and the 35' height limit was only in affect for 2 years before Oceanside imposed a 27' height limit in 1988, not 1992. The 1992 amendments did not modify the height limit. In fact, during the amendment process, Oceanside declared that it was unwilling to change the 27' height limit because there were some proposals to go to a 35' height limit at that time.

Oceanside made a decision in 1988 and again in 1992 that the amendments did not require Coastal Commission certification; there was no oversight or error. Two times the City had the chance to take it to the Coastal Commission and decided not to. His belief is that the decision was if you impose a stricter regulation than what was certified by the Coastal Commission, than it didn't need to go to the Coastal Commission. For 22 years now everyone has made a decision based on an expectation that building height would be 27' and not 35'. Until this issue arose, no one had an economic expectation that building height was 35', everyone assumed and knew that it was 27' and that was what was enforced by the City.

This is not just an 8' increase in height that we're talking about tonight. Leaving the 1986 Ordinance in place imposes a measurement requirement that you measure to the ceiling of the building instead of to the roof, so buildings can exceed the 35' height

limit with the roof and there's no restriction on what you can do. The community has an expectation and economic expectation that views will be protected based on the City-approved 27' height limit. By converting to a 35' height limit, that expectation will no longer be in affect and people will lose the private views that they had expected. Many people remodeled based upon the fact that it was a 27' height limit imposed by the City and not 35'. Going to a 35' height limit only benefits the property owners on the beach side and they will be the ones blocking the ocean views of the people who aren't on the oceanfront.

We have heard scare tactics tonight that the Coastal Commission process will cost hundreds of thousands of dollars, which isn't true. There is a fee but you can get through the process without having to spend hundreds of thousands of dollars. Other cities routinely process amendments to the LCP and Oceanside could do the same. We request Council adopt the 27' height limit tonight.

**JIMMY KNOTT**, 127 Sherri Lane, stated the reason why La Salina Mobile Village and Cavalier are mentioned within the Coastal Zone is because of the Loma Alta Creek. According to the City's LCP, mobile home parks are to be preserved. His park owner and manager want to preserve the 35' height level. He can see where a lower height limit can be good along the beach area. He suggested looking at quality instead of height. The increase in solar use may cause some blockages between neighbors and should be considered.

**JANIS SOTO**, 25435 Gallup Circle, Laguna Hills, owns properties at 1439 and 1441 South Pacific Street. At the last Planning Commission meeting she explained that she submitted her plans, received all of the instructions and specifications, paid her fees to the City and proceeded to spend thousands of dollars and countless hours to conform plans to meet what was given to her. Upon resubmittal for approval, she was told that the City had changed the rules and expected her to spend thousands more dollars and countless more hours to the City's new specifications, or start over. We have already invested in excess of \$170,000 in refined architectural work, surveying and related work in addition to City fees and still her plans have been in the City review for months and City delays continue to cost her.

Our lot is almost perfectly flat, so if we can't build to our current plans, tearing down and rebuilding makes no sense; it would add little to no square footage to our home. We would most likely leave them just as they are and simply use them as weekly or monthly rentals, which is not what we want and she is sure the City would rather have 2 beautiful owner-occupied homes with owners that support City businesses and bring revenue. She is hopeful that Council can understand the escalating costs and aggravation we have endured as a result of the Planning Commission's unreasonable request that we start over or build to an ordinance that's not even in effect.

Any change to this ordinance will require approval from the Coastal Commission and that will take months and be very costly to the City. This would put a drastic halt to building, which means valuable loss of revenue and beautification to this community. It makes sense to put any potential changes to a date in advance and permit those of us who have plans that meet the current requirements to move forward as quickly as possible.

One of the major problems seems to be protecting views, even though the City has no private view ordinance protection. From our home specifically, it would have no impact on views. Across the street the entire block is the waterwaste facility enclosed with a 7' solid block wall and a mass of foliage and train tracks. She asked Council to stand by the current ordinance in effect so we can move forward as quickly as possible putting people to work and build our new home.

**STEPHEN SANDBERG**, 202 Oak Street, stated it seems that the people who are against the 27' height limit are the ones that live on South Pacific Street on the

ocean; the ones who already have ocean views. If Council votes for the 35' height limit, you will ensure that only the people that live on the west side of Pacific Street will have an ocean view. All of the property to the east will be shut off from any ocean view; the view that people purchased property here to enjoy and what makes their property valuable.

Instead of one height for all, he urged Council to look at and put in place what is now in the Redevelopment Area, a stepped height limit. This limit starts with 27' to the west and as you go east it is raised to 35' and to some places further east it goes to 45', thus ensuring more people have ocean views. The views give their property increased value and thus more tax revenue for the County and the City. All property owners are taxpayers, but it makes more sense monetarily when more properties have the increased value that ocean views provide. Let's not cater to just a few who already have ocean views and deprive those that possibly could. The 35' limit would value-wise destroy those properties that could have any ocean view but were deprived of one with this higher height.

He urged Council to do further study into the stepped height limits that are currently enforced in the Redevelopment Area. This would give planned and well thought out height limits that benefit all taxpayers.

**LARRY TAYLOR**, Taylor Group, Inc., 301 Mission Avenue #201, does engineering work and has worked on over 50 residential projects in the Study Area. Our work generally relates to doing grading plans, geotechnical studies and foundation design, which is needed whether you're building 1 or 20 stories. It's been 2 years to the day since the Coastal Commission notified the City of their issues with the 1992 Ordinance. It's been 1½ since the City acknowledged this issue formally to the Council. The last 10 months have been marked by a lot of uncertainty, changes, and shifting in terms of what's going on with height standards, etc. It has had a real impact on his clients who are in limbo and spending money but are making no progress and are still uncertain about where it's going to go. He requested that we get to a point of certainty; whether it's the 1992 or 1986 Ordinance. It may be a big mistake to try to fit the 1992 Ordinance requirements into the old 1986 Codes because, depending on where you are in the City, it affects you differently. This is a mess that needs to be cleaned up as quickly as possible.

As staff explained, the measurement of height is not just 27' or 35', it's based on some data; 27' from existing grade or 35' from average grade. For about 60% of the parcels on South Pacific Street, the 35' from average grade actually gives a lower height than the 27' from existing grade. There are another 10% of homes that are adjacent to the wastewater treatment plant at Buccaneer Beach and there is nobody behind them. That's about 72% of the parcels on South Pacific that are either going to have a lower maximum height or it doesn't matter because there is nobody it's blocking.

This needs to be fully thought out. There may be a time in the future to revise this Ordinance but he doesn't think it's now. He urged Council to vote no and stay with the 1986 Ordinance for now.

**AARON ADAM**, 711 Missouri Avenue, stated that after an 8-month study, staff came back with the recommendation of keeping the 27' height limit. Their recommendation was based on what was good for everyone involved in the community, not just a small percentage of the community. He urged Council to follow the recommendations and re-adopt the 1992 Ordinance.

**LISA HAMILTON**, 323 South Ditmar, is President of the Oceanside Coastal Neighborhood Association (OCNA) Board, who all recognize that this is both a financially and emotionally difficult issue and it has gone back and forth for months. She doesn't think anybody has a really clear answer because it's a very complicated situation.

The main issues are developable space and views; both of which translate into dollars. The 1988 height was only in effect for 2 years; for the last 20 years we've had it at 27'. There are a lot of people who have put a lot of money into developing properties who live there and they've counted on that. The fact that they might have somebody build in front of their house is not relevant to how much money they've put into their property. Council should consider the people who already live here and who have already developed with the standards that have been in place for 20 years, not just people who might like to develop something else.

**SAM GIACOLETTI**, 110 Vista Way, is concerned about the proposed amendments to the 1986 Zoning Ordinance. The amendments would be contrary to our property rights and reduce the value of all of the properties in the area. The changes would make it more difficult to get the best use of our properties and limit the architectural opportunities. The changes would also be contrary to the interests of the City and the cost of having the Coastal Commission review the proposed changes would be an unconscionable expense that the City can ill afford. It will be a waste of the taxpayer's money. Additionally, over time it will cost the City huge amounts of lost tax revenue, probably in the millions of dollars in the next few years. He requested that Council retain the 1986 Ordinance in its existing form, continuing to permit the 35' height limit.

**BOB BERG**, 1700 block of South Pacific Street, owns property on South Myers. What people don't know about the Redevelopment Area is that terracing can go up to 50' or more. There are also transferrable development rights, which are worth a lot of money to the City and the property owners.

Unless you're within the first 3 or 4 rows of beach area homes, ocean views are physically impossible to protect. Today's struggling coastal property owners have worked hard to keep their American dream in Oceanside. With the worsening state of the economy, regular unemployment, tanking property values and retirement accounts, financing and challenges abound. Voting in favor of this resolution is like adding insult to injury by taking away development rights and destroying property values without reimbursement therefore. For the City it's like shooting itself in the fiscal foot; missing out on future revenues, fees, taxes, job creation and prosperity, which has already happened in the 1992 Ordinance. The 1986 Ordinance got it right. Development will happen.

He commented on what he feels was a lack of notice for the meetings which lacked the majority input. The resolution fails to disclose the current and future fiscal consequences thereof to both the coastal property owners and the City itself. He urged Council to vote against this resolution.

**JOAN BROWN**, 511 Rockledge, stated whether it is 35' or 27' she would want some character. The people who want to go 35' on a 25-35' wide lot is not a very good thing to look at. One of the ugliest homes west of I-5 is on Grant Street; it's tall, long, high and rectangular and has no character. We have to make sure we have a design guide no matter how it goes tonight. She would like to maintain it to 27' with good character.

[Councilmember Feller left the dais at 9:09 PM]

**CHARLENE KERCHEVALL**, 533 South Nevada Street, is a business owner and a member of the Seaside Preservation Movement. We as homeowners respect the rights of property owners and understand the desire to capitalize on investments. There are many ways for this to be accomplished via the envelope of design; ways and means that are respectful to the City as well as the immediate neighborhood in question. Height is only one of the multi-faceted issues that need to be considered in City planning and development. Those who have purchased homes on the sands of the Pacific Ocean were granted the right to do so. However, the Pacific Ocean is shared by all; private

and public, City and State governing bodies as well as coastal and environmental commissions. Thus property rights ought to be considered from a multitude of perspectives.

Other factors also need to be addressed among those issues related to parking and safety concerns, notwithstanding the impact on City services for water and other related public utilities and services. The obstruction of views from all public viewing areas or corridors, restriction of public access, reduction of daylight and the ocean breeze are all additional concerns. All contribute to the canyonization effect. This effect alone will serve to diminish in both the short and long run the economic prosperity we are all trying to ensure. We respectfully request that the 1992 Ordinance of a 27' height limit be reinstated and that we proceed with the proposed text amendments presented and submitted by the Planning staff in the meeting on September 13, 2010. If Council finds the evidence presented today is so overwhelming that no reasonable decision can be arrived upon, either for the 27' or the 35', then we request that Council err on the side of caution, establishing a policy supporting the 27' standard until an agreement can be reached and thusly coded.

[Councilmember Feller returned at 9:11 PM]

**MARISA DIAZ WAIAN**, 513 South Nevada Street, is a member of the Seaside Preservation Movement, and first considered the empirical evidence in favor of the 27' height standard, including property value, economic prosperity, development activity and potential and issues related to public safety, public health and environmental impact. Other coastal cities in San Diego County, all of whom enforce lower height standards, have property values that surpass Oceanside. Economic prosperity of those cities also surpasses that of Oceanside. Height limitations do not deter developers and homeowners from developing in these areas.

In addition, not only are City resources and budgeted dollars freed up due to reduced issues related to public health and safety, coastal cities which support lower height standards help not only to preserve the integrity of our coastlines but also to protect and promote a unique and valuable public asset which coastal living affords its occupants. However, a more pressing matter remains, namely a question of moral philosophy. Our ethics ought to influence our thoughts, moral problems, standards and laws that we put into place to address these problems. The current issue of building height standards is no exception.

What are the important things as a City we want to promote and achieve. What is at stake here today is not simply a matter of property rights or potential entanglements with the Coastal Commission; rather what is at stake is our future. The decision Council makes today is crucial and if the evidence set forth in support of the lower height standard is not enough to sway you, perhaps the deeper question of moral philosophy is.

**RON TAYLOR**, 1535 Sleeping Indian Road, has property on Myers Street which is RT zoned. He is not on the beach but it's all about property rights. Everybody says they would rather go down Coast Highway and look at the ocean but it is his understanding that the commercial zone on Coast Highway is 45'. The railroad proposed building structures to 55' and he didn't hear any squawking. We have a 7-story building right down the street toward the ocean. This is about money. Staff has held people back in planning and the law is in keeping with the 1986 Ordinance.

The City, getting away from the coast, has given permits to people with multiple units without even one garage, so parking is not only the coast. The 1986 law should stay the same.

**RICHARD EISENDRATH**, office at 3784 Mission Avenue, stated that staff said the City had a legal obligation to evaluate projects under the standards of the 1986

Ordinance, which means under a 35' height limit. What's troubling is that if there is a legal obligation to tell people that now because of an oversight, did that legal obligation exist from 1992 to this point in time. He wonders if past Planning Directors knew about the deficiency and knew that the 1992 Ordinance was never effectual, according to the Coastal Commission, and were deceiving people for all these years. He is concerned that if we go from 35' to 27', we've lost 1/3 of our height; 30% of our property value. That would mean there have been a lot of people damaged over the past 18 years. Who accepts the responsibility for this equity being taken away from people for all of these years? There is a much bigger issue here than what we're talking about tonight.

**POLLY FUKUHARA**, 520 South Ditmar, stated when people improve their homes they usually spend more money than they get back in equity, so it's a false statement saying that when you are building your home up to 35' you are making money for yourself. Having spent summers in Cape Cod where the limitations are very strict, they have a huge tourist influx because the beaches are beautiful and untouched, in contrast to South Pacific Street, which really does look like a canyon. The only people who benefit from the 35' height limit are the ones on the west side where they get a view of the ocean. A lot of people here tonight are people on the west side of Pacific Street talking about how they need to have a much larger home than they already have. She doesn't understand why we need such enormous buildings when we have a view to look at.

With public input concluded, Mayor Wood closed the public hearing.

**DEPUTY MAYOR SANCHEZ** stated what is before us is a validation of our existing 27' height ordinance for our Coastal Zone, which was adopted in 1988, not 1992. The 1986 LCP first introduced the 35' possibility and it was done to change the existing height of 27', which existed since the beginning of time in the City. However, the extension of the height was turned down by the community, which resulted in the new Ordinance in 1988. In reality, it only existed for 2 years and she strongly believes that when a couple of these were done the community realized what had happened. She is disappointed that we are hearing this item during the holidays when people can't come here and don't really know what's going on.

City staff was directed to process the LCP Amendment (LCPA) in 1992 after massive input from the community; much more input than is here tonight. People are very upset about staff not processing the LCPA and have been asking her why. She talked to staff and she was advised that staff determined, as well as the City Attorney, that the City could have a more restrictive height restriction ordinance and that the City would be enforcing it. The City has enforced the 27' height restriction for the last 20 years and beyond. There has been no economic expectation of anything other than 27', except for a brief 2-year period from 1986 to 1988.

Two years ago City staff contacted Coastal Commission staff and she was told by staff that it was as a result of talking to Coastal Commission during the Mission Avenue study. It was actually our staff that contacted Coastal Commission staff and during a lot of the questioning, Coastal Commission staff made it clear that the Coastal Commission could only enforce what is contained within our LCP and that it's up to the City to enforce any more restrictive ordinances.

Today all coastal cities in San Diego County and beyond are at the 27' height limit, with the exception of the City of San Diego, which is at 30'. All other cities have more restrictive development codes and standards and yet the property values are higher there than here. It's all about character. The LCPA before us is about protecting our citizens' property rights. Every resident has invested hundreds of thousands of dollars in their homes, paying premium for a coastal view. They bought and/or built relying on our 27' ordinance, knowing that City laws would prevent anyone else from stealing their precious views. While the City does not have a private view ordinance, we do have coastal public views that we have an obligation to protect. A 35' ordinance will

not only block the view of the property owners behind and to the side of them, but will block the coastal views for property owners as far away as Oceana. No more white water views and property values throughout our City will go down.

A postcard was sent by a developer to owners of 1,500 parcels saying untruthfully that rights were being taken away; sent from Livingston, Montana, without any information as to who was sending it. She believes it was a deceptive mailer and as one developer who does not support the height increase said, the opposition to maintain our 27' height limit has been artificially driven and would only hurt our community and impact our community character.

The Coastal Act requires that development be consistent with the character of the surrounding community, which is 27', and that there be public access to the beach, including sufficient parking. She knows that because this past year was her first year of serving on the Coastal Commission.

She agrees with a speaker that this is about moral ethics and the value of our future. Remodeling will not stop as was suggested by a speaker. It will also not cost \$300,000 to process an LCPA. She supports the Planning Commission's recommendation. She **moved** that Council adopt the proposed text amendments to the 1986 Zoning Ordinance summarized in the staff report and attached to the draft Ordinance and that Council request California Coastal Commission certification of the amendments to provide for their incorporation into the City's LCP [including introduction of **Ordinance**, "...for a zone amendment (ZA09-00001) amending Sections 211, 234, 1701, 1709, 2702 and 3204 of the 1986 Zoning Ordinance to change residential building height and parking standards in those portions of the Coastal Zone outside of the downtown Redevelopment Area"].

**MAYOR WOOD seconded** the motion.

**COUNCILMEMBER KERN** will not be supporting that motion. The height is not as important as quality of project. Maybe the compromise is to keep the 35' height level but incorporate those Planning Commission recommendations about setback, side setbacks and the quality of those particular things.

The one thing we must avoid at all costs is going back to the Coastal Commission for anything. He belongs to the Coastal City Issue Group and he's been dealing with them and the Coastal Commission for 4 years now and they are a very difficult staff driven organization. Fort Bragg wanted to process an LCPA and 3 days before their hearing at Coastal Commission they got 1,000 pages of suggested modifications from Coastal Commission staff. He questions the ethics of the Coastal Commission. Somebody said that staff doesn't appeal; that is not true. They have signed blank appeal forms that Commissioners sign and staff holds onto. When staff wants to appeal a project, they submit those appeal forms. He did a public records request 3 years ago and at that time there were 35 of those appeals sitting with the Director of the Coastal Commission. Until they get rid of that, he will always question the ethics of the Coastal Commission. Hopefully, Deputy Mayor Sanchez, being a Commissioner, can put that idea forward because that is an ethical lapse on its own.

The questions about definition of grade, basic building height measurements, front yard and side setbacks and parking; those issues have to be resolved. The problem and the big fear of going back to 35' is having the 35' boxes and no parking. He has talked to a lot of people and every person he talks to wants a quality project. Most of them are homeowners who want to live there in retirement or bring their families here.

**MAYOR WOOD** stated everyone has good points. If you live on the beach or have property on the beach you want to keep it higher. Council also represents all of the people behind them going all the way east. We have to look at it from both sides.

He supports this motion because he listens to his Planning Commission and his staff when they make a recommendation. He has gotten calls and emails and there is a point there besides just the people that live on the beach.

More importantly, we had comments today that maybe weren't appropriate. Last time a Councilmember said something bad about the Coastal Commission it got into the papers and we never got our hotel at the beach. We were delayed for 2 years dealing with the Coastal Commission as a payback to a comment made. Now we have comments made again tonight. The Coastal Commission will make the final decision, so insulting them won't get you very far with them, and with the new Governor the Coastal Commission will be there for quite some time. We paid dearly for negative comments against the Coastal Commission and we never got our pier hotel. He asked Council to use caution in what they say.

**COUNCILMEMBER FELIEN** is confused by comments Deputy Mayor Sanchez said because he is getting mixed information. He understands that the City's position was the 1992 Ordinance did not have to go through Coastal Commission certification because it was more restrictive. He also understood Deputy Mayor Sanchez's comments that while the Coastal Commission could only enforce the 1986 Ordinance because that's what they have on file, we can enforce the 1992 Ordinance because that's what we have picked. Is that correct? Can we enforce the Ordinance as it exists; does it require us to take the 1992 Ordinance to Coastal Commission certification?

**CITY ATTORNEY MULLEN** responded that the Coastal Act Public Resources Code Section 30514 requires that any amendment to an LCP be certified by the Coastal Commission. The 1992 Ordinance, in Section 4, stated that the LCPA is hereby approved so that the specific text language of Exhibit A shall replace Zoning Ordinance 58-01 and become the new implementation document of the LCP upon certification by the Coastal Commission. He can't speak to what happened in 1988 and 1992. He thinks the prevailing thought at the time was that because most of the provisions of the 1992 Code were more restrictive, in discussions with Coastal staff, that it was not required to go forward. That changes when we have a letter from the Coastal Commission on December 8, 2008, telling us that they are going to comply with the 1986 Code. That is why the item is in front of Council today to get Council's direction.

**COUNCILMEMBER FELIEN** asked then currently there is nowhere in the Coastal Zone where a City is enforcing an ordinance that's more restrictive than a Coastal Commission approved plan without being certified by the Coastal Commission.

**CITY ATTORNEY MULLEN** responded that staff is applying the 1986 Code.

**COUNCILMEMBER FELIEN** meant in all of California.

**CITY ATTORNEY MULLEN** responded there is case law that states that the City could adopt an interim urgency ordinance. The case is *Conway v. City of Imperial Beach*, where development restrictions were adopted through an initiative by the voters. That was only good for 2 years and the court ruled that it was not required to go forward to the Coastal Commission because it was an interim urgency ordinance. There is a way that it could be done, but the Coastal Act requires amendments that are going to be of permanent duration to be certified by Coastal Commission.

**COUNCILMEMBER FELIEN** asked in terms of the suggested amendments by staff, what can we address without going to the Coastal Commission and getting a certification within the scope of the 1986 Ordinance and what recommendations would require a certification.

**MR. CUNNINGHAM** responded any amendment to our LCP, which would mean any amendment/change to codified language of the 1986 Ordinance, would require an LCPA and Coastal Commission review and certification.

**COUNCILMEMBER FELIEN** clarified that we can't address anything related to parking or height, setbacks, or base of height measurement without going through the Coastal Commission, separate from the height.

**MR. CUNNINGHAM** responded yes.

**COUNCILMEMBER FELLER** thinks it was just implied that the Coastal Commission is going to hold us hostage over any kind of changes that we do going forward and that's pretty bad thinking. We just went through that with MWD. We can't be afraid of them. The people who are interested in developing or redeveloping their property are probably aware of what they need to do to satisfy the 1986 Ordinance, which is stay away from the Coastal Commission at any cost. There are properties that were developed long before the Coastal Commission existed, like 901 Pacific Street, which is as over 35' as you can get on the coast and it's pretty boxy. There is another one that used to be a hotel and was recently remodeled south of Buccaneer.

He feels bad that somebody thinks he's morally wrong because he disagrees with them. If we just let this die and go forward with the possibilities of amending the 1986 Ordinance in the future, then we can just withdraw those amendments if the Coastal Commission doesn't approve it, rather than put the whole LCP at stake. That's what scares him the most is to go before the Coastal Commission for anything.

There is a lot of development that's going to happen on Pacific, as well as Coast Highway and Tremont, etc. None of the homes, unless you're standing on the street corner looking west, have views. Even on the back alley of Pacific Terrace, which runs on the bluff, you can't really see the ocean unless you're one of the taller buildings back there. He doesn't support this motion at this point. We need to take what amendments we want to look at going into the future, such as setbacks and some of the parking issues. If the Coastal Commission won't accept such proposed changes, then we should just drop the idea.

Everybody is entitled to their own opinion about what their house should look like and we should consider that above some of the other issues that have been raised.

**MAYOR WOOD** stated this is really not about property rights. If you own the place you think you have the rights. If you look across the United States there are many laws that govern what you can and can't do. Property rights issues are not the big issue for this. He supports everybody and what they want out of life and there are 2 sides.

One of the parties that spoke brought up a time issue but we're trying to do something too. If we get into a situation where this is going to be a battle with Coastal Commission, those projects will be on hold for a really long time past this. This will probably be appealed by either side at some point or maybe by some people to Coastal Commission. Deputy Mayor Sanchez is a member of the Coastal Commission and she probably has a pretty good idea of what the Commission likes and what they will probably accept.

**DEPUTY MAYOR SANCHEZ** is a little surprised by some of the comments about the Coastal Commission. We have so far reviewed the cities of Encinitas and Carlsbad LCPA's. They have been processed and voted upon and so far they have been approved as-is with very few people coming to the Coastal Commission. Staff recommended approval as-is and we approved them. The issues that the Coastal Commission ends up spending more time on are basically requests from individuals or cities that want to change it where it is not consistent with the Coastal Act.

She doesn't understand the unwillingness to go to Coastal Commission staff. She was also surprised by the comments that the Coastal Commission was requiring us

to only deal with the 1985/86 Ordinance. All it says is they have gone over the history of Oceanside's LCP and the only amendments to the City's certified Implementation Plan reviewed and approved by the Coastal Commission have been changes within the Redevelopment Area. Therefore, at this time any proposals outside the Redevelopment Area will be reviewed for consistency with the original language included in the Implementation Plan documents certified in 1985. That means that Coastal staff will review it. Short of that, they're not even suggesting that they're going to review everything that Oceanside has in terms of an ordinance. She is puzzled by some of the comments tonight as this is a very simple statement from Coastal staff saying that their standard is what is before them in terms of what they have from us that has been certified through the LCP.

The Coastal Act was something that was approved by a vast majority of the voters. The issues have to do with coastal access, coastal views and the preservation of coastal resources. Those are the 3 areas that the Coastal Act reviews. When a city wants to retain its decision-making over the coast, what it had to do under the Coastal Act was prepare an LCP for review by the Coastal Commission so that once it's approved, the City then retains jurisdiction to be able to approve coastal permits for development. There are some jurisdictions that still don't have an LCP and in those areas the Coastal Commission/Coastal Act retains jurisdiction so every single project has to be approved by the Coastal Commission. That's not what's happened in Oceanside, which has an LCP.

One of the things that is before the Coastal Commission is that many of these are outdated. Ours is from 1985 with very few amendments that were processed, mostly for specific projects. Ours may be outdated as well. We have maintained our character. She has been told over and over again by real estate professionals that when you have a coastal view, that property is worth a lot more. When those coastal views go away, then property is not going to be valued as much. It's important to continue the character that we have in Oceanside.

There was only a brief 2 years that we had a different Zoning Ordinance and when some things got through before the Coastal Act was in effect such as the Marina Towers; certain buildings went up as quickly as possible before the Coastal Act could become law. They have become icons and have perhaps even personified our City. What is most important for our residents is maintaining those views.

After titling of the Ordinance, the **motion failed 2-3**; Councilmembers Kern, Feller and Felien – no.

**COUNCILMEMBER KERN** asked if we would need another motion to stay with the 1986 Ordinance since the motion we just voted on failed.

**CITY ATTORNEY MULLEN** responded no.

**COUNCILMEMBER KERN** reiterated that the 1986 Ordinance stays in place. Regarding the quality of the project, we can be more restrictive, so he would really like to see some of these things about definition of grade, basic building heights and measurements, front and side yard setbacks and parking addressed. He is hearing that from everybody. He doesn't think the height is as important as quality of project. Right now the only motion he would like to make is to move to accept staff and Planning Commission's recommendations regarding those issues and bring that back. He does not want to go to Coastal Commission for anything. We need an agreement with the development community and everybody about the setbacks and parking.

**CITY ATTORNEY MULLEN** stated if those result in the changing of what's in the currently certified LCP, then you will be directing staff to prepare an LCPA. The setbacks, parking standards, etc. are already codified within the existing certified LCP.

**COUNCILMEMBER KERN** responded he did not want to do that but we need to work that out. We did the 1992 Ordinance for years without Coastal Commission. Maybe we could have staff bring back recommendations on those and we'll deal with them at a later time. Instead of a motion, direction to staff to work on those items and bring them back.

**COUNCILMEMBER FELLER** thinks staff has not gotten a clear path and we can still go forward with working on this plan and, at the appropriate time, when we have to take an amendment to the Coastal Commission, then we can decide if they are going to be adamantly opposed to our suggested amendments or if there is a problem with them, then we can just drop it at that point.

**CITY MANAGER WEISS** understands that and we will look at some of those standards, but effectively with Council's decision tonight, we will process those pending projects under all of the requirements of the 1986 Code.

**DEPUTY MAYOR SANCHEZ** asked the City Attorney in what areas does the Coastal Act retain jurisdiction.

**CITY ATTORNEY MULLEN** responded the Coastal Commission would have appellate jurisdiction over all coastal development permits issued within the appeal area.

**DEPUTY MAYOR SANCHEZ** asked where the appeal area is.

**CITY ATTORNEY MULLEN** responded obviously it includes Pacific Street.

**DEPUTY MAYOR SANCHEZ** stated so the Coastal Commission could still review every single project on Pacific Street.

**CITY ATTORNEY MULLEN** responded absolutely.

**JERRY HITTLEMAN**, City Planner, stated it actually goes in about 300' from the coast on average. It goes to probably Myers Street.

#### **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

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

**JIMMY KNOTT**, 127 Sherri Lane, asked the Council to start concentrating on the terms congeniality, respect, compromise, finding middle ground and good governance. He gave suggestions on how to work together on issues. If you have a division on an item, take it to a workshop and discuss it before coming to Council. Have your decisions taken/brought forward there. Discuss it in private at the workshop then bring it back, etc.

**KATHY CHRISTY**, 3250 Roberta Lane, is a member of the Library Board of Trustees and invited everyone to the Holiday Home Tour and Gift Boutique on Sunday sponsored by the Friends of the Library.

**GEORGE MORITA**, 249 Calle Bolero, commented on the tough times people are going through and the need to tighten our belts. He believes Council should not have voted for the raises for Police and Fire. He is not against Police and Fire; it just isn't the right time. He would like to see wages cut throughout the City so we can keep Police and Fire personnel without having to lay them off and lose service.

December 8, 2010

Joint Meeting Minutes  
Council, HDB and CDC

**INTRODUCTION AND ADOPTION OF ORDINANCES** - None

**ADJOURNMENT**

**MAYOR WOOD** adjourned to a workshop on Tuesday, December 21, 2010, at 2:00 p.m. This joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors was adjourned at 10:10 PM on December 8, 2010.

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

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Barbara Riegel Wayne  
City Clerk, City of Oceanside



California

# CITY OF OCEANSIDE

## MAYOR AND COUNCIL WORKSHOP

DECEMBER 21, 2010

**ADJOURNED MEETING                      2:00 PM                      COUNCIL CHAMBERS**

**Mayor**  
**HDB President**  
**CDC Chair**  
Jim Wood

**Deputy Mayor**  
**HDB Vice President**  
**CDC Vice Chair**  
Esther Sanchez

**Councilmembers**  
**HDB Directors**  
**CDC Commissioners**  
Jack Feller  
Jerome M. Kern  
Gary Felien

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

**Treasurer**  
Vacant

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

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

The adjourned meeting of the Oceanside City Council was called to order at 2:05 PM, Tuesday, December 21, 2010.

### **ROLL CALL**

Present were Mayor Wood, Deputy Mayor Sanchez and Councilmembers Feller, Felien and Kern. Also present was City Clerk Wayne. Deputy Mayor Sanchez led the Pledge of Allegiance.

### **WORKSHOP ITEMS**

1. **City Treasurer Applicant Interviews and Appointment to fill the unexpired term ending December 2012**

By way of background, **CITY CLERK WAYNE** stated this 4-year term began in 2008 and goes until 2012 for City Treasurer, which started with the election of Rosemary Jones in December of 2008. With her passing in January of 2009, Council appointed Gary Felien to serve out the term. With Gary Felien's election to Council in December of 2010, Council again is appointing to fill the vacancy to December of 2012.

We propose the standard interview process that we used to fill the position in January of 2009. As of Council's deadline of December 9<sup>th</sup> to receive applications, we did receive 8 applications and all 8 applicants are present to be interviewed. The interview process established by Council prior to this time means that we have all the applicant's seated in the Closes Session room and they will come out one at a time in the order provided. Each applicant will have 1 minute to give Council introductory comments, followed by the 4 standard questions seen in the staff report. With time permitting, if Council wants to establish that 10 minute timeframe like we've had before, you'll each

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UNTIL APPROVED AT SUBSEQUENT  
MEETING BY CITY COUNCIL**

usually have one standard question that you each can ask the applicant. Ten minutes would be the allotment for each interview. Following the interviews today, Council will hopefully take the action to appoint someone to fill the unexpired term to 2012.

The standard questions are:

- One-minute self-introduction
- Response to 4 standard questions presented by the City Clerk – 1) Why do you want to be the City Treasurer?; 2) Describe the background and experiences that make you a desirable candidate; 3) What is your understanding of the City's Investment Policy as approved by the City Council?; and 4) Are you willing to serve the full unexpired term until December 2012?
- Response to Council questions.

The 8 candidates will be interviewed in order of a random drawing.

#### Applicant interviews

**Larry Hatter**, 2344 Littler Lane, has resided in Oceanside for 62 years. He has a Bachelor of Science degree in Business Administration from San Diego State University with an emphasis on insurance. During that time he took 3 real estate classes, 5 insurance classes, 2 finance classes, a management class and an accounting class. Those will all benefit the job of Treasurer.

1) He wants to be the City Treasurer because the City has been extremely good to The Hatter family for many years. He has had the good fortune of living in Oceanside and along with the good fortune goes the responsibility of paying back the community for the opportunities it has afforded him. In the past he and his wife's family have serviced Oceanside in the following capacities:

- his wife's great grandfather was the Mayor of Oceanside
- his wife's uncle served on the Oceanside Unified School District Board of Trustees for 12 years and she had another uncle serve as President of the Chamber of Commerce
- his father served on the City Planning Commission for 8 years, served as the Chamber of Commerce President and also as one of the founders of North Coast United Methodist Church

2) His degree is from San Diego State University in the field of Business Administration. The other 4 reasons he would encourage Council to consider him for the position are because he started and owned a pension administration company in Oceanside, which handled contribution defined benefit plans at all levels. At one point he personally took care of 24 plans. He sold the company to his partner. He started and owned a financial advisory firm that managed over \$50,000,000 of qualified and non-qualified assets on a daily basis until his retirement from that company in 2006. The company is still in downtown Oceanside. For comparison, the City right now has a portfolio under management of about \$100,000,000. He started and continues to manage a life, annuity and health brokerage company, and he put in place the auxiliary group benefits of the City of Oceanside that are still in force today. He managed that portfolio for about 22 years. Finally, he was employed by a casualty property insurance brokerage firm in 1967 that grew from \$25,000 in annual commissions and 4 employees to \$999,000 in total commissions and 20 employees when he sold the firm.

3) He spoke with Treasury staff and found that management and where we can put money is much different than in the outside world where he managed the \$50,000,000+. He still would encompass a bucket theory that he used in the private sector when he's counting the money and making sure we go forward in a positive way.

4) He is willing to serve the full, unexpired term until December 2012.

In response to Councilmember Feller's question of whether he supports putting the Treasurer's position on the ballot to become an appointed position in the future, he doesn't have an answer to that question. He would look at that and would like to bring together other Treasurers throughout the County to discuss that issue with them to see how we can make it best for the City going forward.

In response to Councilmember Feller's second question of whether he supports former Treasurer Felien's idea of bringing investments closer to home and possibly investing in reasonably local banks to stimulate the economy at home, he would certainly look at that as a possibility. He would have to look at his buckets of money and see where they are all at, but anytime he can help a local or regional bank he would want to do that because FDIC will insure the money, although he worries about the FDIC.

In response to Councilmember Felien's request to give some details of the type of specific investments that he's made professionally or personally and the process he went through to evaluate them, he believes in a bucket theory, which he made up many years ago when he managed money. The buckets consist of real estate in one bucket, retirement planning in another bucket and discretionary money in the other bucket. Those buckets all have specific purposes and within each bucket, his goal with each of his clientele, whether qualified or non-qualified by money, was that it would be diversified. It wouldn't be just one piece of real estate, it might be 5, and it would be the same in a mutual fund, stocks, bonds and annuities. It would also be the same in discretionary money, although discretionary money would take a short-term effect as opposed to intermediate and long-term in the other 2 buckets. The reason for that is that if one bucket goes down, then he's got 2 other buckets and it should be okay. Usually they will work in the adverse of each other over a period of time.

In response to Mayor Wood's question on whether regarding this appointment he has been promised anything from any Councilmembers – if yes, please explain – and does he think this position should be appointed or elected, he has not been promised anything. Again, he doesn't have a right answer yet about the second part of the question, but will certainly look at it. It's about economics. His goal is to do the best deal for the stockholders of Oceanside; if it's best for it to be an appointed job because it's financially better, than he will have to look at that.

In response to Deputy Mayor Sanchez's request that he explain any negative information Council may have regarding a business decision or decisions he may have made – giving him a chance to respond to a negative impression Council may have regarding his qualifications as Treasurer for Oceanside – he doesn't have any negative qualifications that he knows of that are about this position. We all need to work together.

Responding to Councilmember Kern's question as to whether he's ever managed a portfolio that involved other people's money and, if so, how much, he has managed portfolios anywhere from \$1,000 to millions for people. Most of it is conservative. In his discussion with the investment officer of the City some cities will take a buy and hold position and some will take a position where they move money more frequently. He would vacillate between those as he went forward, depending on any day of the week that we can make more money for the stockholders of the City. He never purposely treated a person with \$1,000 any differently than a person with \$1,000,000.

**Gary Ernst**, 810 Harbor Cliff Way #223, has 32 years of financial experience; 10 years in bank management and administration. Being from Los Angeles originally he managed a Great Western Bank. He moved here in late 1987 and has a little over 20 years in mortgage securities and finance administration. The most important thing he brings on board that is unique from the other applicants is a little over 10 years of experience on the Treasurer's Investment Oversight Committee, helping administer and

watch over our investments and making sure policies keep in line with the changes that take place in the overall economy and how they affect our City.

1) He wants to be the City Treasurer because being on the Investment Oversight Committee for over 10 years has given him an opportunity to work with Treasury staff, as well as Rosemary Jones and Gary Felien, and left him impressed with the operation. This work that he's done for the City has prepared him very well for this. He looks at this as a continuance and expansion on his abilities to serve the City.

2) He is a licensed FINRA broker (Series 7/66), a licensed investment broker and licensed real estate broker. He has 32 years of broad-based experience, most of which has been in the service of this community. He brings the unique opportunity to come aboard with a smooth transition; keeping the ship on course in the direction it's headed – to keep the principal of the investments for the City safe, followed by a good return and keeping the funds flowing for the City in order to have the funds for the budget criteria.

3) The Investment Oversight Committee makes certain that we invest within the confines of the policies that we review annually, within the confines of anything that is guaranteed by the U.S. government, i.e. a bond or agency fund – no mutual funds, no stocks and being careful not to be involved in anything that would be deemed risky. Preservation of principal is absolutely critical, followed by the return, which in this market isn't what it should be, but we cannot afford to risk principal for return. We also have money invested with the State [LAIF] that's generally liquid money that we hold for other uses that are coming forth after they're pulled away from the bonds that we invest in for allocation for the Finance Department.

4) He is willing to serve the full unexpired term until December 2012.

Responding to Councilmember Kern's question as to whether he's ever managed a portfolio that involved other people's money and, if so, how much, he has managed other people's portfolios but, frankly, he has just come on board at Merrill Lynch as of last March and it would be under \$1,000,000.

In response to Deputy Mayor Sanchez's request that he explain any negative information Council may have regarding a business decision or decisions he may have made – he would say being active in the mortgage side of real estate he was busy in the 2000's doing residential refinancing and did not broaden his horizons beyond that scope. When that bubble burst in 2007 and all of his wholesalers went out of business, it took a while to realize that that livelihood was gone so a lot of independent brokers like him were left with no alternative but to seek other related channels and careers. Most of the brokers he knew that, like himself, were independent no longer exist.

In response to Mayor Wood's question on whether regarding this appointment he has been promised anything from any Councilmembers – if so, please explain – and does he think this position should be appointed or elected, he has not been promised or had anything insinuated with respect to this position. He thinks for this position, for the time being, an appointment is advised because of the cost and time it would take to put together an election. Ultimately, it should be an elected position because you represent the best interests of the City when you're elected, keeping yourself a reasonable arm's length distance from the management of the City (no offense implied).

In response to Councilmember Felien, who asked in terms of your professional or personal investments, can you describe some of the decisions you made and how you went about making that decision in terms of your investment philosophy, he stated normally speaking it's important to try and be conservative. Most of his investing up until the middle 2000's was in real estate, unfortunately. He wishes he wasn't so heavily weighted in real estate in retrospect. It's important to look at the big picture; not only how the market has been performing but taking a look at how the market is likely to

continue given exterior forces that are at play; not simply saying everything's going up 10-15% and we'd better get in now, but taking a look at the whole picture and realizing maybe it's too late already.

In response to Councilmember Feller's question of whether he supports putting the Treasurer's position on the ballot to let the voters decide whether to make it an appointed position in the future, he thinks it's a good idea to keep an arms-length distance between City management and the Treasury arm as it's been for quite some time, with the exception of a situation like this when you have a piece of an administration to fill and then it's important to look at doing what's in the best interests of the City and, in this case, saving \$500,000. Filling the position with a qualified candidate is quite important.

In response to Councilmember Feller's second question of whether he supports former Treasurer Gary Felien's idea of bringing investments closer to home and possible investing in reasonably local banks, his feelings about investing in CD's is that who ultimately backs the CD's, provided you follow the FDIC limits with respect to insurance, and that is the government. There is an implied backing by the U.S. government as well as with the agencies. Worst case scenario, if you follow policy and stay within the confines of the FDIC limits per investment, you may have to wait awhile for the FDIC to get your money back. But if California starts issuing warrants to us, as they did to some of the taxpayers a while ago, we would have to possibly be looking at a similar situation. He thinks it's worth looking at closely. He can't say he can derive with certainty how much benefit will be derived locally, but it would give us another avenue to pursue if the investment return was there.

**Mary Lou Elliott**, 5672 Dartmoor Circle, is interested in this position because before Rosemary Jones ran last time, she had asked if I would ever consider doing this because she felt I would be qualified and she commented she would back me. At that time she was not available. She is fascinated with the job and would like to be considered.

1) She wants to be the Treasurer because she is fascinated with how the City is run. She's been involved with financing as far as school business; she was a negotiator and had to know how their monies came and went and she is aware of how monies can be used that are coming in from State institutions. We did not invest; we were given money and had to budget. After reading the Investment Policy she would have no problem with that. She feels she can be a benefit as a liaison from the City and to the community because of her connections outside of the community.

2) She was a school administrator for 10 years and had to budget and run a school. She supervised over 35 people on staff with 500+ kids. As far as this job, it looks more like a supervisory job. She also doesn't have any other business to run at this time and could give this position her full attention. She understands that there is a workshop for first-time Treasurers and she would be willing to attend that to expand on the knowledge that she has already gleaned from looking at the spreadsheets and the Investment Policy.

3) She thinks it's a very conservative policy. The investments are outlined so that the office knows exactly what they can do as far as investing and how far to go. She feels that the Council/City Manager is involved with this in that they know how much would be given over to them to deal with.

4) She is willing to serve the full unexpired term to December 2012.

In response to Councilmember Feller's question of whether she supports putting the Treasurer's position on the ballot to be voted on to be appointed or remain elected, she stated this came up before and she had talked to some of the people in the community and they felt that an elected position gave them more input into the City

government. She personally doesn't know what the benefits are one way or the other, but if we're dealing with our community and handling the community's money, we need to please them.

In response to Councilmember Feller's second question of whether she supports former Treasurer Felien's idea of bringing investments closer to home and possible investing in relatively local banks, if it kept within the policy. You developed the policy as a guideline so if it was going to be beneficial to the City, she doesn't see why not.

In response to Councilmember Felien who asked in terms of your professional or personal investments, can you describe some of the decisions you made and how you went about making that decision, she stated that most of the things she has done have been on a personal level and it would have been through a broker. Most of her investments were very conservative but when the stock market fell, we all suffered and had to go along with whatever else we could do.

In response to Mayor Wood's question on whether regarding this appointment she has been promised anything from any Councilmembers – if yes, please explain – and does she think this position should be appointed or elected, she has not been promised anything by any Councilmembers. She feels we need to go back to the community and please the people that we're serving.

In response to Deputy Mayor Sanchez's request that she explain any negative information Council may have regarding a business decision or decisions she may have made; she retired too early. She can't think of any investment that was a negative that she was personally involved with. When you're dealing with brokers, you have to trust what they advise.

Responding to Councilmember Kern's question as to whether she's ever managed a portfolio that involved other people's money and, if so, how much, she stated the only portfolio she ever had, or what we could consider a portfolio, is monies that came into the school. When she was a negotiator, she had to balance out what was going to be received, what to do with personnel, etc. When you're dealing with schools, they tell you what you're going to be working with so we weren't investing, but we had to deal with the monies that were given to us. She did it at the school and district levels.

**Graham Fraser**, 2119 Oceanview Road, came to Oceanside in 1981. He and his wife are from Australia and immigrated here. We chose Oceanside to start our own business in 1981. We have raised our family here and have a great desire to see the City rise to the standard that he knows it can be.

1) He's been somewhat critical about the way society has gone over the years and wanted to do something about it. When this position opened up, he thought it was his opportunity to give back to the City. He has the business and analytical background and the integrity to fill this position. He also has the time now.

2) He has an Engineering degree and has been an independent consultant providing solutions to problems that cities have had. Typically all problems are money related so we have to understand the City's limitations on how they were being funded and he had to understand, when providing consulting services, how to bring those projects in on time and on budget. Personally, he's learned to invest money prudently over the years. If you're looking for somebody who knows how to manage money and have a cash flow and safety, look at somebody who's actually done it for themselves.

3) He has not had a chance to read or study it in detail but to protect and manage the principal monies of \$150,000,000+ that the City has in accordance with the local ordinances and State regulations; also, to insure the liquidity and generate the maximum income from those funds. There are limitations in bonds and securities, etc.

that the policies are limited to and he would certainly be looking to Gary and staff to understand that more.

- 4) He is willing to serve the full unexpired term until December 2012.

Responding to Councilmember Kern's question as to whether he's ever managed a portfolio that involved other people's money and, if so, how much, he has managed he and his wife's money.

In response to Deputy Mayor Sanchez's request that he explain any negative information Council may have regarding a business decision or decisions he may have made, he is 70 years old and has had the opportunity to make bad decisions. He relied on other people and didn't check on them thoroughly and trusted people who he should have researched more. What he's learned from experience is how to make a decision. His first approach is to figure out how he's going to go about making that decision and getting all of the information necessary. When he hasn't done that, he's had problems.

In response to Mayor Wood's question on whether regarding this appointment he has been promised anything from any Councilmembers; and does he think this position should be appointed or elected, he has absolutely not been promised anything. Under these circumstances, it should be appointed because the City can't afford \$500,000 for an election.

In response to Councilmember Felien who asked in terms of your professional or personal investments, can you describe some of the decisions you made and how you went about making that decision in terms of your investments, he stated it's changed with time. When you get older you get more conservative. Basically he takes a small portion of the portfolio and maybe invests that in a little more risky venture. As to the rest of it, he typically doesn't like to go to individual securities; he likes to go to broad-based securities like exchange rated funds that have a broad range exposed to a sector of the market or world. Currently he's been out of Asia but today he got back in. He watches world economics closely and that's how he operates.

In response to Councilmember Feller's question of whether he supports putting the Treasurer's position on the ballot as to being appointed or elected for the voters to decide, he has not had a chance to evaluate that. Shooting from the hip, since this is a Charter City now, he would say elected for checks and balances.

In response to Councilmember Feller's second question of whether he supports former Treasurer Felien's idea of bringing investments closer to home and possibly investing in local banks, providing they were equally qualified and the risk was of the same order, he would certainly use local people and get a secondary benefit from the income of those investments.

**Jerry Salyer**, 3667 Harvard Drive, stated it's refreshing to see the caliber of the people that have applied for this position.

- 1) He loves the City and the people here. There's a lot of good to come forward in Oceanside. One common interest we all have is our finances and he'd like to bring forward some of his experience and to instill a sense of trust and transparency with the community and staff.

- 2) He's been committed to positive change for his neighbors and the City for about 20 years now. He is a senior executive and founder of a successful business. For the 30 years he's been an insurance broker to hundreds of companies and thousands of employees, not one of his policyholders has lost a dime due to company failure/insolvency. He calls it like he sees it based on his experience. He has a cautious and analytical mind and works well with others. He has served the community in the past as a past Chairman of the Board of the Oceanside Chamber of Commerce and past

President of the Rotary Club of Oceanside and has learned a lot about the City through the years. He has served on the Economic Development Commission, the Harbors & Beaches Commission, El Corazon Oversight, the Arts Commission and Police and Fire Commission. He is not a CPA or a day trader but he understands generally accepted accounting principles and due diligence.

3) The Investment Policy says that we have to follow prudent investment rules, which is a different standard than we might use in our personal investments or how we might run our own businesses. We have to follow California law and we cannot invest in risky securities, day trading, real estate, or any kind of schemes of that nature. We are confined to conservative government funds. The words in order of importance with this policy would be safety, liquidity and the return on investment. Will Rogers once said that more people should be concerned about the return of their money than the return on their money.

4) He is willing to serve the full unexpired term to December 2012.

In response to Councilmember Feller's question of whether he supports putting the Treasurer's position on the ballot to become an appointed position in the future, he has given that no thought and would need to educate himself a little better on the pros and cons and talk to the advocates and adversaries regarding that.

In response to Councilmember Feller's second question of whether he supports former Treasurer Felien's idea of bringing investments locally to local banks or institutions, he was intrigued with the proposal and would like to know more about it in a general sense. He's been committed to local activity as much as possible. He would want to be sure that they were solid local financial institutions. He is disturbed when he hears how many banks have gone under. With the appropriate bank, the right arrangement and a little more input from Councilmember Felien on the design, he could see himself supporting it but doesn't know for certain until that information is in hand.

In response to Councilmember Felien who asked in terms of your professional or personal investments, can you describe some of the decisions you made and how you went about making that decision and the type of investment, he stated at this point in his life at 57 he is concerned about losing ground so his investing is pretty conservative these days and involves things he knows about and is actively involved in. He owns some rental properties in Ohio, has some money invested in mutual funds and cash in his IRA's. In terms of his clientele, he has a variety of clients and all of the monies that are invested are with top-rated insurers for the most part. Not one client or policyholder of his has ever lost a dime or been at risk at any time.

In response to Mayor Wood's question on whether regarding this appointment he has been promised anything from any Councilmembers – if yes, please explain – and does he think this position should be appointed or elected, he thinks we have to look very carefully. He was looking at what's happened to our portfolio over the last couple of years with returns down, etc. and he thinks the City has to look for a variety of ways to cut its expenses and it may be that the City Treasurer's position is redundant. It would be something he would be open-minded to. He hasn't been promised anything. He's been encouraged to be involved in the community but has been promised nothing.

In response to Deputy Mayor Sanchez's request that he explain any negative information Council may have regarding a business decision or decisions he may have made, he doesn't believe he has had any failures. None of the businesses he's been involved in have ever failed. There was a dissolution of a business due to the accidental death of his partner in Ohio about a year ago.

Responding to Councilmember Kern's question as to whether he's ever managed a portfolio that involved other people's money and, if so, how much, he has made decisions and recommendations for investments into retirement plans to find

contribution retirement plans, principally 401k plans. He had a fiduciary responsibility but he is not a registered investment advisor and has never engaged in that role. He is a licensed insurance broker in California and conforms to the California insurance laws, but he is not involved in securities, trading or anything of that nature. Some of the companies he represents, i.e. Principal Mutual or Met Life, have pension products that he feels confident are sustainable and that are prudent in protecting his client, which is the employer of the people participating in the plan. For years he was a consultant to what's become the employee leasing business and he could throw out some unbelievable number if he thought of all the contributions among all the thousands of people.

**John Gram**, 4968 Skyhawk Way, is not familiar with many of the Councilmembers and this is his first foray into civic service, but he thinks he may be an appropriate candidate. His background is from the bio-pharmaceutical side, as well as the finance side. He has a consulting firm in Oceanside and does a lot of work on understanding the value of assets the companies are working on to trade back and forth with each other. He has an analytical mind and capability. In November of 2009 his son was murdered in Annapolis, Maryland, and he has been looking for a way to serve his memory and he wants to get more involved with the community. In thinking over the last year about how to do that, he came across an article about the Treasurer position opening in Oceanside. It seems to be what he is looking to do next, as well as his background, capabilities and knowledge.

1) The City has a lot of potential and great opportunity going forward and with his analytical background his understanding of City finance will grow as he grows into the position. His skill sets align themselves well to the position. He has an MBA from the University of San Diego in Finance. He also had a career prior to joining the bio-tech world in another industry and that demonstrates his capability for very quickly getting up to speed on complex matters. He believes he can serve well in Oceanside as the Treasurer.

2) His background has always been in analytics. He began his career with the AC Nielsen Company, the world's largest market research company, and spent 14 years with them in various capacities. He transitioned into bio-tech where his responsibilities were market research and understanding numbers, information and data and taking those and combining them into knowledge. Here in Oceanside he could learn all about the information and data at our disposal and bring that level of knowledge and ability to the City.

3) His understanding of the Investment Policy is that there are 3 things that are most important to the City. First and foremost is the preservation of the principal of the fund that we manage. Secondly, we need to have 6 months minimum of liquidity at any given time. Finally, to grow the principal as much as possible, understanding that we're limited by the risk profile we can assume.

4) He is willing to serve the full unexpired term until December 2012.

Responding to Councilmember Kern's question as to whether he's ever managed a portfolio that involved other people's money and, if so, how much, he has not directly managed other people's money but he's always been a fiscal conservative in terms of his personal finances and in terms of where he thinks City funding and public funds that are bequeathed upon the City from the public should be managed. He takes a more fiscally conservative profile with the funds.

In response to Deputy Mayor Sanchez's request that he explain any negative information Council may have regarding a business decision or decisions he may have made, he stated fortunately he doesn't think Council has any negative information about business decisions he's made. He has been fortunate that his investment portfolio has always performed quite well, with the exception of the crash in 2008. Nobody really

saw that coming and there was nothing anyone could do to avoid it. There has never been a business decision he regrets or a business decision that he thinks would be one that Council might have information about.

In response to Mayor Wood's question on whether regarding this appointment he has been promised anything from any Councilmembers, and does he think this position should be appointed or elected, he stated no promises have been made. He thinks the position should continue to be elected when it's possible. The current circumstances did not allow for that, but he does believe it should be elected so everyone has an equal opportunity to step forward into these types of roles and lead the community.

In response to Councilmember Felien who asked in terms of your professional or personal investments, can you describe some of the decisions you made and how you went about making that decision, recently within the last year he's had a number of 401k's with a financial manager on the east coast and is with a large firm. He decided to go to Costco and work with them through their financial group because he was paying such a heavy premium to the people to manage his money and they were losing it at a rate that was inappropriate relative to what they were charging him. Now he manages his own portfolio and thankfully it's performed much better than it had historically. That was a major decision that he made as far as putting it into things that are a more balanced portfolio and take a lower risk profile.

In response to Councilmember Feller's question of whether he supports former Treasurer Felien's idea of bringing investments closer to home and possible investing in local banks or institutions, he thinks that's a good idea in principal to support our local communities and make sure our banks here stay solvent. Contributing to them managing our money is a good idea, although there is an appropriate opportunity to look at all opportunities for managing the funds most effectively to ensure that the principal stays whole, we have 6 months liquidity and that we are opportunistic about earning as much money off the portfolio as possible. With that there may be a balance that we have some of the money here that we dedicate to the local banks and financial groups, but there may be an opportunity to earn more money elsewhere and we should look at that as well.

In closing, Mr. Gram looks forward to serving the community. There are a number of good candidates here for Treasurer and he appreciates being considered.

**Jim Melrose**, 275 Neptune Way, is a semi-retired business consultant, tax preparer and investor. He has been married for 34 years and has 2 daughters. He has a Master's of Science Degree in Administration from the University of California Irvine and his Bachelor's Degree is from Cal State Fullerton in Management Information Systems. He has over 30 years of executive management experience in accounting, finance and information technology, i.e. Director of Finance, Chief Financial Officer and Controller. He is an expert in forecasting budget and cash-flow management, financial reporting, auditing, information management, etc. This extensive skill set gives him a favorable advantage in many ways.

1) This is his first run at a political office. It was the Tea Party a couple of years ago that transformed his thinking and when he heard about this position, he realized that instead of helping 200-400 people in a company, he could help thousands with his skill set. That was the motivation for him to apply for this position.

2) This is a business position and he's an investor and understands investing. The \$140,000,000 he would be responsible for is taxpayer money. We need to be conservative with that because it was hard-earned money. It takes the knowledge and skill set that he has to help bring to the party. He always surrounds himself with people who are smarter than him. He can help pull people together. He can do a lot of good for the City.

3) He read it, and looked for nuances in it and cited an example. He understands it and feels it's the kind of document he would like to recreate.

4) He is willing to serve the full unexpired term until December 2012.

In response to Councilmember Feller's question of whether he supports former Treasurer Felien's idea of bringing investments closer to home and possible investing in reasonably local banks or institutions, he would have to look into it. He's noticed for the last year the City has been dealing in Federal obligations almost exclusively about 75% except for LAIF. He's sure there is some intelligence there but he doesn't know what it is and would like to know why the City hasn't expanded into other financial instruments. He understands the value of those and the potential for a higher return than what the City is getting in the current portfolio.

In response to Councilmember Felien who asked in terms of your professional or personal investments, can you describe some of the decisions you made and how you went about making that decision, the most complicated investment he's dealt with recently is real estate, which doesn't fit in this particular situation. He spends a tremendous amount of time and research before he goes into an investment. He finds out what areas are working and what areas are not. He gave an example of a real estate investment he made recently in Costa Mesa. It is a matter of understanding the market.

In response to Mayor Wood's question on whether regarding this appointment he has been promised anything from any Councilmembers, and does he think this position should be appointed or elected, he has not been promised anything. He likes it as an elected position because it allows the people to pick the person they believe will best represent their interests. Local government is the most effective government because the people in local government are from the people. They work and play with their neighbors and understand their needs best.

In response to Deputy Mayor Sanchez's request that he explain any negative information Council may have regarding a business decision or decisions he may have made, he stated you learn from your mistakes but as soon as you learn, you forget them because mistakes are boat anchors if you dwell on them. You move on because you have learned from them.

Responding to Councilmember Kern's question as to whether he's ever managed a portfolio that involved other people's money and, if so, how much, he has not managed other people's money but has given counsel to his kids. His goal is to not give them a hand-out but a hand up; to train them how to do theirs better. He has been involved in the treasury position in some of his positions in business but business treasury is a lot different because you don't know the stockholders and you're going to reinvest the money back into the business to get the bottom line. He takes this position seriously.

**Jimmy Knott**, 127 Sherri Lane, stated Council knows his background and he doesn't need to explain much more unless Council has a question.

1) Most of the City funds pass through the investment process, especially with the Chief Financial Officer and the Investment Manager and as Treasurer he can help shape the City and render service to a wider community. He would like to use some of the City's funds to help some of the community's businesses and be creative with our portfolio.

2) The position only requires that you be a registered voter, 18 years of age, not convicted of any crime. He has run for the office twice and came in second previously. He has been the only citizen to attend the Investment Portfolio Advisory Committee consistently for almost a decade. He is probably the citizen who is most

aware of what is going on with the investment portfolio and the City.

3) There are 3 basic elements and they are to protect and manage the portfolio, supply ample liquidity of the finances and render an income from the investment. However, the problem with the current portfolio is that there is a conflict with our City ordinances. For example, on Page 1 of the portfolio it says that the City Treasurer will meet with the advisory committee; however, it says in the ordinances that the City Treasurer may appoint the committee. If the City Treasurer decides not to appoint the committee there is a conflict. There are many of those items in there.

4) He is willing to serve the full unexpired term until December 2012, unless by the end of this session he feels there is someone that is a better candidate that he might endorse.

Responding to Councilmember Kern's question as to whether he's ever managed a portfolio that involved other people's money and, if so, how much, he has not with the exception of his own and his parents'.

In response to Deputy Mayor Sanchez's request that he explain any negative information Council may have regarding a business decision or decisions he may have made, when he asks questions he wants clarity and is not afraid to bring up the questions. Sometimes people don't like the questions he brings up and it has caused division within the City. He has never had a business.

In response to Mayor Wood's question on whether regarding this appointment he has been promised anything from any Councilmembers – if yes, please explain – and does he think this position should be appointed or elected, he has not been promised anything. We need to start the process of converting it to an appointed position. There has been some manipulation of the office and it's becoming a political weapon and he doesn't want to see that in the future. Michelle Lund can do the job by herself with Council's guidance.

In response to Councilmember Felien who asked in terms of your professional or personal investments, can you describe some of the decisions you made and how you went about making that decision, he has made zero investment decisions. However, he has studied investments and different philosophical approaches on how we can help our community through investments, use creative investments and see how other communities do it. We need to do our own stimulus program using our funds and make it secure.

In response to Councilmember Feller's question of whether he supports former Treasurer Felien's idea of bringing investments closer to home, he does support it and thinks it's important to do anything we can in the City to help our small businesses. The businesses are closing down and we need to remove some of the stumbling blocks that cause that.

He informed Council that, after thinking about it, he would endorse Jerry Salyer.

**MAYOR WOOD** stated the resumes and applications+ were impressive. This is something that the citizens generally vote on and we have this unexpired term we have to fill, but considering the finances this is the way we are going to appoint.

Council can go forward with discussion or we can have a meeting tomorrow night after the Council meeting if more time is needed.

**COUNCILMEMBER KERN** is ready to make a decision today. He is impressed by the applicants. We can only pick one but several people are outstanding and we want them involved, Mr. Gram and Mr. Melrose would be perfect for the Economic Development Commission. Mr. Fraser would be perfect for the Utilities Commission. The one candidate

who stands out for the Treasurer's position is Mr. Hatter. He is the only one that answered the question about portfolio management, which is one thing we really need. All of the candidates can probably learn quickly, but Mr. Hatter has done this before.

He **moved** to select Mr. Hatter as the City Treasurer.

**COUNCILMEMBER FELLER** seconded the motion.

**DEPUTY MAYOR SANCHEZ** wanted to discuss her top 2. She was looking for trust. People's trust is incredibly important in these times and she had heard some negative things about some of the applicants. Her question gave each one the opportunity to respond.

Her top 2 - Jerry Salyer would make an excellent Treasurer. He is someone that she trusts and we all know. She was also very impressed by Gary Ernst. He actually dug into his mind about some of the bad decisions he might have made in business and we all make bad decisions in business. Mr. Ernst answered the questions honestly and she was impressed by his background in investments.

Regarding Mr. Hatter, she has 2 concerns that relate to trust. She was very disappointed when the business that he left moved to Carlsbad. The business had previously been in Oceanside for many years. We need to maintain our businesses in Oceanside. She was also concerned about a bad business decision to lease (or whatever the contractual relationship was) to First American Law Center. That made her think it turned from a business that we all knew and held in high regard to one where the FBI was coming in alleging fraud, and other things. For those people to be so closely associated with a business that preyed upon people when they were in a bad situation doesn't look good. Trust is something we have to look for. While she appreciates Mr. Hatter's application and is sure he has been successful and made some very good decisions in the past, sometimes when your most recent decisions are not very good decisions, she doesn't want to be associated with that.

There were very good applicants and she hopes Council can come to a consensus on someone that would reflect well on the City. Mr. Salyer and Mr. Ernst would be good for that.

**MAYOR WOOD** is impressed with a lot of the candidates. He graded the applicants on a scale of 1-5 and there are a lot of 4's and 5's.

His top 3 – first, Jerry Salyer is a leader because he has been here a long time and has the background, but staff has to work with these people. The Treasurer's job is oversight as we have excellent staff and a Financial Director doing it also. We need someone who works well with staff and is easy to deal with. Mr. Ernst was impressive and stood out in the top 2, with Ms. Elliott coming in third. All 3 of them can do the job and have the ability to represent the City at the dais, as well as get along with staff. All of the other top candidates were very close behind these 3.

He remembers some negative feedback from the elections in the past years with Mr. Hatter and Terry Johnson that concerned him. A couple of Council meetings back Mr. Hatter stood up and said he wanted to put all of our stock and property as assets for anything we do in the future and that concerns him that somebody representing the City would put our stock on the line. That doesn't mean he's a bad person but the comment concerned him.

He has his top 3 candidates and thinks they have a better chance at being part of and representing the City.

**COUNCILMEMBER FELIEN** was impressed as we had an excellent group to pick from. In terms of people who had the financial, educational and professional background

as well as community involvement, the 2 names that edged forward were Gary Ernst and Larry Hatter. Mr. Ernst's background of being on the Investment Advisory Committee for 10 years means he has the best first-hand knowledge of how the Treasury Department works and could jump in with both feet right away.

Mr. Hatter has had an excellent background in the community for decades of positive contributions. He would echo Councilmember Kern's comments regarding the talents of applicants to hopefully serve on commissions. He encouraged everyone to find a slot. He knew Mr. Ernst best. He wasn't aware of the business that Deputy Mayor Sanchez referred to regarding Mr. Hatter and the First American Law Center. He is torn between those 2 top candidates and is interested in mulling this over until tomorrow if there is support from Council because he hates to make a decision, after Deputy Mayor Sanchez's concern, without a chance to get feedback on that.

**COUNCILMEMBER KERN** stated there were 2 issues brought up that were beyond Mr. Hatter's control. He sold the business and the successors moved the business. He had no rights to keep the business he sold in town.

Regarding First American Law Center, it is his understanding that Mr. Hatter owned the building and leased it to the First American Law Center. Having experience in renting properties, sometimes you get tenants that look very good going in and then things fall apart later. Those were not things within Mr. Hatter's control and it's a little bit unfair to bring those 2 issues up for that reason.

**MAYOR WOOD** stated so far we already have Gary Ernst from 3 Councilmembers and a request from a new Councilmember that he might want to think about it. In the past we've always tried to accommodate that. He doesn't want Councilmembers to jump into anything. He did ask staff who they wanted and they said Gary Ernst.

**DEPUTY MAYOR SANCHEZ** had a conversation with the principals that Mr. Hatter's business was sold to and they tried to stay in Oceanside. They wanted to buy the building. She was looking for an explanation for a decision that saw a business like that leave Oceanside. She would have put that as a bad decision to have leased to the company that had given my building a bad name. She wanted openness.

**COUNCILMEMBER FELLER** felt that asking about bad decisions in this kind of forum leads to inappropriate discussion openly. Most people wouldn't purposely lease a building to somebody who is unscrupulous. That's out of a person's control. This is most inappropriate as far as whether someone wants to sell their building or not is nobody's business. Those are inappropriate questions in this forum.

We have some outstanding candidates. Mr. Melrose and Mr. Gram's responses/thinking was tremendous. He hopes they too find their niche; he'd love to see them involved in our City commission structure. Mr. Fraser and Mr. Hatter have been involved in the City for years, as have Mr. Ernst and Mr. Salyer.

Mr. Ernst has just moved back into town and Mr. Melrose is in the process of moving here. People that have never left help a little to make the decision for him; people who have committed repeatedly to do things for the City. At this point his choice is between Larry Hatter and Graham Fraser. They are both good men with no pretense about them. They are outstanding contributors to the community. Because Mr. Hatter has invested other people's money, he feels comfortable with supporting him at this time. It's a tough decision because these are all good people.

The Investment Advisory Committee needs to expand and maybe that's an opening for the other candidates to involve themselves with.

**MAYOR WOOD** stated it's always hard to speak about any particular candidate with any negative overtones.

Three Councilmembers put Mr. Ernst in the top category and believe he is the most qualified. What we have here are basically 2 candidates: Larry Hatter and Gary Ernst. There were at least 3 Councilmembers interested in Mr. Ernst. We want the best thing for the City for the next 18 months.

**COUNCILMEMBER FELIEN** stated from hearing everyone's top 2 choices, we have 4 people who are being considered who have a long time in the community. He is still torn and his preference would be to vote tomorrow night. He hates to make a decision based on information that he'd like to follow up on. Personnel decisions are always the hardest and he likes to chew on it and be comfortable in the decision he's making. He doesn't feel comfortable at this moment voting on the final decision that will affect the City for the next 2 years.

**COUNCILMEMBER KERN** asked if we can continue with the motion on the floor or would we have to withdraw and do it again tomorrow night.

**DEPUTY MAYOR SANCHEZ** believes we can table it.

**MAYOR WOOD** believes to be fair to a new Councilmember who says he is not comfortable, we should continue it or withdraw the motion.

**CITY ATTORNEY MULLEN** stated if the desire of the Council was to consider this tomorrow, you could have a motion to table the discussion and bring it up again tomorrow night at the conclusion of the meeting. Effectively, it would be a motion to table this until tomorrow's agenda, after the last public hearing is conducted.

**COUNCILMEMBER KERN** deferred to Councilmember Felien.

**COUNCILMEMBER FELIEN** preferred to keep the decision open until tomorrow. He **moved** to table the motion [to vote on Mr. Hatter] on the floor until tomorrow night.

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

**CITY CLERK WAYNE** stated if Council is going to table it on the basis that you are adjourning this meeting to tomorrow night at a specific time to address that, then that would be the next motion or included in the motion.

**Motion to table was approved 5-0.**

**COUNCILMEMBER KERN** **moved** to adjourn this meeting to tomorrow night at 6:30 PM after the Public Hearings (at the conclusion of the Public Hearings).

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

**Motion was approved 5-0.**

#### **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

2. **Communications from the public regarding items not on this agenda** - None

#### **ADJOURNMENT**

**MAYOR WOOD** adjourned this adjourned meeting to Wednesday, December

December 21, 2010 – 2:00 PM

City Council  
Workshop Minutes

22, 2010, at 6:30 PM. This adjourned Council meeting was adjourned at 4:25 PM  
Tuesday, December 21, 2010.

**ACCEPTED BY COUNCIL:**

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Barbara Riegel Wayne  
City Clerk, City of Oceanside



California

# CITY OF OCEANSIDE

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

DECEMBER 22, 2010

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

**3:00 PM - OCEANSIDE CITY COUNCIL (COUNCIL),  
HARBOR DISTRICT BOARD OF DIRECTORS (HDB), AND  
COMMUNITY DEVELOPMENT COMMISSION (CDC)  
- REGULAR BUSINESS**

**Mayor  
HDB President  
CDC Chair**  
Jim Wood

**Deputy Mayor  
HDB Vice President  
CDC Vice Chair**  
Esther Sanchez

**Councilmembers  
HDB Directors  
CDC Commissioners**  
Jack Feller  
Jerome M. Kern  
Gary Felien

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

**Treasurer**  
Vacant

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

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

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

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB) and Community Development Commission (CDC) was called to order by Mayor Wood at 3:02 PM, December 22, 2010.

### **3:00 PM - ROLL CALL**

Present were Mayor Wood and Councilmembers Kern, Felien and Feller. Deputy Mayor Sanchez arrived at 3:06 PM. Also present were City Clerk Wayne, City Manager Weiss and City Attorney Mullen.

City Attorney Mullen titled the following items to be heard in Closed Session: 1 [regarding OPMA, MECO & OCEA] and 2.

[Closed Session and recess were held from 3:03 to 4:00 PM]

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

**CITY COUNCIL, HDB, AND CDC CLOSED SESSION ITEMS**

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

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

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

**Discussed OPMA, MECO & OCEA; no reportable action**

**2. CONFERENCE WITH REAL ESTATE NEGOTIATOR (SECTION 54956.8)**

Property: City-owned property bounded by El Camino Real, Oceanside Boulevard, Rancho del Oro Drive and Mesa Drive (APN 162-082-04, 05, 06, 08, 09 and 43); Negotiating Parties: City of Oceanside and Ivey Ranch Development Company; Negotiator for the City: Douglas Eddow, Real Estate Manager; Under Negotiations: terms and conditions for a potential exchange of a portion of the property

**Discussed; no reportable action**

**4:00 PM – ROLL CALL**

Mayor Wood reconvened the meeting at 4:00 PM. Present were Mayor Wood Deputy Mayor Sanchez and Councilmembers Kern and Felien. Councilmember Feller arrived at 4:02 PM. Also present were City Clerk Wayne, City Manager Weiss 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 Items 1 and 2 above].

**Changes to the agenda**

**CITY MANAGER WEISS** stated that as a result of information and input received from several Councilmembers, he is recommending that Items 13 & 14 be continued to a 3:00 PM workshop on January 5, 2011.

[Councilmember Feller arrived at 4:02 PM]

**CONSENT CALENDAR ITEMS** [Items 4-11]

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 Calendar items were submitted for approval:

**4. 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 October**

20, 2010, 3:00 p.m. Regular Meeting

5. City Council/Harbor/CDC: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)
6. City Council: Approval of Amendment 1 [**Document No. 10-D0895-1**] in an amount not to exceed \$60,998 to the Professional Services Agreement with Technology Associates International Corporation of San Diego for continuing work on the Myers property habitat restoration program, and authorization for the City Manager to execute the amendment
7. City Council: Approval of a professional services agreement [**Document No. 10-D0896-1**] with Infrastructure Engineering Corporation of Oceanside in an amount not to exceed \$44,800 for preparation of the City of Oceanside 2010 Urban Water Management Plan, and authorization for the City Manager to execute the agreement
8. City Council: Approval of an amortization schedule which establishes a repayment plan to recover General Fund money advanced to the Oceanside Municipal Airport fund, and authorization for the Financial Services Director to implement the repayment plan
9. CDC: Adoption of **Resolution No. 10-R0897-3**, "...making a determination that the planning and administrative expenses budgeted in the FY 2010-2011 Community Development Commission's Low- and Moderate-Income Housing Fund are necessary for the production, improvement, or preservation of low- and moderate-income housing"
10. CDC: Adoption of **Resolution No. 10-R0898-3**, "... accepting the FY 2009-10 Annual Report and directing staff to forward Annual Report to the State Controller", which includes: State Controller's Office Report including the Agency's Financial Transaction Report and Statement of Indebtedness; the State Department of Housing and Community Development Report; the Blight Progress Report, Loan Report and Property Report, and the Agency Independent Audit Report for FY 2009-10.
11. City Council: Authorization to reject all bids for the construction of the Harbor Lift Station No. 4 Force Main Replacement project located north of the San Luis Rey River and east of the Pacific Street Bridge at Harbor Drive South

**DEPUTY MAYOR SANCHEZ** moved approval [of Consent Calendar Items 4-11].

**COUNCILMEMBER KERN** seconded the motion.

**Motion was approved 5-0.**

#### **GENERAL ITEMS**

12. **City Council: Approval of a budget appropriation in the amount of \$2,573,616 in the FY 2010-11 Capital Improvement Project (CIP) budget for the remediation and restoration of the French Field Project located at the 1300 block of Lee Avenue, APNs 161-501-09 and 161-501-10**

**DAVID TOSCHAK**, Senior Civil Engineer, stated this is a recommendation for budget appropriation of the distribution of investigation and clean-up settlement cost agreements and the California Integrated Waste Management Board grant in the current 2010-11 fiscal year for the CIP budget.

The \$1,800,000 from the settlement agreement and the \$729,000 from the grant is the funding for this remediation and restoration of French Field. There are no additional funds being requested for this appropriation.

In 2002 the California Regional Water Quality Control Board ordered a Solid Waste Water Quality Control Assessment Test (SWAT) of the site due to past use as a burn dump. In 2005 use of the site was suspended while investigating potential health risks. Following assessment tests, the City and Department of Toxic Substances Control (DTSC) entered into a Voluntary Cleanup Agreement. Under this agreement, a Preliminary Endangerment Assessment was performed in 2008. The environmental studies indicated very low levels of burn ash and other materials that posed no serious threat to humans so this remediation plan that's being proposed is to cap the site with clean soils and no soils are being removed from the site.

In June of 2010, a design-build agreement was executed with Brickman Chargers, Inc., of San Diego along with a design team of Nowell & Associates to design-build the remediation and restoration of the site in 2 phases.

Remediation, which is Phase I, began with weed abatement in October, which was allowed by the DTSC. They are currently in a Removal Action Workplan (RAW) and the public review period ends on December 30<sup>th</sup>. We are expecting comments that our environmental group will have to respond to.

Restoration of the field is Phase II. The plans currently are to allow 2 larger fields. There are currently 3 fields provided and 2 of those fields are being increased to what Little League considers majors play, so they will be able to have tournaments on the site. The t-ball field in the middle is also being restored. Given some of the environmental constraints of the Loma Alta Creek, some of the habitat in the last couple of years had grown beyond its original borders and we had to make some adjustments to accommodate for that new habitat. We are also increasing Americans with Disabilities Act (ADA) access and parking (102 spaces), as well as emergency access to the site.

Projected costs indicate there aren't sufficient funds to restore the ball field lighting and the concession/restroom stand. Approximately \$300,000 remains after the Phase I and Phase II completion of the project.

He wanted to clarify that there was a newspaper article on December 19<sup>th</sup> that stated that the ball field would be ready for summer, which was his error. The ball field should be expected for play sometime next year with project completion toward the end of this year. Work will resume, pending approval of the final RAW, which will hopefully be approved after the review period and answering of comments by the DTSC. We expect work with the field operations beginning in mid-January.

**CITY ATTORNEY MULLEN** clarified that the City has already approved a settlement agreement that resolves all of the litigation that was involved in this project and defines how much each of the parties will be contributing toward the project. Council has also approved a contract for the construction of the project. This action is catching up the funds and allocating those funds towards the payment of the contract.

#### Public input

**ALAN LEWELLEN**, 1628 Arabian Way, represents Vista American Little League as one of the Board members and appreciates Council moving forward with this project. He would appreciate Phase I and Phase II being completed as quickly as possible to enable play on the ball field.

#### Public input concluded

**DEPUTY MAYOR SANCHEZ moved** that the City Council approve a budget appropriation in the amount of \$2,573,616 in the fiscal year 2010-11 CIP budget for the remediation and restoration of the French Field project located at the 1300 block of Lee

Avenue, APNs 161-501-09 and 161-501-10.

**COUNCILMEMBER FELLER** seconded the motion.

**DEPUTY MAYOR SANCHEZ** thanked staff for working so aggressively on this. The public safety of the kids was number 1. Council feels very good about making sure that we have fields for our kids to play on.

**COUNCILMEMBER FELLER** asked how much ground the habitat that encroached ate up.

**MR. TOSCHAK** responded from the surveys that were performed before we started the weed abatement, we lost about 50 feet. The survey revealed that even though there are some asphalt areas in the area where parking used to be behind the ball fields, actually some of the species there were increased because the trees grew larger over the last 6 years. With the reconfiguration of the parking lot, pushing it back a little bit, we could actually pull the ball fields in and spread them out a little bit away from the river.

**MAYOR WOOD** stated Council does realize that Vista Little League is generally made up of Oceanside residents. This is a good thing for everybody. This was a tragedy for everybody when it happened and there was a delay in cleaning it up. Now we can move forward with some good fields. Also, we got a big grant from the State Waste Management of about \$700,000 and that should be noted.

**Motion was approved 5-0.**

#### **CITY COUNCIL REPORTS**

15. **Mayor Jim Wood**

**MAYOR WOOD** wished everyone happy holidays. Oceanside received \$369,000 from a CalGRIP grant. This grant will allow Oceanside Police Department (OPD) officers to assist in gang injunctions, enforcement and probation sweeps in Oceanside.

He requested the meeting be closed tonight in honor of the men and women of our Armed Forces and their family and friends.

16. **Deputy Mayor Esther Sanchez**

**DEPUTY MAYOR SANCHEZ** wished everyone a happy holiday. She attended the Coastal Commission meeting last week where elections were held and she was elected Vice Chair for the Commission.

17. **Councilmember Gary Felien**

**COUNCILMEMBER FELIEN** wished everyone a happy holiday. He attended the Filipino/American Annual Ball and Officer's Installation.

18. **Councilmember Jack Feller**

**COUNCILMEMBER FELLER** attended the Senior Citizen's Ball. St. John's Missionary Baptist Church had a gala celebration. The Martin Luther King birthday celebration is also the time we honor the civic award winner for our community, which is coming up on the 15<sup>th</sup> of January. The Community Prayer Breakfast will be on January 17<sup>th</sup> at MiraCosta College.

Mary Lou Carpenter passed away last Thursday. Patricia Cope, our Utilities Commissioner, also passed away.

He wished everyone happy holidays.

19. **Councilmember Jerry Kern**

**COUNCILMEMBER KERN** also acknowledged the loss of Patricia Cope and Mary Lou Carpenter. He wished everyone happy holidays.

Mayor Wood determined to hear Items 22 and 23 at this time.

**INTRODUCTION AND ADOPTION OF ORDINANCES**

The following items are ordinances for introduction or adoption by the City Council/HDB/CDC. Ordinances are laws of the City of Oceanside and require introduction and adoption at two separate City Council meetings (urgency ordinances are an exception, and may be introduced and adopted at one meeting as an emergency measure). The City Council/HDB/CDC has adopted a policy that it is sufficient to read the title of ordinances at the time of introduction and adoption, and that full reading of ordinances may be waived. After the City Attorney has read the titles, the City Council/HDB/CDC may introduce or adopt the ordinances below in a single vote. There will be no discussion of the items unless requested by members of the City Council/HDB/CDC or the public through submittal of a Request to Speak form prior to the commencement of this agenda item.

22. **City Council: Adoption of an ordinance of the City of Oceanside amending Oceanside City Code, Chapter 29, establishing sewer user rate increases** (introduced 12/8/10, 3-2 vote, Wood and Sanchez–no)

After reading the title of the ordinance, **COUNCILMEMBER KERN** moved adoption [of **Ordinance No. 10-OR0900-1**, "...amending Oceanside City Code, Chapter 29, establishing sewer user rate increases"].

**COUNCILMEMBER FELLER** seconded the motion.

Public input

**JIMMY KNOTT**, 127 Sherri Lane, urged Council not to pass this because after the last meeting a reporter allegedly uncovered benefits that San Diego County Water Authority (SDCWA) paid to present and past employees without disclosing them. He feels it is not fair to our rate payers that these rates may be based on false criteria.

Public input concluded

**COUNCILMEMBER FELLER** asked how much money it costs us every month if we do not approve this.

**CARI DALE**, Water Utilities Director, doesn't have the figure off the top of her head but can say it is several hundred thousand dollars for every month of delay. Regarding the article that Mr. Knott referred to that was in the paper recently, the benefits that were disclosed in that article were going to special water district directors. It did not affect anyone serving the Utilities Commission for Oceanside, nor for those directors for the SDCWA. That's not a fee or cost that we're incurring by our rate payers.

**Motion was approved 3-2;** Mayor Wood and Deputy Mayor Sanchez – no.

23. **City Council: Adoption of an ordinance of the City of Oceanside amending Oceanside City Code, Chapter 37, establishing water user rate and external water provider charge increases** (introduced 12/8/10, 3-2 vote, Wood and Sanchez–no)

After reading the title of the ordinance, **COUNCILMEMBER KERN** moved adoption [of **Ordinance No. 10-OR0901-1**, "...amending Oceanside City Code, Chapter 37, establishing water user rate and external water provider charge increases"].

**COUNCILMEMBER FELLER** seconded the motion.

**Motion was approved 3-2;** Mayor Wood and Deputy Mayor Sanchez – no.

[Recess was held from 4:30 to 5:30 PM]

**5:30 PM – ROLL CALL**

Mayor Wood reconvened the meeting at 5:31 PM with all Councilmembers present. Also present were City Clerk Wayne, City Manager Weiss and City Attorney Mullen.

**INVOCATION** – Pastor Carl Souza

**PLEDGE OF ALLEGIANCE** – Frolander family

**PROCLAMATIONS AND PRESENTATIONS** – None

**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

20. **Communications from the public regarding items not on this agenda** – None

[Recess was held from 5:42 PM to 6:00 PM]

**6:00 P.M. – PUBLIC HEARING ITEMS**

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

21. **CDC: Adoption of a resolution approving Regular Coastal Permit (RRP-10-00004) for the addition of a 364-square-foot balcony and spiral staircase to an existing single-family residence located at 202 South Pacific Street – Applicant: Sharon Sheafe**

- A) Chairman opens public hearing – hearing was opened.
- B) Chairman requests disclosure of Commissioner and constituent contacts and correspondence – Mayor Wood and Councilmember Kern reported contact with staff; Deputy Mayor Sanchez and Councilmember Felien reported no contact; Councilmember Feller reported contact with staff and site visit.
- C) Secretary presents correspondence and/or petitions – none.
- D) Testimony, beginning with:

**SHAN BABICK**, Associate Planner, stated this project consists of the addition of a 364-square-foot balcony and exterior spiral stairway to an existing single-family home located at 202 South Pacific Street. Computer graphics were used to show the site and proposed project.

The balcony will be situated entirely above the enclosed front porch, located on the southwestern portion of the existing site. The height of the balcony is 17' to the top of the rail. The proposed spiral staircase is located south. There is no access to the

balcony from the interior of the residence and only accessed from the exterior spiral staircase. The balcony design has glass that is consistent with the window patterns of the existing unit.

We believe the project is consistent with the Redevelopment Plan and encourages the rehabilitation of some of the older units. There is no increase in the structure itself. The reason this is brought before CDC is that it's in the Coastal area, which is the first 300 feet east of the beach, and any improvements or additions require a Coastal Permit and, therefore, a public hearing. It meets all of the Coastal requirements; it does not block any views because it's located on an already enclosed porch.

The Redevelopment Advisory Committee (RAC) reviewed the project on December 1, 2010, and approved it unanimously. Staff and the RAC would recommend that the Commission adopt the resolution approving the Regular Coastal Permit (RRP-10-00004) for the addition of a 364-square-foot balcony and spiral staircase addition to the existing single-family home located 202 South Pacific Street.

The applicant's representative, Shuithya Yong, has nothing to add.

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

**COUNCILMEMBER FELLER** moved approval [and adoption of **Resolution No. 10-R0899-3**, "...approving a Regular Coastal Permit for improvements to an existing single-family residence located at 202 South Pacific Street – Sheafe Project - Applicant: Sharon Sheafe"]

**COUNCILMEMBER KERN** seconded the motion. He asked if they are actually adding out to the front of the house which is the patio area so they are not touching the structure at all. Are they building a patio over the existing flat roof?

**MR. BABICK** responded that's correct. They are not adding or extending any further westward than what is in the graphic shown.

**COUNCILMEMBER KERN** asked if the only other thing that's out of conformance is the 8 foot corner side; is that the spiral staircase side.

**MR. BABICK** responded yes. The structure was built around 1889 and that's how they built it back then. That's the only thing that is not consistent with the current Zoning Ordinance.

**DEPUTY MAYOR SANCHEZ** asked if the balcony is glass and see through.

**MR. BABICK** responded yes, it is all glass and it is consistent with the window patterns shown in the graphic. It will complement the window patterns in the existing residence. The spiral staircase will be open so you can see through it.

**Motion was approved 5-0.**

**Item continued from December 21, 2010, workshop**

**MAYOR WOOD** inquired as to whether the item continued from yesterday would be heard now and televised or off camera as yesterday, or call a recess until 6:30 PM to hear the item at that time.

**CITY ATTORNEY MULLEN** responded the motion approved yesterday was a motion to table and what that means is that there was a main motion pending on the floor and the motion to table suspended discussion on that item. We are required, under the City Code, to bring that up at the next regularly scheduled meeting, which is

this meeting. The City Clerk announced that the expectation was it would be at 6:30 PM, but the Mayor has, within his discretion as Chair, the ability to move that up to now. There is no legal requirement to wait until 6:30. We did call the only speaker who showed up earlier and he is here.

24. **City Treasurer applicant interviews and appointment to fill the unexpired term ending December 2012.**

**CITY CLERK WAYNE** stated Council continued this item to today. There was a motion pending on the floor by Councilmember Kern, seconded by Councilmember Feller, to appoint Larry Hatter to fill the position of Treasurer. The motion was tabled for further information and that's why it's here today.

**MAYOR WOOD** asked if Councilmember Felien had any questions or comments as he was the one who asked for more time.

**COUNCILMEMBER KERN** thinks we should just vote now and see what happens.

**DEPUTY MAYOR SANCHEZ** stated the reason she is voting no is that she still has concerns as voiced yesterday. There are a lot of unanswered questions about at what point was there notice that there was a business that was taking advantage of our residents; how long did that go on, etc. It's akin to what we handle on a day-to-day having to do with landlords, absentee landlords, who we hold responsible for activities that are being held on their property. That and the fact that the business left Oceanside for Carlsbad are concerns she has as to whether or not this reflects good business practices.

**COUNCILMEMBER FELIEN** is frustrated with this issue. He thinks it is besmirching Mr. Hatter unfairly because there is a limited knowledge by a landlord of what the tenant is doing at any given time. Every contract between a landlord and a tenant has a provision of quiet enjoyment of the premises. Unless there is some assertion that Mr. Hatter was more than a landlord, it is grossly unfair to have a private business transaction be held against him in this way, as well as the other issue of the business moving out of the City. Every private citizen has the right to maximize their private income. Sometimes those decisions work and sometimes they don't. That's the free market. Mr. Hatter's private activities that did no harm to the City are not a legitimate issue of discussion for this appointment.

**COUNCILMEMBER FELLER** thinks it's totally inappropriate. The question that was asked by Deputy Mayor Sanchez was directed at Mr. Hatter, not for 8 other candidates. A person is entitled to rent his property to whoever he wants to within the law and if that tenant breaks the law, it's no different than any other lawbreaker anywhere. You can't know who's going to break the law ahead of time. That question was inappropriate in this forum and we need to move on and vote this issue. He **called for the question.**

**COUNCILMEMBER KERN** seconded the call.

**DEPUTY MAYOR SANCHEZ** requested a point of order. Councilmember Feller said something that was incorrect. She asked each candidate the same question and it had to do with the huge responsibility to be the Treasurer for Oceanside. The question was to give each person the opportunity to describe a bad business decision that they may have made that Council probably would have been told about. Mr. Hatter's decision was on the front page of the local paper and we all knew about it. Some of the other candidates responded with very good answers. Mr. Hatter did not think he had ever made a bad decision in his life.

**COUNCILMEMBER FELLER** stated if that is the case than nobody in this room

has ever made a bad decision. This is totally inappropriate.

**MAYOR WOOD** stated we need to just vote on Councilmember Kern's motion to appoint Mr. Hatter. The call for the question was voided by Councilmember Feller talking past the call.

Council concurred to void the call and vote on the motion.

**Motion (on the floor from yesterday) to appoint Mr. Hatter as Treasurer failed 2-3;** Mayor Wood, Deputy Mayor Sanchez and Councilmember Felien – no.

**MAYOR WOOD** would like to make a motion. We had great candidates. There were several other people who were higher up on the list. He was impressed with the application and the résumé of Gary Ernst. He **moved** to appoint Gary Ernst to the position of Treasurer.

**COUNCILMEMBER FELIEN seconded** the motion.

**COUNCILMEMBER KERN** stated we had a lot of good candidates. He is very disappointed in Deputy Mayor Sanchez doing a character assassination of Mr. Hatter. When somebody is willing to put their name forward and stand before Council and to through questioning, they shouldn't be attacked.

**MAYOR WOOD** has a hard time blocking Councilmembers who represent the citizens from speaking up. As for character assassination, it's hard to bring up negative comments to each other because that violates the Brown Act so we do it in an open meeting where you have the candidate and his family sitting there. The system is not very proper and he's not comfortable with it.

He thanked everybody who applied. We had great candidates and the ones who didn't get this position should apply for other things because they are extremely qualified.

**DEPUTY MAYOR SANCHEZ** requested a point of personal privilege. She is embarrassed by the statements made by Councilmember Kern. It is sometimes difficult to be a Councilmember, and this is a quasi-personnel proceeding but its open to the public, publicly noticed and people are able to come in. If we have some information that could negatively impact the office of Treasurer – we agreed to appoint and not have it go out to an election – we have a responsibility to our residents to be diligent and to sometimes say things that perhaps would not be nice but are factual. We have some trying times coming up and we need to not bicker and cast stones. We need to be able to say what's on our minds and, hopefully, with discussion we will come up with the best decision.

**COUNCILMEMBER FELIEN** understands some of the sensitivities on the issue of Mr. Hatter, but our other prospective candidates are getting lost in the shuffle. He is voting in favor of Mr. Ernst because of the positive qualities he brings to the office and because he's seen Mr. Ernst's work first-hand for 2 years on the Citizen's Advisory Committee for the Treasurer's office and has been very impressed with the contribution he's made. He believes Mr. Ernst is the candidate who best provides a seamless transition to new leadership. He knows everything that is going on in the office and will provide instant stability to continue on the good work that he hopes to have made a contribution to himself while serving as Treasurer. Mr. Ernst brings excellent academic and professional work experience to the office and he would be an excellent choice.

He did not have the privilege of working as closely with Mr. Hatter on any issue, but Mr. Hatter has excellent friends in the community and he has received several phone calls and emails from some prominent individuals who rose to Mr. Hatter's defense. The controversies did not influence his decision and it was a tough call for him to make.

December 22, 2010

Joint Meeting Minutes  
Council, HDB and CDC

**COUNCILMEMBER FELLER** stated we sit up here on the dais and there are people who pick on us from the public, but that never gives us the right to attack anybody or their character. To attack somebody publicly from this position is absolutely a sin.

**Motion was approved 5-0.**

**ADJOURNMENT**

Following a moment of silence for those lost in the military, their families, and local citizens, including Mary Lou Carpenter and Patricia Cope, **MAYOR WOOD** adjourned to a workshop on Wednesday, January 5, 2011, at 3:00 p.m. This joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors was adjourned at 6:28 PM on December 22, 2010.

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

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Barbara Riegel Wayne  
City Clerk, City of Oceanside



California

# CITY OF OCEANSIDE

## MAYOR AND COUNCIL WORKSHOP

JANUARY 5, 2011

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

**Mayor**

Jim Wood

**Deputy Mayor**

Esther Sanchez

**Councilmembers**

Jack Feller  
Jerome M. Kern  
Gary Felien

**City Clerk**

Barbara Riegel Wayne

**Treasurer**

Gary Ernst

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**City Manager**

Peter Weiss

**City Attorney**

John Mullen

The adjourned meeting of the Oceanside City Council was called to order at 3:00 PM, Wednesday, January 5, 2011.

**ROLL CALL**

Present were Mayor Jim Wood, Deputy Mayor Esther Sanchez and Councilmembers Jack Feller, Gary Felien and Jerry Kern. Also present was City Clerk Barbara Riegel Wayne, City Manager Peter Weiss and City Attorney John Mullen. Councilmember Kern led the Pledge of Allegiance.

**WORKSHOP ITEMS**

1. **Request by Councilmember Kern for Council consideration of the 2010-2011 Council nominations to regional boards and commissions, including SANDAG and NCTD**

**COUNCILMEMBER KERN** sent everyone a copy of what his suggestions are for these appointments. He didn't deal with the internal ones and thinks that will be the Mayor's item on the second portion.

His first suggestion was to have himself and Councilmember Feller for Oceanside Unified School District (OUSD) and Vista Unified School District (VUSD) because of their ties to the school districts. He doesn't know if there have been any meetings with the school districts since the beginning of the year, but when he was liaison there was usually one meeting at the beginning of the year and one towards the end of the year. This would reflect their personal talents and what the voters wanted in November. The idea is to spread the assignments equally.

Another suggestion was the SANDAG Shoreline Preservation. Councilmember Sanchez has had difficulty making those meetings – she missed 3 of the last 4 – so he was going to switch those around so there would be somebody present at those meetings because it's becoming more of an important issue.

Regarding the Washington D.C. appropriation visit and legislative delegates,

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

having Councilmember Feller on there is probably more reflective of what's happening in D.C. today. There is a big shift to the Republicans and that reflects what happened here and nationwide in November.

Regarding the SANDAG Board, 3 out of the last 4 years we've had no appointments to the voting Board and we need to emphasize that we need representation down at SANDAG. We have the Interstate 5 widening coming up, which is going to be a critical issue, and there are other critical planning and transportation issues coming up. He doesn't think we're going to have a spot on Transportation this time because Matt Hall is the Transportation Chair at SANDAG this time, but he would like to make sure at least somebody gets appointed to the Planning Board. We need to have regional representation for Oceanside. We are the largest city in North County and right now we have no positions on Transportation, Planning or Borders, etc.

His change to North County Transit District (NCTD) was to have Deputy Mayor Sanchez there because it's in town and she probably has the ability to make the meetings rather than going all the way to San Diego.

His idea was to spread this around and be more collaborative in our efforts. That's one of the messages that was taken out of the election in November.

**COUNCILMEMBER FELLER** thinks the committees at SANDAG are very important. Even if we're not the primary on SANDAG, the alternate can attend. We potentially have 2 positions for the 10 other Boards; Public Safety, Borders, Planning, etc., and we also have the Executive Committee that has a potential alternate. There are 2 positions per Board and there are 5 of them. It's important that we have those positions. When you are handing over the responsibility to look out for Oceanside with 180,000 people, you have to consider who you're giving it to. Oceanside is larger than all 4 cities in our region combined or within a few thousand people. When you've got over 180,000 people and have no say on any of those committees, it's important to address that.

Regarding NCTD, he thinks that's another issue where a lot of the work is done. He is willing to go wherever the Mayor appoints him. He also thinks the San Diego County Water Authority (SDCWA) should be addressed by an elected official. That person should be named from this Council. He hopes Council will address that soon.

Regarding the school districts, he is on one of the high school foundations and has been involved with a lot of the schools, so he'd be willing to be part of those committees as well.

In Washington D.C. he has a very close tie to the actual Commanding General of the Army Corps of Engineers and would be willing to represent the City with that gentleman whenever possible. We need representation as a City.

Another issue coming up is the Airport Authority has to be named. It goes back and forth between Oceanside and Carlsbad and it needs to go back to Oceanside. We should probably have a representative from this Council on that Board as well.

**COUNCILMEMBER FELIEN** is happy to go wherever any compromise puts him, having the least seniority here. The one area of particular concern he has is with the SANDAG Board and he wants to make sure we have representatives on that Board and that we are going to fight to get every possible dollar to support projects in Oceanside. It is imperative that whoever the representative is on that Board uses their appointment authority to appoint Oceanside representatives to represent Oceanside on the subcommittees so we get the maximum influence possible. Oceanside has been paying a lot of taxes and we haven't gotten as much of a return as we should have. He wants representatives to support the projects that the majority of the people in the City

support, including the Melrose extension, the Rancho del Oro interchange and the I-5 widening.

**MAYOR WOOD** stated Oceanside is a very large city; we're the largest in North County. Oceanside constituents decided a long time ago that they would have an appointed Mayor and not just a rotation Mayor. As we change we have more power within the region. He is here to defend the Mayor's position; past, present and future. Previous Mayors fought hard to keep the powers that were designated to the Mayor to appoint with the approval of the Council. They even went so far as to go to the Attorney General to confirm those powers to appoint and he's following through on that to make sure future Mayors have that as well. That is his main concern.

We see here that this Council wants to pull the appointments of the previous and former voting majority. We already appointed these positions. He appointed them himself and they were approved by the majority of the Council. When the email came out that this was going to be on the agenda, it told him that they wanted to remove those people and go in another direction, taking the power away from the Mayor's position to appoint those. He is concerned about that. It's a long-standing practice that the Mayor does that, according to some legal opinions and also opinions of SANDAG legal advisors.

Now there is a little more of a compromise, saying they would hope the Mayor would listen about these appointments. That's a big difference and he would like to listen to them regarding some of these. The original goal was to take the power away from the Mayor to appoint.

When he appointed those people in November, that should have been standing, but we had an election in November and Mr. Lowery was removed from the Council. He decided to give every position that Mr. Lowery had held to Councilmember Felien. He made the previous appointments because he thought good people were in them. As for some of the other ones that were brought up, SANDAG seems to be the most important. He, as the Mayor with a recommendation in the past from most of the Councilmembers, should be the representative of SANDAG. He is in that position and he appointed himself to it. He also appointed the Deputy Mayor as Alternate 1, which is understandable. The 3<sup>rd</sup> position was held by Mr. Lowery and he gave it to Councilmember Felien, although that has to be approved and a stipend perhaps waived.

As for NCTD, he moved up to fill the position that Mr. Lowery had and put Councilmember Felien as the back-up.

The guidelines of the City say the Mayor will appoint, or his representative, to go to Washington D.C. to see the Congressmen and Senators that represent us and try to get money. We do it every year and in the 8 years he's been there he's brought money back. He takes staff with him and Councilmembers are also welcome to go along if they pay for it from their own budgets.

There is no doubt in his mind that Senators Feinstein and Boxer, local democrats, are certainly going to be the power brokers back east at that time. Certainly we'd want someone like Councilmember Sanchez, who is very strong in that party, to be our representative. Mr. Issa is also powerful and he deals with him a lot.

As to some of the other appointments, he did nothing except remove Mr. Lowery and give all those to Councilmember Felien. He is willing to listen to people and get their input, but he's already picked some of those positions and doesn't see why he would change his mind.

As to the SANDAG Board, the Mayor and the Deputy Mayor are there and Councilmember Felien is there if he gets approved. As to the subcommittees, the region

is broken up into certain areas. We're the Northwest Coastal Cities; Oceanside, Carlsbad, Encinitas, Del Mar, Solana Beach, etc., all along the coast. That's a voting situation where we select names for the subcommittees and they report back to the main Board, which he sits on. If you look at the people who represent the region, most of those are Mayors, if not their designees. It's important at SANDAG to have somebody that gets along with everybody and deals with the other Mayors and we have that. He has appointed people to those subcommittees in the past; however, we did have what was probably a conflict of interest where certain things took place that made him think that person didn't represent the City or the City's best interests and he removed and replaced them.

When you're down there dealing with all of the other cities, we have a power vote; in other words Oceanside actually has 6 votes because we're a big city. The County and San Diego City have a lot of votes and when those 2 get together it's almost impossible to overturn them by power votes. San Diego south is a little stronger than San Diego north and he's trying to represent the entire North County, as well as the City. We are constantly told to think regionally and not just City. When we do things for smaller cities who only have one vote, they tend to support us later on. It's a big picture scheme. He tries to do what is best for the City in our representation and it's been good.

He is willing to review these changes and see if he wants to make any changes and come back to the next Council meeting and do any. He wants Councilmembers to know that when they do things he feels are not in the best interests of the City or behind his back, and then they want to be appointed to a subcommittee, etc. they probably won't get picked for some of those positions.

He pulled this last item to this date to talk about it at this workshop. He can change things on here. You can give me your written comments about who could go where and he may or may not go along with it because he's already made some of those appointments. If Councilmembers think someone other than Mr. Felien should have these spots than give him your written comments/suggestions and he will try to change those by the next meeting if he thinks it's the best thing for the City.

Regarding the Airport Authority, he was originally picked to go on the Airport Authority or to pick that position back when Terry Johnson was Mayor. The last day of his appointment as Mayor, Mr. Johnson picked somebody else. He wasn't happy but he went along with it. The last time around Carlsbad had a pick and they came to him and he works regionally and they asked him to put somebody on that because they had the biggest airport. They aren't the biggest or the most powerful city but they certainly have the biggest airport. He went along with that at their request and put somebody they wanted on. Now it's our time and he has 3 votes because he has the support of Del Mar and Solana Beach and he has a power vote. Those things pay off in the long run. Carlsbad has asked him again to support someone for the Regional Airport Authority and he said he would think about it. Sometimes there is more to the story than there seems to be, but it's a give and take to work regionally and not just for the City.

#### Public input

**JIMMY KNOTT**, 127 Sherri Lane, stated instead of approaching this politically, it should be approached like a job where you apply for it and put your talents and strengths out there. This will show the public that the best person is representing us on those boards. For example, Councilmember Kern has the most strength in the water authority area. He should at least be appointed as alternate.

He requested that just like we post salaries on the website, we should post income and benefits from these regional boards. He also believes the Mayor should float between the boards and not be a permanent member of any of them. Then when

he shows up he would take over from the Councilmember as the primary.

Public input concluded

**COUNCILMEMBER KERN** clarified that it's not the Mayor's decision who best represents the City; it's the voters and they made that clear in November by the margin of victory for himself and Councilmember Felien.

His suggestions have been sitting with the Mayor for at least a couple of weeks, but the Mayor doesn't want to comment on them today. The Mayor, in the last couple of years, has felt that he didn't need to consult with the Council on anything. We need to start working in a collaborative manner. That is the one thing that has come out of the electorate across the board is that we need to start working more collaboratively.

These are his suggestions so we can all have a job and spread them out and start working more collaboratively. We need to go through these and if there's a problem, maybe we can correct them. He believes the other Councilmembers all want to start working more collaboratively as well. We need to start working better as a group.

After talking with the City Attorney, it is his understanding that the SANDAG and NCTD Boards are Council appointments; they come from the body not the Mayor's confirmation. In past practices they removed Dick Lyon and Larry Bagley. All of these things happened in past practices, so we've already established a precedent of the Council changing SANDAG and NCTD Board members. He doesn't want to go down that road. He wants today to figure out what we're going to do and how we're going to do it as a group; coming to a consensus of how we best represent Oceanside, not only to the regional boards but also to the League of California Cities and the school districts. It behooves us right now to talk these things through and not bring them back later.

Within the next week or so SANDAG is going to meet and pick those Board assignments, before the next Council meeting, so we should come to some conclusion today because of those committee assignments.

**MAYOR WOOD** agrees the Council as a whole needs to work together. We're non-partisan at this level but it's blatantly obvious that non-partisan doesn't play into a lot of this. All Councilmembers have the right to submit their suggestions for these appointments. When you put an item on the agenda that says you're going to remove his people that he's appointed and appoint your people to these regional boards without talking to him about it, it's not fair to say that he hasn't listened and that he doesn't work with you. You are trying to circumvent the Mayor's authority.

He feels he picked people who are most appropriate for the appointments and positions. In the past, every time he appointed people who he thought should go on committees or commissions, on many occasions this Council have turned them down. He has to get the approval of the Council and Council hasn't approved a lot of those.

He went to SANDAG and their legal opinion is that the Mayor makes the appointments. He questioned if that was the City Attorney's opinion of SANDAG.

**CITY ATTORNEY MULLEN** stated yes, with regard to SANDAG that's correct. Section 40605 of the Government Code provides that the Mayor makes the appointment to boards and commissions. There is a 1998 Dan Lundgren Attorney General opinion saying that that extends to regional boards and commissions unless otherwise provided by statute. SANDAG's statute, which we've all discussed, is somewhat ambiguous and open to interpretation. As Council knows, there is a legislative counsel opinion that indicates it's a Council appointment; however that opinion does not cite Section 40605, nor does it reference the Attorney General opinion or Council Policy 110, which states

that it's a Mayoral appointment. He does believe it's open to interpretation. He communicated with SANDAG's counsel who has indicated that she was one of the drafters of that Section and she indicated that they did not intend to change the City's appointment process for SANDAG.

For NCTD the statute does say it's a City Council appointment.

He reminded Council that we do have a Fair Political Practices Commission (FPPC) advice letter that indicates Councilmembers should not be participating in a vote on a regional board or commission which carries a stipend unless you agree to waive that stipend.

**MAYOR WOOD** stated his intent was to look at this review and get any other input, and come back to a future Council meeting and make his appointments and let them be voted on.

**COUNCILMEMBER FELIEN** asked if we are discussing Items 1 and 2 interchangeably or are we discussing them separately.

**MAYOR WOOD** responded we could discuss them interchangeably.

**COUNCILMEMBER FELIEN** stated when going down Mayor Wood's list, all of the primary appointments are mostly Deputy Mayor Sanchez and the Mayor and he doesn't believe that reflects the current political temperament of the community based on the election results. He is more than happy to be a team player and let everyone contribute with their strengths. He hopes we can resolve appointments or have some consideration for the boards that are meeting next week so we aren't missing representation or having representation that won't be there in the near future if we change our minds.

He asked the Mayor to be thinking about the SANDAG allocation and he would suggest that the primary and the alternate should include either Councilmember Kern or Councilmember Feller in one of those positions. He would like to address any of the appointments for boards that are going to be meeting or where an appointment today will have an effect that can't be put off until January 26<sup>th</sup>, which is our next meeting. Having Mayor Wood or Deputy Mayor Sanchez as the primary on every single regional appointment doesn't seem to fairly reflect the opinion of the community.

**DEPUTY MAYOR SANCHEZ** stated we have traditionally had the Mayor bring forward appointments. They appear on the agenda as items that are directly related to the power and/or the authority of the Mayor. The Mayor is the person on the Council who appoints with ratification by a vote of the Council.

This is unusual to have a workshop with respect to this. The previous process was for each of us to go to or email the Mayor with our requests to be considered for certain appointments. It is unfortunate that in the last 2 years we have had a Council unwilling to agree with the Mayor's recommendations and that we have had such a fall-out. She believes the Mayor carries a popularity with the community.

In terms of qualifications she has been on the Council for 10 years, is an attorney who has practiced for over 20 years, has a background in urban studies and has attended conferences and meetings to insure that she maintains a level of knowledge and expertise to be able to do the job that we're all asked to do to the best of our abilities. She looks forward to the Mayor bringing forward his appointments and recommendations to be voted on January 26<sup>th</sup>.

In response to Councilmember Felien, **COUNCILMEMBER KERN** stated within the next 2 weeks the cities of North County Coastal will get together and their

representatives will pick who they will select to be on those internal committees - transportation, borders, etc. If we bring this back 2 weeks from now, we're stuck and we can't make the change. He is of the opinion that these are Council appointments. He's ready to move forward today to make the Council appointments to these boards and commissions. If there is some ambiguity, we can sort that out later, but we should do these now in order that we can move forward and get those appointments on those commissions.

**MAYOR WOOD** stated that's not going to be acceptable; it's not in the guidelines of the rules and regulations of the City and if you wish you can take it to the Attorney General's office.

**COUNCILMEMBER KERN** responded this is what is agendized today.

**MAYOR WOOD** adjourned the meeting because it is not legal.

[Mayor Wood and Deputy Mayor Sanchez left the dais at 3:49 PM]

**COUNCILMEMBER KERN** stated we still have a quorum.

**CITY ATTORNEY MULLEN** responded we have an adjournment of the meeting.

**COUNCILMEMBER KERN** asked if we still have a quorum, can we continue the meeting with that quorum.

**CITY ATTORNEY MULLEN** responded you'd have to protest the action of the adjournment.

**COUNCILMEMBER KERN moved** to protest the action of the Chairman and continue with the meeting with a quorum.

**COUNCILMEMBER FELIEN seconded** the motion.

**COUNCILMEMBER FELLER** stated this is exactly what he feels we shouldn't be doing. He believes we can ask SANDAG to make the 5 regional cities delay their vote on the internal committees. He wanted to have more discussion here because there are things that he thinks need to change. When Melba Bishop took Larry Bagley off of SANDAG in the 90's, that was a bad thing and that Council took Dick Lyon out of what would have been the leadership role of SANDAG to the Transportation Committee. We just keep doing this. Council took him out of Chairmanship of NCTD and the leadership in SANDAG. Where Jerome Stock sits as Chairman today, I would have been in that mix right now had he remained on SANDAG.

Everything is wrong about this and we need to ask the people in the other cities to please delay their appointments and have the nomination done on the 25<sup>th</sup> so we can fill these spots. He believes we should try for the compromise and offer our suggestions. He thinks the Mayor should be the primary on SANDAG, but we also need representation on those committees. One of us should be a representative at NCTD. Deputy Mayor Sanchez is very busy and travels all over the State.

Speaking to this motion, this is not the right thing to do at this time. He doesn't feel like we should be going forward. We're doing exactly what people said we were going to do, which is to not get along. He doesn't support this now.

**COUNCILMEMBER FELIEN** asked the City Attorney if the policy of the City, as with Robert's Rules, is that the head of a meeting makes a motion to adjourn, gets a second and then there is a vote.

**CITY ATTORNEY MULLEN** responded no. Council rules provide that the Mayor can adjourn the meeting in the absence of a protest. The Mayor has adjourned the meeting and there's been a protest. There was a motion to protest that decision and it has a second so Council is capable of voting on that now. The alternative, if this passes, would be to move to continue the item to a date certain.

**COUNCILMEMBER FELIEN** feels that he's made his effort to try and reach out and come to a compromise and he doesn't think that it's being reciprocated. If the Mayor wants to assert his appointment authority, then we can assert the authority that the majority gets to run a meeting. He will support the motion to at least establish that fact. Then we can discuss Councilmember Feller's issue on whether or not it's appropriate to make a vote.

**Motion (to protest the adjournment and continue the meeting) was approved 2-1;** Councilmember Feller – no.

**COUNCILMEMBER KERN** stated the next thing is Councilmember Feller's suggestion that we actually delay the vote on the SANDAG appointments and request the other 4 cities delay their appointments to the SANDAG Board. He's not sure of the timing of that, but he is willing to do that.

**COUNCILMEMBER FELLER** doesn't know when the SANDAG annual retreat is, but it's probably the next week after that appointment, and if there is in position a meeting that would take place January 26<sup>th</sup> with the other regional people, then at that point he would implore the Mayor to move forward with these. He thinks the Mayor should be the primary on SANDAG and that one of us should be the first alternate, Councilmember Kern or Feller.

**COUNCILMEMBER KERN** is agreeable to that. He doesn't care if the Mayor is the primary. We just have to get a guarantee that we will have seats on those boards.

[Mayor Wood and Deputy Mayor Sanchez returned to the dais at 3:56 PM]

**COUNCILMEMBER FELLER** feels that way as well and also thinks the NCTD should happen. He will forward his comments to the Mayor within a couple of days. The Mayor said he would consider them.

**CITY MANAGER WEISS** recommended that Council then continue this item to January 26<sup>th</sup>.

**COUNCILMEMBER KERN** asked if it is just this item or Item 2 as well.

**CITY ATTORNEY MULLEN** stated Item 2 is already brought up.

**COUNCILMEMBER FELLER** thinks we need to add that to the 26<sup>th</sup> as well because that's what he is going to bring up. He has information to pass out for that.

**COUNCILMEMBER FELIEN** asked if the Mayor is resuming his position as Chair or just here as an observer.

**MAYOR WOOD** is here for the 4:00 Closed Session report.

**COUNCILMEMBER FELIEN** suggested that we recess this meeting until after tonight's meeting to see if we can possibly resume in a spirit of compromise.

**COUNCILMEMBER KERN moved** to recess the workshop until the end of the Council meeting tonight in order to try and come to some conclusion.

**COUNCILMEMBER FELIEN** seconded the motion.

**Motion was approved 3-0**, Mayor Wood and Deputy Mayor Sanchez – not voting.

[Recess was held from 4:00 PM to 8:23 PM]

Mayor Wood reconvened the workshop with all Councilmembers present.

**MAYOR WOOD** stated he would defend the fact that the Mayor has the right to appoint, but from comments on the dais he will take this New Year stance and say he is willing to compromise on some of these issues.

He recommended approval of his attachment of 2010 Council nominations from the top to the bottom – City Harbor, CDC, advisory groups, regional boards and committees all the way down to regional boards and committees below SANDAG, etc. - he would still like to be able to present these appointments as it stands, with one change. That one change would be under SANDAG Board he'd like to remove, with her permission, Deputy Mayor Sanchez from that position and put Councilmember Feller in that spot. That would make the Mayor the primary, Councilmember Feller would be Alternate 1 and Alternate 2 would be Councilmember Felien, and with that change he **moved** approval of all appointments.

He will try to address the issues regarding subcommittees and members that will go for that in the City. That's certainly going to be up to all of those members but he would address the issues and concerns about representation by the City to the best of his abilities with that group. If he understands correctly, all the other appointments would remain the same.

Finally, we have to address whether nominees are going to waive their stipends in order to vote for this. That may not be a problem that they keep their stipends but it has to be addressed on an individual basis by those 2 gentlemen.

**COUNCILMEMBER KERN** seconded the motion. He does have one concern that Deputy Mayor Sanchez missed 3 of the last 4 Shoreline Preservation meetings without telling the alternate. He'd like to get a commitment from her that if she doesn't attend the meetings, she will tell the alternate so the alternate can attend and we have representation there.

**DEPUTY MAYOR SANCHEZ** responded the issue at SANDAG Shoreline Preservation was funding. We had no funding and no expectation of funding; therefore, we had no expectation – it is a working group. Oceanside would have been pulling out and she did not want to do that and bring despair to the other cities because we are very much needed. She did push on the Waste Management contract to try and get it resolved because she believed that once doing that we could then be full partners on Shoreline Preservation. She knew that staff was attending and she had been asked several times on a position and felt uncomfortable, but she knew how critical it was to the other cities. We are moving forward and she's been calling to find out when the next meeting is. The December meeting was cancelled so we're expecting to have a meeting in January and she expects to be at every meeting. If she cannot attend, she will notify the alternate.

**MAYOR WOOD** stated SANDAG is a powerful agency and might bring money our way; however, even they mentioned that their money is mainly on transportation and we all know who sits on Transportation and also who is the Executive person in the North County Coastal region, who is from Encinitas.

**CITY ATTORNEY MULLEN** recalled the way we've done this in the past is to take a motion on all of the appointments in front of Council except for the SANDAG Board and NCTD Board re stipends. We can separate those out now. When you get to the SANDAG Board, the person being voted on would not participate in the motion or the vote, unless they are willing to waive the stipend, in which case you could participate.

**COUNCILMEMBER FELLER** thinks the honorable thing for all Councilmembers to do is if we cannot attend any meeting and we have an alternate, let the alternate know. That's just normal respect for each other.

**MAYOR WOOD** thinks that's always a good thing to do. He hopes Council can all work together well in the future.

He called for a vote on all of his nominations, except for the NCTD Board and SANDAG Board - as changed to show the Alternate 1 as Councilmember Feller.

City/Harbor/CDC Advisory Group	Liaison
Arts Commission	Felien
Community Relations Commission	Feller
Economic Development Commission	Felien
Harbor & Beaches Advisory Committee	Sanchez
Housing Commission	Wood
Integrated Waste Commission	Sanchez
Library Board of Trustees	Felien
Manufactured Home Fair Practices Commission	Sanchez
Oceanside Historical Preservation Advisory Commission	Feller
Parks & Recreation Commission	Wood
Police & Fire Commission	Kern
Redevelopment Advisory Committee	Kern
Senior Citizens' Commission	Felien
Telecommunications Committee	Kern
Transportation Commission	Feller
Utilities Commission	Sanchez

Regional Boards and Committees	Primary	Alternate I	Alternate II
Buena Vista Lagoon JPC	Sanchez	Felien	-
City/OUSD/VUSD Committee	Sanchez	Felien	-
League of California Cities – Executive Committee	Sanchez	Feller	-
League of California Cities – Legislative Delegates (voting)	Wood	Sanchez	Felien
North County Dispatch – JPA/Fire	Wood	Felien	-
SANDAG – Shoreline Preservation Committee	Sanchez	Kern	-
Washington, DC Appropriation Visit – Legislative Delegates	Wood	Sanchez	-

<b>2010 – Deputy Mayor</b>	<b>Esther Sanchez</b>
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<b>Regional Boards and Committees</b>	<b>Primary</b>	<b>Alternate I</b>	<b>Alternate II</b>
SANDAG – Board	Wood	Feller	Felien
North County Transit District – Board	Wood	Felien	-
San Diego County Water Authority	Brian Boyle	-	-

**Motion approved 5-0.**

For the vote on **SANDAG** to confirm Mayor Wood’s continuing as the primary for SANDAG - **motion approved 4-0**; Mayor Wood abstained.

For the vote to appoint Councilmember Feller as Alternate 1 to SANDAG Board - **motion approved 4-0**; Councilmember Feller abstained.

For the vote to appoint Councilmember Felien as Alternate 2 to SANDAG Board - **motion approved 4-0**; Councilmember Felien abstained.

For the vote on **NCTD**, to confirm Mayor Wood’s continuation and Councilmember Felien as Alternate 1 - **motion approved 3-0**; Mayor Wood and Councilmember Felien abstained.

**COUNCILMEMBER FELLER** would like to bring up in the future the issues of Council liaison positions as well as streamlining the advisory groups in the future. We need to work on the economy so he will put an item on the agenda for January 26<sup>th</sup> regarding those.

**CITY MANAGER WEISS** stated regarding the article in the recent *Western Cities* magazine, staff will forward a copy of that to the Council [re: liaisons].

**COUNCILMEMBER FELLER** will make sure that everyone gets the pertinent information on that.

**ADJOURNMENT**

This adjourned meeting of the Oceanside City Council was adjourned at 8:44 PM, Wednesday, January 5, 2011.

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

\_\_\_\_\_  
Barbara Riegel Wayne  
City Clerk, City of Oceanside



California

# CITY OF OCEANSIDE

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

JANUARY 5, 2011

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

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

**Mayor  
HDB President  
CDC Chair**  
Jim Wood

**Deputy Mayor  
HDB Vice President  
CDC Vice Chair**  
Esther Sanchez

**Councilmembers  
HDB Directors  
CDC Commissioners**  
Jack Feller  
Jerome M. Kern  
Gary Felien

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

**Treasurer**  
Gary Ernst

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

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

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

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB) and Community Development Commission (CDC) was called to order by Mayor Wood at 4:00 PM, January 5, 2011.

**4:00 PM - ROLL CALL**

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

City Attorney Mullen titled the following items to be heard in Closed Session: 2A and 2B. [Item 1 was not discussed]

[Closed Session and recess were held from 4:02 to 5:00 PM]

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

**CITY COUNCIL, HDB, AND CDC CLOSED SESSION ITEMS**

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

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

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

**No closed session held**

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))

City v. Goli Enterprises et al., Superior Court Case No. 37-2009-00055509-CU-EI-NC

**Discussed; no reportable action**

B) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (SECTION 54956.9(b)) Significant exposure to litigation pursuant to Subdivision (b) of Section 54956.9: one case

**Discussed; no reportable action**

**5:00 PM – ROLL CALL**

Mayor Wood reconvened the meeting at 5:02 PM. Present were Mayor Wood Deputy Mayor Sanchez and Councilmembers Kern, Feller and Felien. Also present were City Clerk Wayne, City Manager Weiss, City Treasurer Ernst and City Attorney Mullen.

**INVOCATION** – with words given with the passing of Carl Souza on December 24<sup>th</sup>, John Lundblad gave the invocation.

**PLEDGE OF ALLEGIANCE** – San Diego Humane Society representatives

**PROCLAMATIONS AND PRESENTATIONS**

Presentation – “Pets of the Month” presented by Elkie Wills, San Diego Humane Society & SPCA

Off agenda

Introduction of Marsha Davis, Interim Human Resources Director and Gary Ernst, new City Treasurer

Special Presentation for the renaming of Benet Road bridge to ‘Jack Cassan Bridge’ – and sign presented to Millie Cassan

**CLOSED SESSION REPORT**

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

**CITY ATTORNEY MULLEN** reported on the items discussed in Closed Session: See Items 2A and 2B above. [Item 1 was not discussed]

**CONSENT CALENDAR ITEMS** [Items 5-10]

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 Calendar items were submitted for approval:

5. City Council/Harbor/CDC: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)
6. City Council: Approval of plans and specifications for the ADA Bus Stop Improvement project for improvements to five existing bus stops located along Oceanside Boulevard between Interstate 5 and El Camino Real, and authorization for the City Engineer to call for bids
7. City Council: Approval of a purchase and sale agreement [**Document No. 11-D0008-1**] for the sale of City-owned property [aka the Marks Donation Property] located in the Sleeping Indian area (APN 122-040-24) to Bagher Bahardar and Ginger Bahardar in the amount of \$10,000; authorization for the Mayor to execute the agreement and the grant deed [**Document No. 11-D0009-1**] conveying the property; and direction to staff to open escrow and consummate the transaction
8. City Council: Adoption of **Resolution No. 11-R0010-1**, "...authorizing acceptance of \$5,222.77 from the U.S. Department of Justice Bureau of Justice Assistance Bulletproof Vest Partnership Program FY2010"; appropriating the funds to the Police Department; and authorizing the City Manager or his designee to execute all related documents
9. City Council: Adoption of **Resolution No. 11-R0011-1**, "...summarily vacating portions of a public water line easement located at 4171 Oceanside Boulevard and 4181 Oceanside Boulevard", and authorization for the City Clerk to file a certified copy of the resolution [**Document No. 11-D0012-1**] with the San Diego County Recorder
10. City Council: Adoption of **Resolution No. 11-R0013-1**, "...renaming Benet Road Bridge to Jack Cassan Bridge"

**DEPUTY MAYOR SANCHEZ moved** approval [of Consent Calendar Items 5-10].

**COUNCILMEMBER FELLER seconded** the motion.

**Motion was approved 5-0.**

**GENERAL ITEMS**

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

13. **City Council: Approval of Amendment 3 in the amount of \$95,951 to the professional services agreement with Foothill Associates for additional work to**

**complete the Multiple Habitat Conservation Program Subarea Plan and present the final to City Council in Spring 2011; and authorization for the City Manager to execute the amendment**

**JERRY HITTLEMAN**, City Planner, stated in 1993 the California Gnatcatcher, a small bird, was listed as threatened due to 90% loss of its habitat in Southern California and the cities of San Diego County. At that time, the U.S. Fish and Wildlife Service, California Fish & Game, allowed development to move forward, but under the Natural Communities Conservation Act and Section 4(d) of the Endangered Species Act with wildlife agency oversight. They basically allocated about 75 acres of coastal sage scrub take to the City at that time and that allowed projects such as Pacific Coast Plaza, Rancho del Oro and some public projects to move forward where they would have been totally stopped if we did not participate in this program.

In about 1996, under this program, Oceanside and the other North County cities coordinated under SANDAG oversight to create the Multiple Habitat Conservation Program (MHCP). Oceanside, as well as other North County cities, started work on subarea plans at that time, which is basically a more detailed plan that goes under the umbrella of MHCP. Our Subarea Plan includes designation of critical habitats and wildlife corridors that would grant coverage of up to 36 animals, plants and bird species. That includes the Gnatcatcher that's in coastal sage scrub, and also the Least Bells' Vireo that's in the river, which allowed us to do some permitting for the river. They can be impacted or taken under this Plan. The MHCP and our draft Subarea Plan were created through oversight by SANDAG and with representatives from key agencies such as City staff, key property owners that would be affected, environmental groups, wildlife agency staff and the Building Industry Association (BIA).

In 2003 the MHCP Plan was approved by the SANDAG Board and it was endorsed by all of those previously mentioned groups. Since adoption of the MHCP in 2003, Carlsbad adopted their plan in about 2006. One of the reasons they adopted it was to build their golf course and to get control over where they can build and where the open space should be in their city. The main benefits for Oceanside from this Plan would be to allow the City to authorize impacts to upland habitat associated with both private development and public infrastructure projects. It will also help us streamline wetland permitting that is done through the Army Corps, Fish & Game and regional boards. It also facilitates full implementation of the San Luis Rey Flood Control Project. Under that project we are required to do oversight under the Subarea Plan when it's fully implemented. Right now we're at Phase I and we hope to go to Phase II and III on the San Luis Rey Plan.

The schedule for adoption of our Subarea Plan is we hope to get it to Council by this summer and then get wildlife agency and Coastal Commission approval by the end of the year. Therefore, we recommend that Council approve the \$95,000 allocation and that will allow our consultant team to move forward and we will start coordinating with California Fish & Game to get this approved.

No public input

**COUNCILMEMBER SANCHEZ** stated this is one of the quality of life initiatives that has been very successful. This is much like preserving our coast; a very historical partnership with the private/public sector. When she got appointed to the MHCP Planning Committee this had already been 10 years in the planning. As it has evolved, the work that was done before 2000 has really pushed this forward. It is clear to her that the business community was very much a part of this planning, as well as the building community; the private sector.

The attempt here was to create bright lines so that we would know where building could go forward and that we could have a streamlined process and issue our

own permits without having to go to Fish & Game or Army Corps. She is proud that we will be the second city to do this behind Carlsbad in North County. We still have to discuss funding, which is always one of our biggest challenges. The idea that we can finally take control and give the building community the bright line that they have asked for is very significant.

She **moved** approval of the Amendment 3 [**Document No. 11-D0015-1**] and authorization for the City Manager to execute the amendment.

**COUNCILMEMBER FELLER seconded** the motion. He asked how much it's going to cost once we assume this MHCP.

**CITY MANAGER WEISS** isn't sure that we have a comprehensive cost for the entire program. We are going to be doing it incrementally and the plan was the efforts we are putting into the Myers Streets property and the other properties we have in the San Luis Rey River were going to meet the intent of the Subarea Plan and the various wildlife agencies as our initial step. Certainly there is much broader issues in play here and he believes SANDAG is looking at that quality of life initiative that would assist all cities with some of this. He thinks the efforts we're putting out already and what we're going to have to do with the San Luis Rey River would satisfy the initial needs.

**MR. HITTLEMAN** stated that's right. One of the reasons we're going forward with this amendment is to really hash out the details of the economic plan. We have to talk to the wildlife agencies and get down to the nuts and bolts. We are planning to include the San Luis Rey River habitat monitoring, etc. and we're going to stage this so it won't cost too much up front, but later on we'll stage it so maybe we can use grant funding or some type of regional funding that might come later on.

**COUNCILMEMBER FELLER** thinks it seems like the delay has been because every time staff changes the rules change in the wildlife agencies. He will do almost anything to keep the environmental agencies out of our business.

**COUNCILMEMBER KERN** stated to date, since 1996, we've spent \$402,000. What have we gotten for that money?

**MR. HITTLEMAN** responded one of the main things we got is it allowed development to go forward. As development went forward, they actually paid for a big portion of the Plan. Pacific Coast Plaza contributed about \$75,000 and we got a grant for another \$50,000. Other developers contributed quite a bit of money. It was something where we didn't want to totally stall development and that was one of the biggest benefits we got. We do have a good plan in place; we just have to put the final pieces together and then bring it forward.

**COUNCILMEMBER KERN** stated so where did the \$100,000 come from that's sitting in that account now.

**MR. HITTLEMAN** responded mainly from developer fees, drainage fees, etc., because it is under the Capital Improvement Projects (CIP) budget.

**COUNCILMEMBER KERN** clarified that then developers are paying their way and are actually contributing. They are funding a huge portion for this multiple habitat. The BIA and everyone else has stepped forward to work with this.

**COUNCILMEMBER FELIEN** wanted to have it confirmed for the public that this money is not coming out of the General Fund, it is specifically fee related. He asked if there is any anticipation in the future that General Fund money would be required to support this program.

**MR. HITTLEMAN** responded he is not sure where the money will come from exactly for the San Luis Rey River when we take over the habitat management, but it will come from the same fund as that's coming from; probably the General Fund.

**CITY MANAGER WEISS** stated Council has a portion of the General Fund allocated to the San Luis Rey River, as well as drainage fees.

**Motion was approved 5-0.**

Mayor Wood determined to hear Item 15 at this time.

15. **City Council/CDC: Approval of Amendment 1 to the Disposition Agreement between S.D. Malkin Properties and the Community Development Commission, extending the time requirements to execute the lease from January 29, 2011 to January 29, 2012, and authorization for the City Manager to execute the amendment**

**JANE McVEY**, Economic & Community Development Director, stated this is a request to extend the first period of the Disposition Agreement for the Downtown Hotel Project an additional 12 months. The effective date of the Disposition Agreement was July 29, 2009. In the 18 months ensuing after that period, the intent was that the developer would seek financing and do everything that could be done. In these capital markets and economic times, it has proven to be impossible to achieve financing for a hotel of the size and magnitude that we're talking about down at the beach. We want to be able to give the best shot that we can to secure the financing for the hotel.

Therefore, before Council is a request to extend this first 18-month period an additional 12 months. After that time there are still 2 additional 6-month extensions that are permissible but they also have conditions to meet to be approved. The Redevelopment Advisory Committee (RAC) this morning voted 6-1 to recommend that the extension be 24 months, not 12 months. She cannot assure Council that 12 months from now we won't be back, but the RAC recommendation was to give additional time, if possible.

She asked for Council's support to approved Amendment 1 to the Disposition Agreement between S.D. Malkin Properties and the CDC of the City, extending the time requirements to execute the lease from January 29, 2011, to January 29, 2012. Mr. Jerome Cohen is present to answer any questions.

**DEPUTY MAYOR SANCHEZ** is happy that we still have this project going forward. She **moved** that the City Council and the Community Development Commission approve Amendment 1 [**Document No. 11-D0016-3**] to the Disposition Agreement between S.D. Malkin Properties and the Community Development Commission extending the time requirements to execute the lease from January 29, 2011, to January 29, 2012, and authorize the City Manager to execute the Amendment.

**COUNCILMEMBER FELLER** **seconded** the motion.

**COUNCILMEMBER KERN** was the liaison to the RAC this morning and the reason we discussed 24 months was because nobody at that meeting felt the economy was going to turn around in the next 12 months. They felt it would be more to everybody's benefit to extend it to the 24-month period and then come back. He doesn't know if Council would entertain the idea of going for a 24-month extension.

**COUNCILMEMBER FELIEN** stated there is no doubt that the delay is being caused by overall economic issues and not due to any lack of performance on the part of the applicant. He would be open to having 24 months. He was wondering when the gentleman representing the project thinks the economy will turn around enough to

support the building of the hotel. It certainly isn't going to be in the next year or two.

**MS. McVEY** believes that the 12 months was selected because we're trying to also align the Disposition Agreement with the entitlements. The project is entitled and it does have an Environmental Impact Report (EIR) and the 12 months keeps that in check. There will be opportunities in the future should the Council want to come back and extend again.

**COUNCILMEMBER FELLER** stated if we have to come back in a year then we have to come back in a year. Who knows what it will be like in a year; it may be 10 times worse than it is right now. We should just try and feel our way through this for the next year.

**COUNCILMEMBER FELIEN** asked if the time we offer, 1 year or 2 years, impacts the ability of the applicant to get financing. Is it better if they can say they have a 2-year or 3-year commitment? If there is no difference, than he doesn't have a problem with doing it year-by-year. We want to give the applicant the best possible hand of cards to go out to the financial community and try to get financing for the project.

**MS. McVEY** believes that the longer the extension, if she were on the banking side, it would be seen as a stronger commitment from the City.

**CITY ATTORNEY MULLEN** stated Council is giving a 1-year extension, but there are two 6-month extensions beyond this that are still left intact under the Disposition Agreement that was previously approved. So the developer will still have an additional year if you approve it, plus the two 6-month extensions. Council could consider within the next several months whether to give them additional time beyond that. There was a concern that we had about aligning the Disposition Agreement with the length of the entitlements as well.

**COUNCILMEMBER KERN** thinks as the liaison to the RAC it is part of his job to bring forward what the RAC recommendation was and why it was brought forward at that time. Personally, he thinks the year and the two 6-month extensions will probably work out well. We may be sitting back here in a year having the same discussion but he thinks we need to keep moving forward at this time, unless the developer has some objection to any of this.

**JEREMY COHEN**, S.D. Malkin Properties, stated we've been working with the City for quite a number of years and we have a confidence level that if there's something that we need to do in terms of further extensions that will allow us to close on financing, it can be done. We haven't met with any irrational responses to that. We don't know exactly when the economy will turn around. There are some positive signs in the hotel market; the bottom has been reached and there are some gains that are happening. It's a long way from that to where there are construction lenders in the market place again willing to finance a project that's almost \$200,000,000 and is viewed as kind of speculative. We're now heading in the right direction and have confidence that we can work with whatever time period Council gives us. If there is a rational logic to it, we'll be back in a year or two to discuss what needs to be done to make this project happen. We've got a lot of money and years tied up in this project and we're not blinking; we're going to make this happen as soon as the markets will allow us to.

**Motion was approved 5-0.**

14. **City Council: Approval to create a special citizen's ad hoc committee as part of the Economic Development Commission for the purposes of identifying and establishing an alternative to meet the City of Oceanside's animal control and**

**animal sheltering requirements that are currently provided by the San Diego Humane Society**

**DOUG EDDOW**, Real Estate Manager, stated Council had directed staff to form a committee of citizens interested in pursuing alternatives to the animal control/animal sheltering services currently provided by the San Diego Humane Society. There are various options. One is to form a separate committee that stands on its own. Staff looked at other options and would recommend the option of putting the special citizen's committee under an existing commission and felt that the Economic Development Commission (EDC) was a good commission to put it under.

One of the objectives of such a committee is to try and find another business that would relocate in the City to provide this service or expand an existing business in the City for this purpose. By using an existing committee, staff felt that would also save on the costs of forming another committee. The primary focus of this committee would be to try and find finances that would provide or pay for the services needed, as well as building a shelter for the City. The duration of this committee would be one year inasmuch as the contract with the Humane Society is expiring June 30, 2012. Staff felt that the EDC would be able to form this committee with members of EDC and it would be able to select from a group of volunteers that have put their names in to sit on the committee as the citizen's advisory.

Public input

**MICHAEL BAEHR**, San Diego Humane Society, 2905 San Luis Rey Road, would like to provide some prospective about the work we do for the City on behalf of your residents and the animals we serve. First and foremost, we are very grateful for the opportunity to provide service in this community. We recently received approval from Council for a contract to provide animal field services and we are proud of that. We announced 2 weeks ago that we have signed a long-term lease on 30,000 square feet of additional property less than 1 mile away from the existing facility on San Luis Rey Road. This is significant as it allows us to serve even more people and animals by providing humane education, expanding the services we do and creating a model similar to what we've created in San Diego for the residents of North County that's based right here in Oceanside. That's something that this community can be proud of and we look forward to doing that. We look forward to being part of this community for a long time.

As part of a fiscally responsible process, we understand and respect the City's right to look at alternatives. However, we believe we are doing an admirable job in providing animal control and animal field services in this community. The average length of stay for an animal in our facility is 29-30 days. The State-required mandate the City has is to pull those animals and we hold them for 4 days; that's the City's only responsibility. We provide the 25 additional days that it takes to care for them and re-home them. That's a commitment that we foot the bill for and we're happy to do that; it's part of our job and our expertise. In these lean times we believe that's a great deal. It's part of a beneficial process that we provide to the City. He asked Council to be respectful to the work that the Humane Society does and their right to provide care for these animals, and we will respect your right to look at alternatives.

Public input concluded

**COUNCILMEMBER SANCHEZ** stated perhaps there will be some demonstration to the City by the San Diego Humane Society; it would require a lot of changes in how they approach the City and the community. We had 3 things happen to us as a City:

1<sup>st</sup> - the request for a huge increase in costs, paired with substantially less services, and the refusal to provide an accounting of where the City's funds

were going to go, which took months to resolve

2<sup>nd</sup> - threats by the Executive Director to refuse to provide services and to terminate all services immediately knowing that we had no other place to go, which was bad faith. We are legally required to provide these services

3<sup>rd</sup> - she attempted to meet with the Executive Director and at the last minute was told that he was refusing to meet with her and that he was going to communicate a termination of the contract immediately. Within 30 minutes, a second executive called and stated it was true they were going to terminate the contract but was going to give us some time, about 6 months, to find another way of providing these services. This was a huge surprise and unacceptable conduct by a business.

Perhaps you can replace those unacceptable business practices with ones that will convince us that you are the best company to contract with. But she thinks it is prudent for our City to create alternatives because we must provide these services and we can't find ourselves again 1 or 2 years from now in the same position of being told that this is the only contract we're going to get and if we say no they're going to walk away. This time will be a good time to see what San Diego Humane Society will show to our community, not just to the Council. She knows how critical it is for non-profits to count on volunteers for animals in a situation that we know we need to pair with a spay/neuter program.

What's before the Council is staff's recommendation and she doesn't know how this would work. What she had asked for is that this committee be formed with members who would have special expertise in raising money, shelters, spay/neuter programs, etc., and be able to establish relationships and get something going as quickly as possible. She asked how quickly we can move when you have a committee that's under another committee, which would be under the Council or the City Manager. How would a problem that would possibly be raised or discussed by the citizen's committee get resolution or a hearing by the City Manager or the Council. This is something she thought would need a quick response if, for example, there was a donor who wanted to donate \$2,000,000 to this project. Would we be able to move quickly having a committee under a committee under a City Manager under City Council. She also questioned why the EDC versus any other commission.

**JANE McVEY**, Economic & Community Development Director, stated when this item came before staff, we discussed whether or not it should be a stand-alone committee or under another committee for efficiency purposes. Our vision was that it would be an ad hoc committee comprised of the volunteers who have expressed interest in this already to Doug Eddow, he has a list of those individuals, and some members of the EDC. They would meet, vet the issues and the possibilities for providing the services mentioned and bring that forward. She doesn't believe it would take any longer or be any less efficient. It might actually be more efficient because we have an existing infrastructure to provide administrative support to a committee.

**DEPUTY MAYOR SANCHEZ** asked what the level of enthusiasm is on behalf of the EDC. Do we have people who really want to make this happen. She really wants to see this happen and a development of an alternative that will be what we want.

**MS. McVEY** responded it was a surprise to the EDC, but they were willing to take it on and she believes that the area of expertise that they have is in the financial/economics of the proposal; not so much the philosophy of it. How we fund it, whether we operate our own shelter or extend the existing contract with the current provider, etc., we need the ability to be analytical about options and see what the best situation is for the City. It might be a good balance of level of skill sets and interest.

**DEPUTY MAYOR SANCHEZ** stated she's not hearing interest and that's her concern. What if it gets buried or has such a lack of enthusiasm that they don't believe in it. She hasn't heard any communication from EDC.

**CITY MANAGER WEISS** stated one of the reasons we were looking at the EDC is because it's already established and we could start the process right away. We do have in the staff report an alternative. We can come back to Council within 30 days with the outline of a separate commission that would address the issues of passion, outside funding through donors, etc. Initially we were looking at the business terms; the cost of building, operating, etc., not necessarily the passion side. If the interest is based on some of the members of the public who have expressed an interest, we could bring back the outline of a separate ad hoc committee/commission that Council would be able to appoint from those folks if that's what you'd really like to do. If the focus is more on the model and not the business, we could certainly bring that too.

**DEPUTY MAYOR SANCHEZ** is interested in a business model and she understands that the citizens have just incorporated to become a non-profit. She sees true movement and passion by people who do know potential donors who have voiced some kind of interest in this project. She doesn't want to interfere with that because they are the ones who care most about this and they're going to be the ones working the hardest on this. Perhaps we can discuss this again. She feels that this isn't ready to go that way. She would like to see how this is going to work. Maybe the 2 or 3 members from the EDC can meet with the citizens and put together a plan to work well together. Some can provide the passion, some can provide the skill set, and some can provide both. She would feel more comfortable with that, but we can't waste too much time. A decision is going to have to come again in 2012.

**MAYOR WOOD** has concerns also. He remembers how many emails and calls he got regarding this issue in the past. It might be better to have the City Manager sit down with staff and give them an understanding of where we're heading with this and bring back something. A subcommittee to a subcommittee ad hoc concerns him. He thinks we might be able to come up with something that's probably a better solution than tonight, but staff still might have more input. We know that there are a lot of people who wanted to be on this and are actively involved in the community and animal rights. These are the people who are looking forward to coming up with a better plan to save money and do better things.

**DEPUTY MAYOR SANCHEZ** knows this is off track but she sees some members from what she believes would be the citizen's committee and asked the Mayor to reopen the public comments to hear from them. We need to have this as a partnership with the citizens.

Mayor Wood asked if others are present wishing to speak.

**JOSHUA HELMLEY**, 1122 Vista Way, met with Mr. Eddow this week and is somewhat the point person for the ad hoc citizen's advisory that would have been under the EDC. This was different from the last Council meeting where he was under the assumption that we were going to have a separate commission or committee to deal with this issue, which is ultimately the best thing but with budget and time constraints and City bureaucracy, maybe it was a quicker way to just put it under another commission. He has the same concerns but the best thing to do is follow staff's suggestion because it doesn't create any costs in terms of creating a new entity, assigning a new staff member, etc. It's quick and easy and we can find out quickly whether there is any support within the EDC. He would request that the 5 people they came up with to be a part of this ad hoc committee should all be on the ad hoc subcommittee of the EDC as they are all comprised of various interests and backgrounds. I am a CEO of a brokerage firm along with being for animal rights. So there is no lack of thinking or business on the 5-member committee.

**DEPUTY MAYOR SANCHEZ** suggested the potential ad hoc members meet with the EDC and if you can create this plan, Council can put it on Consent Calendar to create it. She would hate to create it and then find out it's not going to work. It seems like we're shoving this down the throats of EDC and she doesn't know how they feel about it.

**MR. HELMLEY** thinks that's a great idea. He can get his 5 people together as soon as possible and meet with the EDC to see if there's a mutual interest in going forward with this project.

**DEPUTY MAYOR SANCHEZ** asked when the next EDC meeting would be and if this is on the agenda.

**MS. McVEY** responded the next meeting is January 11<sup>th</sup> - next week and the Chairman is prepared to either ask for volunteers or appoint people to this group. The agenda will go out tomorrow and this is on it.

**DEPUTY MAYOR SANCHEZ** asked if it would be possible to put this on the agenda to discuss the formation of this ad hoc committee under EDC and have a good discussion on it to see what the level of commitment is by EDC. If it's there, then we can get this on the Council Consent Calendar for the blessing to go forward. If it looks like it's not a good fit, they can let us know that too.

**MR. HELMLEY** guarantees the 5 people will be at that meeting.

**DEPUTY MAYOR SANCHEZ** asked that we discuss this and put off the approval until the next Council meeting, which is the 26<sup>th</sup>. We should know by then.

**COUNCILMEMBER FELLER** stated we now have a contract with the Humane Society to do the job. He asked what exactly the City is responsible for.

**MR. EDDOW** responded the City is required by the State to pick up stray dogs and shelter animals that are delivered to the shelter.

**COUNCILMEMBER FELLER** asked if we are required to spay and neuter and are we required to do 4 days or 5 days.

**MR. EDDOW** responded no, we are not required to spay and neuter. He believes it's 5 days but it could be 4.

**COUNCILMEMBER FELLER** stated beyond that is what we're talking about. We've heard from the Humane Society that they are willing to do the service that we need done for the animals, is that correct.

**MR. EDDOW** responded the State mandate requires us to hold the animal only for the 4- or 5-day period. After that, the Humane Society has taken it upon themselves at their cost to house these animals beyond that period.

**COUNCILMEMBER FELLER** thinks this kind of conflicts with what government is supposed to do. It sounds like we're trying to help people start a non-profit and he doesn't think we can do that. He's thought about this long and hard because we've heard about this for so many months. If the non-profit wants to start, then let them meet and we will consider, once they have moved forward with their intentions, what they can do for us as a non-profit. Somewhere they have to also incorporate our need for picking up strays and housing them for 5 days. Beyond that they would have to figure out what else they want to do and be. He just heard they have 5 members aring to go and a lot of non-profits start that way.

The City can't afford to do anymore programs or be responsible for anymore commissions or committees. His whole thought process has changed about this. We need somebody to do what we need as required by the State and nothing more. Everything else is gravy. If the Humane Society wants to do it, then let's contract with them until the non-profit says they can do it and are an alternative with a building and all of the things necessary to do the whole program. He will not support going forward with this ad hoc committee, even to the EDC. He doesn't think this is where we should be headed.

**COUNCILMEMBER FELIEN** supports the idea of having a Plan B to improve our negotiating position with the Humane Society when we want to negotiate the price for shelters. If they know we have no option than that's going to effect the price they offer us. He was concerned about what the qualification was going to be to serve on the committee because the committee has nothing to do with the debate that's taken place over the last 4-5 months as he's heard it, where people were upset with how the Humane Society was doing their activities after the 5 days; were they doing enough the spay and neuter, to find homes, etc. These are all concerns and it's wonderful to have people who are passionate about that issue and want to commit to it, but that has nothing to do with the City's legal requirement to catch and hold strays for 4-5 days until they come up with a disposition for that.

He asked what role the committee is going to play. It seems to him that the City's function is to find a piece of land, buy some chain link fence, put a roof over it and hire staff to watch the animals for 4-5 days. All of the concerns we've heard have nothing to do with that process and he doesn't know that we need a public committee to do that. It sounds like it's a standard thing that staff would do. He would like clarification in terms of what this volunteer committee would be doing that City staff would not be doing for our 5-day responsibility to watch these animals. He doesn't think it serves any purpose to saddle the EDC, especially since we've heard there is a lack of enthusiasm on this issue, with this committee.

He would support continuing it so that the people who are concerned with this issue can flush it out and explain how the City, for our commitment, is helped by this committee. He is sensitive to the issue and the passion of the volunteers involved, but the City obligation is a real short, brutal process for in and out. We have, hopefully, wonderful volunteers who carry on after that, but in terms of negotiating with the Humane Society, we're on a very narrow focus and he supports having leverage to get the best price for the City. But the whole debate after that on finding homes for animals has nothing to do with the City.

**CITY MANAGER WEISS** responded we do have at least 2 paths going. We have been meeting with some of our neighboring cities because we are not alone in the issue of having a Plan B. Council had directed over a year ago to look at Plan B. At this point we're very satisfied with the level of service we are getting from the Humane Society. In fact, some of the issues that were raised earlier pre-date the San Diego Humane Society taking over in regards to cost increases. We have not had a lot of issues or complaints to date regarding the field services associated with the Humane Society. A number of speakers have come up in the past regarding some of the behavioral assessment and some of those issues. We are still meeting with some of the other cities to look at alternatives.

Regarding what would this committee do, part of the issue of the committee is should there be an alternative, there is obviously a need for more of a humane treatment than just the 4 days and what happens afterwards. Finding volunteer organizations, whether Spay-Neuter Assistance Program (SNAP) or other providers, there are opportunities there that would have the ability to reduce costs. He doesn't know what this committee would do in that regard; however, there seems to be enough

people in the community that have alternatives that would hopefully be able to say that if we did some of these things, it would reduce our costs. The intent of the committee was to look at alternatives and see if they would reduce our costs. Conversely, they may come back and say there is no cost-effective alternative. For us to build our own shelter and man it right now, just from what we've seen, is not going to be cost-effective, which is why having some of these outside groups that would provide volunteers and alternatives may be able to reduce those costs.

**MAYOR WOOD** knows this has been going on for a while because there is compassion involved. The problem is this is very expensive and you can't just say we'll do the 4-5 days and that's it. We know that's not going to happen. When San Diego took over Oceanside's Humane Society, there were some real issues that came to a head regarding who owns the property and building and who can use it; what happens to the animals afterwards; euthanasia issues, etc. and moving to San Diego and not giving a lot of information back to the public. Items were on TV at the time and there were some concerns. This is a big issue in the community and we get a lot of emails when it comes down to animal rights, safety and the best way to address their concerns.

Cost is a factor. If there are other people out there that can come up with an alternate plan with City staff or City organizations as Plan B and potentially with the other cities through that same group, that up-front addresses our costs. We're going down that route. Potentially, these are the people involved in organizations such as SNAP, etc., who are going to say we can get money and people to support this. It's nice to have more people look at this but we don't need a committee with another cost to the City. He'd like to cut down on committees and commission and not go up, but some of these people that have volunteered to help are very knowledgeable in the field and it would be nice to have them work with staff in some form. They're not charging us anything except some time.

**COUNCILMEMBER KERN** agrees with Deputy Mayor Sanchez that we're here because of the actions of the San Diego Humane Society. We realized that we didn't have a Plan B and we need to move forward. But he disagrees with her when she starts talking about spaying and neutering because we're already into mission creep before we even set up the committee. He is in favor of staff's recommendation of sending it to EDC and they can focus just on those mandated services that we have to provide according to the State. These will be agendaized and published so everybody in the community will know when these meetings take place and your group can come in and talk to EDC. Once the ad hoc committee is set up, they can meet with those non-profits to set something up beyond those services. We have to do those mandated services and that's all that the citizen's should have to pay for.

When we are talking about spay/neuter, long-term housing, etc., he doesn't think that's the road we want to go down. Our contract with the Humane Society runs out in 2 years. Right now we're talking about coming back with recommendations next January, is that correct?

**MR. EDDOW** responded the purpose of this committee was to assist staff in providing expertise in not only fundraising through charitable organizations, but also examine the cost to build shelters and provide animal services to collect the animals and in addition, put together an organization that would take these animals once these 5-day mandated periods are over. It wasn't just to replace the Humane Society per se, but it could. What they were looking at was a series of different components that come together and, with the expertise that the volunteers would provide, providing little pieces of that by saying how much things would cost and what kind of animal control offices that you would see. They have been more than willing to provide input to staff and staff has been listening to them. He's been told that they can do it with or without a committee, but he would still like to elicit their help in finding all of these avenues; especially the fundraising avenue. We do have a Plan B but the problem is we don't

have any money to implement the Plan B and that's where they said they could really participate and help. They informed him they will do it with or without a committee and call him with their input.

**COUNCILMEMBER KERN** thinks then that the EDC ad hoc committee is the perfect conduit for that. If there is an established ad hoc committee, they can attend those meetings and we'll have staff at those meetings and then we can move forward at that time. It's a very emotional issue and when we start getting into this, we start talking about more than is mandated to the cities, so he wants the ad hoc committee focused on what's mandated to the City that we must provide. Hopefully, within a week or so we can start moving forward with that. We went through a learning curve with the Humane Society for animal control/field services and they may come back with an alternative within that 2-year period. The clock is ticking on that 2-year contract and we need to move as quickly as possible.

He **moved** approval of staff's recommendations [to create a special citizen's ad hoc committee as part of the Economic Development Commission].

**Motion died** for lack of a second.

**DEPUTY MAYOR SANCHEZ moved** to direct staff to agendize this item at the next EDC meeting to discuss and/or form the ad hoc committee under the EDC and if there is a mutual sense of being able to get this done and an enthusiasm level of believing in it, then put it on Council's Consent Calendar for the January 26<sup>th</sup> Council meeting.

Just to clarify, she understands that the City's only obligation with respect to funding is animal control. She may not have been very clear about stating that that is the extent of what the City can do in terms of funding. She did mention spay and neuter; she believes there needs to be a program that will eventually cut down on the cost of animal control and that we have to look at the total package, understanding that, with respect to the City's involvement in funding, it's only animal control.

**MAYOR WOOD seconded** the motion.

**Motion was approved 4-1;** Councilmember Feller – no.

#### **Changes to the agenda**

**CITY CLERK WAYNE** announced that Item 12, regarding amateur radio, has been continued to February 23, 2011, at 6:00 PM.

[Recess was held from 6:31 PM to 6:43 PM]

#### **6:00 P.M. – PUBLIC HEARING ITEMS**

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

11. **City Council: [On Appeal] Consideration of a resolution approving a Regular Coastal Permit (RC10-00007) for the construction of a 232-square-foot deck expansion attached to an existing deck at the western building elevation located at 1011 South Pacific Street – Dillon Residence – Applicant: Kim Dillon; [Appellants: Jim & Nancy Bailey]**
  - A) Mayor opens public hearing – hearing was opened.
  - B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Councilmembers Feller and Kern and Deputy Mayor Sanchez

reported a site visit and staff; Deputy Mayor Sanchez also had contact with the appellants and their representative; Councilmember Kern also reported contact with the applicant; Councilmember Felien reported no contact; Mayor Wood reported contact with staff.

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

**SCOTT NIGHTINGALE**, Planner II, stated this item is for the adoption of a Planning Commission resolution and denying the appeal of a Regular Coastal Permit (RC10-00007) for the construction of a 232-square-foot deck expansion attached to an existing deck on a single-family residence located at 1011 South Pacific Street.

On September 13, 2010, the Regular Coast Permit was approved by a vote of 6-0 by the Planning Commission. During the 10-day appeal period, on October 7, 2010, an interested party paid the appeal fee to appeal this project to the Council. No other letters of opposition to the project have been received. He used computer graphics to show the subject site, which is zoned RT (residential tourist) and is surrounded by other residential tourist properties, such as single-family homes, multi-family developments and beach rentals to the north, south and east.

The balcony deck would be an extension of an existing 96 square foot first level balcony. The deck, with the addition, will sit at 13.5 feet with 3.5 feet consisting of the glass railing. All additions would extend the deck westward and to the south. The applicant has worked with staff and has designed the southern portion of the deck with a 45 degree cut-in to allow views for the southern property owner. This deck would allow the homeowner additional outdoor areas shared by many of the adjoining neighbors.

He showed a graphic of the existing site with the existing deck and the proposed deck. The deck, as well as a portion of the existing residence, exists over the established stringline. The Oceanside Zoning Ordinance Section 1703(e) allows decks, balconies and other appurtenances to extend seaward past the stringline provided that adjoining views of the coast are not impaired substantially. The majority of this deck will be transparent.

The deck would not extend westward past the neighboring property to the south, which is owned by the appellant. The deck expansion would allow additional outdoor space that is shared by many of the neighboring properties in this area. The deck addition would consist of similar materials, colors and design to complement the existing residences. The deck would be consistent with at least 7 out of the 11 homes within this block in terms of decks and structures which exist past the stringline. He used graphics to show neighboring properties and the effects of the proposed deck.

The appellant addresses inconsistencies with the 1986 Code versus the 1992 Code for findings of denial, which is included in the staff report. Staff analyzed the project with the 1986 Oceanside Zoning Ordinance in which Section 1703(e) allows these decks and balconies to extend seaward of the established stringline, so the 1992 Code does not apply.

Staff has analyzed the project based on neighborhood consistency, impacts and architecture and found the deck expansion to be consistent with the high majority of the homes in the area. The impacts would be minimal to none, based on the fact that the deck is transparent and the neighbors to the south will still be able to enjoy the views from their adjoining decks and other areas of habitable space. The deck would help balance the rear elevation of the home, as well as provide symmetry to the design of the home.

Staff recommends that Council deny the appeal and requests an adoption of City

Council resolution as attached to approve the Regular Coastal Permit.

Appellant

**MARCO GONZALEZ**, Coast Law Group, 1140 South Coast Highway #101, Encinitas, represents Jim and Nancy Bailey who are the appellants and reside immediately south of the proposed project residence. He showed computer photographs of the façade of the project residence. He is going to look at the staff report and the resolution to point out some inconsistencies that give us some concern, the history of this residence and the way they act towards their neighbor and how they have acted with the City.

The 2 residences are 6 feet away. He used computer graphics to show the view of the proposed project from the appellants' bedroom. They are looking immediately into the area where this deck is going to be located. The staff report stated that this deck will be 8 feet long and will not extend beyond the appellant's building footprint. He used a graphic to show where the 8 feet would go, which is approximately 1.5 feet beyond the edge of the appellants' home.

Although it appears this deck won't have much of an impact on the appellants, Section 1703(e) of the 1986 Ordinance says that decks may be allowed to extend seaward of the stringline provided they do not substantially impair the views from adjoining properties. Staff has made the decision that that means not impairing the view from the deck, but that's not what it says. It's doesn't say one view, it says the views. That means if the appellants have views that are valuable to them and affect their property values and those are substantially impaired, then it doesn't meet the requirements of the Ordinance. This is part of the sloppy processing that we've seen with this applicant. Staff has now verified we don't have a survey and we don't have accurate plans.

A graphic was used to show the proposed deck from the appellant's bedroom and how it will impact their views. A graphic also demonstrated how the proposed deck will provide a view directly into the appellant's bedroom. There is nothing in the Ordinance that says his client is not allowed to have a window view and nothing that says they are not entitled to have their window view protected. In fact, it's the contrary; it's contemplated that all of the views of the neighbors are protected before you're allowed to go beyond the stringline. Graphics were used to demonstrate how patio furniture and accessories can obstruct views, even with the transparent railing. We cannot presume that simply because someone puts up a glass railing it will protect views. It is not a mitigation measure.

A graphic showed a deck the applicant built downstairs with a solid fence that blocks the appellant's view. The appellant believes it was done to spite them. They put up a similar fence on the north side, where his client's also own the property. The applicant is frustrated that his clients pay attention and try to hold them to the rules. No other properties have fences like these. We do see that when people build out their decks, the next thing you know they enclose them/cover them up. His client is concerned that once this deck gets built immediately adjacent to their view from their bedroom, it's going to be covered just like the deck downstairs.

A graphic showed the document put into the record when the applicant applied saying the existing deck is 197 square feet and then it shows throughout the staff report that it's actually 96 square feet. This shows that somebody is being sloppy. On the plans originally submitted that Plan Check had, it was in the process of bringing forward to Council until it was pointed out by the appellant that they had the wrong stringline. The applicants came forward and said that even though they just renovated this house, which was built in 1999, they identified a stringline that was at the edge of the deck of the appellants. That is substantially farther beyond. His client's property is

grandfathered in so the stringline does not apply to their residence. On a proposed development the applicant and staff should have known better. That deck was proposed to be 6'6" beyond the stringline.

It's important to remember that when the applicant built this property in 1999, they maxed out the setbacks. They chose not to put a balcony in this area because they wanted more floor space and they knew they would be coming back later. That is demonstrated by the hinges on the windows out to the proposed deck, which indicates that they are doors and not windows. Those doors open outward. They were not on the plan check and were never approved by the City. The City should not have allowed doors to be installed when the plans called for windows.

In 2009 the applicant renovated and enclosed their upstairs deck. When they did that, the roofline that was immediately in front of there was not shown to be altered. However, a couple of days ago he went up on his client's 3<sup>rd</sup> story and found that they had installed slate tile, which is not an appropriate roofing material and was not permitted. It looks like they are coming back for a deck on the 3<sup>rd</sup> floor next.

There are too many problems with this site for this to go forward now. Council should not be approving any expansion that is wholly discretionary when you have a recalcitrant applicant who plays fast and loose with their application and does things behind the City's back. That's reason enough to have Code Enforcement go out there and fix this before approving anything else. We believe that the applicant should be told to become Code compliant and consider coming back with a fixed version.

In the staff report on Page 1/2 it says this is going to be a 232-square-foot deck, which is 8 feet by 30 feet, subtracting 8 feet for the cutoff. On Page 3 it says that the proposed setback will be at least 7 feet from the deck at the appellant's house; 6 feet away from the wall. It's actually beyond the appellant's house to the west. If you go to Attachment 1 of the staff report it says in Council resolution at Page 1 that this is actually going to be a 248-square-foot deck, not 232. Someone needs to clean this up. The Council resolution incorporates by reference the Planning Commission resolution, which references on Page 1 232 square feet, but then you have the calculation of 8 x 31, which is 248 square feet. On Page 3 of the Coastal Permit at Paragraph 3 it says 232, but on Page 6 at Paragraph 18 it says 248. They are claiming that a mitigation measure was to take 8 feet, a square foot, off this deck to protect the view and, as you can see, that's not going to do it. Every little bit matters here.

This is a case where the applicant is playing fast and loose with the application, staff is not wholly on top of the stringline issue or consistency within the documentation, a neighbor who shows that they're going to put up blockage to the maximum extent practicable against this particular appellant and you've got them blatantly violating the Codes. He would request that Council consider sending this back and holding it in abeyance until the entire property becomes Code compliant.

**NANCY BAILEY**, 1015 South Pacific Street, with Jim Bailey, is the appellant on this matter. She and her husband live next door to the project residence immediately to the south. We purchased this home understanding that it pre-exists the stringline regulations that apply on Pacific Street, which affected the price we paid as well as our expectations regarding views, property and privacy. Our life's savings are in this home. We retired and planned to live out our days in this residence. Our home is designed in such a way that the first floor, which is on the same level as the applicant's proposed expansion, is our bedroom and in our bedroom our primary view northward of the pier is out a window in the northwest corner, which is only 6 feet away from the deck expansion. The view is what we wake up to every morning and hope to do it for the rest of our lives. If this proposal is approved by the City, we will not only be staring into a deck structure where no obstruction currently exists, but we will also have the prospect of the applicants and their guests staring directing into our most private room

in the house. Our only options will be to either frost the window or completely cover it with drapes or curtains. If this doesn't amount to a substantial view impairment to an adjoining property, than she doesn't know what would be.

She asked Council, when considering the equities of our request and the applicant's request, to please consider that we wake up in this room every morning and how many times a week or month will they be using this corner of the deck. They presently have a deck that they misrepresented the size of on the scale of plans. Our impact will be perpetual yet their benefits will be sporadic. They have a lot of deck as an option, nearly 500 square feet by the time they add this, but we can only have one bedroom.

#### Applicant

**PAUL LONGTON**, 2909 Mesa Drive, is the architect for the proposed project and it wouldn't seem as though a 232-square-foot deck would need an architect, but it grew into that. The difference between the 248 square feet and the 232 square feet was as we start chipping away at the deck to move it away from the appellant and to cut the corner, the 248 became 232 square feet. Looking at the photograph it appears to him that the primary view was really the corner and you can focus on what the deck would be, but the Code allows for this and the deck would be transparent. We did reshape and resize the deck to be neighborly. The floor of the appellant is about 1.5 feet higher than the applicant's. The guardrail, when it comes out, is going to be about as tall as the desk surface in front of Council.

#### No public input

#### Appellant rebuttal

**MR. GONZALEZ** stated Council has some letters of support from the applicant. Two of those letters come from folks purportedly to the north and the south; those are homes that these guys own. It's a little disingenuous to say the neighbors support our expansion beyond the stringline when those neighbors are themselves. He doesn't believe the applicants deserve Council's discretionary approval. He doesn't think they have made a representation that this will not substantially impair the view from this unique bedroom. If he hasn't persuaded Council to outright deny this, at the very least he asked that Council force a clean-up of the numbers so everybody has certainty, and force them to bring the entire property back into compliance with the Code before they can construct this deck. It's not fair to anyone on Pacific Street when someone else doesn't follow the rules and builds without a permit. He believes there are options that the applicant hasn't explored and when we go before the Coastal Commission there will be a lot more scrutiny on the stringline issue as well as the Zoning Ordinance issues, but right now Council can make a strong statement to this applicant that the City takes it rules seriously. We want honesty and we want people to play by the rules.

Mayor Wood closed the public hearing.

**COUNCILMEMBER KERN** asked if this is not going to come out any further than 1005 Pacific Street does, is that correct? This isn't something that's out-of-the-blue extraordinary; it's kind of an ordinary 232-square-foot deck. They aren't asking for anything more than what their neighbors have, is that correct?

**MR. NIGHTINGALE** responded that's correct. They aren't going to go any further than the residences to the south at 1015 South Pacific.

**COUNCILMEMBER KERN** sees the discrepancy in the 248 and the 232 square feet, but that's been explained that it started off at 248 and, in an effort to accommodate the neighbors, was cut back to 232. It's not like they've been

uncooperative, it looks like they are trying to accommodate the neighbors along that line. The Planning Commission passed this unanimously. Were these issues brought up at the Planning Commission.

**MR. NIGHTINGALE** responded yes it was a 6-0 vote.

**COUNCILMEMBER KERN** stated then this is not anything unusual. They do have letters of support, even from 1007, which is right next door on the other side. He has no problem approving this. It's been vetted by staff and the Planning Commission and they've done an adequate job of trying to accommodate their neighbors.

He **moved** that Council adopt staff's recommendation for approval [of **Resolution No. 11-R0014-1**, "...supporting Planning Commission Resolution No. 2010-P30 and approving a Regular Coastal Permit (RC10-00007) for the expansion of an existing rear deck by 248 square feet to an existing single-family residence located at 1011 South Pacific Street", and **deny the appeal**.

**COUNCILMEMBER FELLER** **seconded** the motion. He asked if staff is satisfied with all of the architectural drawings; is something out of whack?

**MR. NIGHTINGALE** responded no. The dimensions that were referenced in the resolution – 8 x 30 or 8 x 31 – are the dimensions measured from the longest point in width versus length, so it's not taking into account the cut-in but it is taking into account the longest portion right up to the home. The resolution is correct. The description that was submitted by the applicant does need to be changed and it will be an attachment to this resolution.

**COUNCILMEMBER FELLER** doesn't think the house at 1011 is any closer to the lot line than 1015, even though it's grandfathered in. Six feet is pretty normal for all of the new construction. If we're looking at every possible thing that anyone has ever done wrong, he's sure the grandfathered-in house has some of the same issues, but that's not the issue. The issue is a deck that's not going out any further into the stringline than at least 7 other properties in that block. We've already heard that when this goes to Coastal Commission, it will be swatted around again so the applicant's will have to think about that.

**COUNCILMEMBER FELIEN** stated for his education on these properties it seems to be a big disincentive to live along the beach to have to go through this kind of bureaucracy to get a deck. The appellants made a point regarding the view from their bedroom window and the applicability of the Ordinance to protect views. What consideration did staff give to that in approving the deck.

**JERRY HITTLEMAN**, City Planner, responded staff visited both properties; looking out the windows and looking at the deck. We worked with the applicant to make accommodations with the glass railing and by taking a notch out of it and bringing it in a foot from the side of the building. We thought that was reasonable, as did the Planning Commission. We carefully looked at both properties.

**DEPUTY MAYOR SANCHEZ** visited the site and didn't see the sign that was on the slide and was curious when that sign went up. She did find and is concerned about inconsistencies between the plans and the actual structure. She is concerned about the issues with the stringling. The Local Coastal Program (LCP) does include protection of private views and she finds that the proposed deck would substantially interfere with the view of the appellant's property. She is very concerned about the enforcement issues here on site. She immediately noticed the illegal fencing and the building inconsistencies and can only guess that the applicants have been engaging in a pattern of obstructing the views and the devaluing of the property values of their neighbor. It's always sad to see neighbors not get along and make life miserable for their neighbors by building

things that obviously impact the value of their neighbor's property, and do it with impunity.

Finally, she cannot condone the fraudulent representations of the applicant with respect to their alleged "support" letters, which all say the same thing about the views not being impacted and it turned out to be the same owners. That was so unprofessional and fraudulent. We want to hear from the community and we only heard from the actual applicant/family. There is a viable alternative and she believes that if the applicants were not so bent on screwing around with their neighbors, they probably would have done it. She also heard that the rip-rap was done while the appellants were gone and that kind of activity is so improper. She feels that this structure is not consistent with our LCP and therefore she would grant the appeal [to deny the project]. There was an alternative where they did not have their deck looking into the appellant's bedroom.

**COUNCILMEMBER KERN** wanted to make **corrections** to the **motion**. Mr. Nightingale stated he would take out all references to 248 square feet and make it 232 square feet, especially as to Item 18 on the resolution. We are approving a 232-square-foot deck.

**MR. NIGHTINGALE** responded yes, any reference to 248 square feet would be corrected.

**CITY ATTORNEY MULLEN** believes that was the only condition in the resolution itself that referenced the 248 square feet that should be 232 square feet. If there are any others, they should be changed to 232.

Regarding Deputy Mayor Sanchez's comments, **COUNCILMEMBER KERN** stated you can't legislate behavior. If we were all nice to each other, we wouldn't need the police department. That's not our point here; our point is about a 232-square-foot deck. Behavior of people should not enter into the discussion at all.

**MAYOR WOOD** stated these are the things he doesn't like making a decision on because there have been so many problems along the coastline in Oceanside regarding the string and where it does and doesn't belong, who's grandfathered in and whose not, etc. When you look up and down the coastline you realize something is wrong and somebody didn't follow the rules. Maybe it was before the Coastal Commission. The presentation almost changed his mind in that he didn't like the inconsistencies from the City and was bothered about the tiled roof that looks like another extension and another patio coming in later. It seems reasonable to put the deck up on the top floor and not block the view from the bedroom of the appellants with this deck. No matter how he votes, he probably won't change the outcome of this. He doesn't know how to address the stringline issue on this. He is disappointed that this wasn't done easier with the neighbors. He agrees with Councilmember Kern that when we try to get involved with neighbors, that's the worst thing you can do.

He's always been supportive of staff and when staff and the Planning Commission give an approval, it makes it more complicated. This looked a little dirty and some of those details should be closely addressed and he has some concerns.

**COUNCILMEMBER FELLER** resents that we're talking about dirty, etc. We're talking about a deck that staff and the Planning Commission recommended. This is nothing different that what's going on up and down Pacific Street. He heard the attorney speak about accusations like he's in front of a judge and jury which is ridiculous. This is a deck.

**Motion was approved 4-1; Deputy Mayor Sanchez – no.**

[Recess was called from 7:12 PM to 7:21 PM]

Mayor Wood determined to hear Item 16 at this time.

**MAYOR AND/OR COUNCILMEMBER ITEMS**

16. **Request by Councilmember Kern to approve the Memorandum of Understanding (MOU) and authorize one-time funding in the amount of \$5,000 to implement the Office of Juvenile Justice and Delinquency Prevention Comprehensive Gang Model (OJJDP) referred to as the North County Comprehensive Gang Initiative; and authorization for the City Manager to execute the MOU upon approval by the City Attorney**

**COUNCILMEMBER KERN** brought this back because the last time we were here it didn't pass; 2 voted for it, 2 voted against it and 1 person wanted more information (he believes it was the Mayor). Hopefully, Kathy Valdez, who made the presentation that night, sent the Mayor additional information on the item.

All of the Councilmembers today should have received the Gang Involvement Among San Diego County Arrestees in 2009 that comes from the County – SANDAG actually. It states that 1 in every 4 arrestees are self-reported gang members or gang affiliates. That's self-reporting; it's not the actual number. Almost 2/3 of these arrestees reported that other family members are also gang members in other jurisdictions/areas. This is a regional problem. According to the most recent Nation Youth Gang Survey, a steady resurgence of gang problems has occurred in many jurisdictions in recent years. In San Diego County, current estimates are that the region is home to about 170 different gangs with approximately 7,700 members. Over the past few years a variety of new strategies and collaborations have been implemented across the region with local, State and Federal funding for comprehensive strategies to address gang-related crime.

That's what he's bringing forward today is a plan to do something on a regional basis with San Marcos, Vista, Escondido – the Highway 78 corridor. With the MOU our portion is \$5,000 and that's leveraged because the bulk of the other funding is coming from the County.

He **moved** that Council approve the MOU [**Document No. 11-D0017-1**] and authorize the one-time funding in the amount of \$5,000 to implement the Office of Juvenile Justice Delinquency Prevention Comprehensive Gang Model referred to as the Comprehensive Gang Initiative and authorize the City Manager to execute the MOU upon the approval of the MOU by the City Attorney.

**COUNCILMEMBER FELLER** **seconded** the motion.

**DEPUTY MAYOR SANCHEZ** stated City staff, agencies, non-profits, volunteers, faith-based and City residents have all been working together to address our gang issues. Our gang issues are actually not regional; they are home grown. It has been a struggle. The biggest struggle is funding, but we do what we can. There are several groups that continue to work on anti-gang programs with no funding at all. No one supports this at the grassroots level within the City. It's unfortunate that this is even being brought up because the goal of this is to compete with the City for these funds. That means that Oceanside has the potential of getting less funding because the money will go to the region and so the impacts will be that other cities will be getting these funds. She feels that this is counter-productive and not going to address the issues we have in our City nor in the region.

The news articles that are going around have cited one city – she believes Escondido – and said nothing about Oceanside, which has traditionally been the city that

has had community involvement. We know, through history that has included the deaths of many young people and officers, that it has to be a partnership between the police department and the community. If we don't have that, then we're going to have the violence. She can tell you right now that crime is up on Eastside, Crown Heights and the eastern part of our City. Things are becoming more desperate; because of the economy perhaps. This is the time that we need to work together with the community and support those individuals that continue to address these issues at the community level. She thinks this is misguided and she will do everything she can so that this group will not get State or Federal dollars because those dollars belong to Oceanside. She is going to continue to work for Oceanside and not for some politician who won't return our phone calls and doesn't care about anything other than amassing money so he can be in control of our destiny. We need to be in control of our own destiny.

**COUNCILMEMBER FELLER** asked the Police Chief if there is any truth in the gang activity crime being up in these various neighborhoods.

**FRANK McCOY**, Chief of Police, doesn't have exact neighborhood statistics as far as Deputy Mayor Sanchez's indication that crime is up in Crown Heights or the Eastside. He can say that we just tallied our numbers for the year-end 2010 crime statistics and overall throughout the City our crime is down 3.9% and our violent crime is down 13.2% for 2010.

**COUNCILMEMBER FELLER** doesn't think this takes away from anything but adds a lot to what the community is doing. He has been as involved over 10 years in those kinds of community meetings as anybody and he knows that there is an effort in our community with various groups and he would think that they would welcome any help that they can get. Staff is on the front lines of this every day and he doesn't think there is any take-away from this. This is a plus for the region. If there isn't a plus, then we don't have to fund it again. When you have the District Attorney, County Sheriff's and local police departments involved, you have a lot of help in associating with those people that are going to be able to make a difference. He doesn't understand the negativity. We need to try everything we can to make it work. We need every possible solution on the table.

**MAYOR WOOD** did previously abstain on this because he needed more information. As a former police officer he has seen what happens in Oceanside. Unfortunately, especially with the economy, we are all competing out of one pot to get money; State, County, Federal. The money should come to Oceanside when we get funds or grants for gang problems and not the rest of the County. He's trying to be fair to the County and the other cities, but when we take that money and give it to a regional thing, we only get a small portion of coverage from that.

All of these agencies are good and trying to do the right thing. This is similar to the Community Development Block Grant (CDBG) funds where there are many organizations that want money from the City but only about ¼ of those will get money. It doesn't mean they aren't all qualified, but we also look at whether the organization does something for Oceanside or if they are spending their money somewhere else in the region. No matter how small this \$5,000 is, it means that somewhere down the road they might have a better chance to get the same money and we may not. So there is an issue here with a small cash pocket.

**COUNCILMEMBER KERN** stated this is to bring new money in; it isn't competing for money/grants that are already out there that we applied for. We just received a CalGRIP grant for \$360,000+. This is to actually get the statistics to go back and apply for a grant to help with regional gang issues. He wishes Deputy Mayor Sanchez was correct that all of our gangs are home grown; that they stop at the City borders and the other gangs from Vista and Escondido don't come into our City limits. This is not happening. Part of it is our own doing and the effectiveness of our police

department and enforcing the gang injunctions. It forces those people into other cities. We need to fight this on a regional basis and look at myopically that Oceanside can solve this problem on its own because we can't. We need to use every bit of our ability to reach out to other communities and to the region to fight gangs. The County has said that this is a regional issue and he thinks we ought to approach things on a regional issue. To allay the fears, this is to go after new monies to bring them into the region to fight gangs and not to compete with existing grants that are out there.

**Motion was approved 3-2;** Mayor Wood & Deputy Mayor Sanchez – no.

#### **CITY MANAGER ITEMS**

17. **City Council: Adoption of a resolution ratifying a Proclamation of Local Emergency by the Director of Emergency Services due to recent rainfall and flooding**

**CITY MANAGER WEISS** stated as Council knows we had declared a local emergency. Following the State's declaration of an emergency, Council has to take an official action to adopt the resolution, which allows us to submit to the Federal Emergency Management Agency (FEMA), the County and the State for reimbursement of our expenses. We have identified a number of projects, the most critical being the Haymar sewer line, a sink hole on El Camino Real, debris removal on the beach and a number of others. By doing this it will allow us to pursue as much reimbursement as we can possibly get.

We are going to be having FEMA, Office of Emergency Services (OES) and County representatives on site tomorrow to do a damage assessment of some of the more critical areas. With Council's action this evening it will open the door for us to submit for reimbursement.

**MAYOR WOOD** moved approval [of adoption of **Resolution No. 11-R0018-1**, "...ratifying Proclamation of Local Emergency by the Director of Emergency Services", due to recent rainfall and flooding].

**COUNCILMEMBER FELLER** seconded the motion.

**MAYOR WOOD** appreciated getting calls from some of our federal representatives asking what we needed regarding some of the emergency fund money.

**Motion was approved 5-0.**

#### **PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS**

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

**Advance written request to reserve time to speak:** None

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

**DONNA MCGINTY**, 2405 Mesa Drive, is here regarding KOCT and the way the money is running through that organization. Most of Council has been here for a long period of time and approved funding repeatedly. She cited the Statement of Auditing Standards for SAS 115: Communication of Significant Deficiencies coming from their CPA firm, Sonnenberg & Company, *Accrual accounting*, Finding: Oceanside Community Television Corporation has been maintaining its accounting records on a cash basis. Generally accepted accounting principles require accrual basis accounting. Under SAS 115, we are required to disclose that cash basis accounting may result in a material

misstatement of the financial statements. Result: Due to the material accounting of the accrual adjustments made as a part of the audit, there is indication that the cash basis financial statements may not provide sufficient information to management regarding current operations and future revenues or obligations.

She is asking Council to read these documents but upon asking some of the Councilmembers it didn't seem any of you had the documents. There was a letter received from Mr. Reeser, undated document on his letterhead, entitled Response to Statements of Auditing Standards SAS 114 & 115, stating the KOCT Board has studied all three recommendations brought to their attention. She did not tell Council the other two; the fact that he's not authorizing payment of invoices – there are checks being written and electronically paid without his approval. She read from the referenced letter that states some of the minor issues of accounting will be taken care of, otherwise he does not intend to go to anything other than he's done in the last 25 years as a cash basis operation. Today he was approved for funding and our Finance Director told me that an independent audit had been completed and you are satisfied as a City to fund KOCT again today. She objects to that being the case. The City is funding them with public money and it's not being managed properly.

The CPA firm, in its own recommendations to Council and his Board, indicate it's in violation. She is asking that Mr. Reeser be removed as a violation of the City's contract with KOCT and him; that he be removed from his CEO position, someone step in and temporarily take that responsibility until he can be permanently replaced until 2014 when the contract expires, and that no further funding be done until that happens.

**JIMMY KNOTT**, 127 Sherri Lane, felt the staff and Council could spend more time reading the City Codes because then they would know that in the absence of an animal control contract, the Chief of Police would be in charge of animal control in the City. He feels the infrastructure in our City and our sewage capacity is an urgent matter and we need to agendize it as staff noted. He expressed his disappointment with how Georgeo Kerpani was treated with respect to Christmas lighting. He was surprised at how the workshop that preceded this meeting ended. He thinks the public needs to know more about that and the Council needs to learn to talk to each other better.

**JOAN BROWN**, 511 Rockledge, President of the Oceanside Coastal Neighborhood Outreach, which is a 501(c)(3) and was formed to help improve the viability of the neighborhood through education and community projects. This is a non-profit, public benefit corporation and as President she is asking for a more formal recognition, which would also help her get some grants.

Georgeo Kerpani has been soliciting funds for Christmas lights on the pier for 2 years. He worked very hard on this. MainStreet was the non-profit that handled the donations last year but this year they didn't have the time or personnel to handle it. Neither did the Chamber of Commerce. We were approached by Mr. Kerpani in October to handle it and we said yes because we think it is a very good project.

We gave necessary paperwork to MainStreet, got a local company to agree to hang the lights and got all of the approvals from staff, or so we thought. Last year decorations were purchased and put up, but there were electrical problems about voltage. Some work was done and we thought it was fixed since we had the go-ahead. We purchased \$5,700 worth of new decorations for the pier and Harbor Bridge and were installing it, but the decorations weren't working. Our City lighting maintenance crew came out and pulled the plug and did not let us put up the large snowflakes on the light poles. They said we could put them anywhere on The Strand but not on the pier. The name of this project is Christmas Lights on the Pier. The next day the crew came out, changed the timer and replugged the decorations and they worked for a couple of weeks, but only one side was working on Christmas night.

She asked Council for direction on going forward with this project. Our group would be willing to have electrical contractors look at the problem so it will be safe or we will work with the City and do what it wants. It is hard to get licensed contractors to come out and look at City lighting without City approval. This is a good tourist attraction in the slow winter months and she would really like to see Ruby's and the Wyndham participate, especially for the beginning and end of the pier.

**CITY COUNCIL REPORTS**

18. **Mayor Jim Wood**

**MAYOR WOOD** offered his condolences to the family and friends of Pastor Carl Souza, especially his wife Brenda. He was a wonderful pastor, mentor and volunteer in our community. He was the Chair of the Senior Commission and volunteered as a Police Chaplain for the Oceanside Police Department.

The 2011 Martin Luther King Civic Award nominees have come out. Among them are a former Councilmember and the Chair of our Housing Commission.

19. **Deputy Mayor Esther Sanchez**

**DEPUTY MAYOR SANCHEZ** also praised Pastor Carl Souza for his kindness and contributions to the City.

20. **Councilmember Gary Felien**

**COUNCILMEMBER FELIEN** attended the MainStreet morning meeting which consists of City employees, volunteers and local businessmen trying to make downtown Oceanside more walkable and customer friendly. He participated in the Senior Citizen Christmas Party. He met with our Economic Development Director, Jane McVey, to go over all the analysis the City and staff go through to try and create the demographic analysis to attract businesses to the City.

21. **Councilmember Jack Feller**

**COUNCILMEMBER FELLER** announced that services for Pastor Carl Souza are at 11:00 a.m. on January 22, 2011, at Lighthouse Christian Church. The MLK Civic Award is at 4:00 on January 15<sup>th</sup> at MiraCosta College. The MLK Breakfast put on by the North County branch of the NAACP is on January 17<sup>th</sup> at 7:30 a.m. His thoughts and prayers to the Souza family.

22. **Councilmember Jerry Kern**

**COUNCILMEMBER KERN** attended the MainStreet meeting with Councilmember Felien. The only item on the agenda for the Redevelopment Advisory Committee was the hotel extension. He welcomed Gary Ernst aboard as our Treasurer.

**INTRODUCTION AND ADOPTION OF ORDINANCES** - None

**ADJOURNMENT**

**MAYOR WOOD** adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 8:23 PM on January 5, 2011. [The next regularly scheduled meeting is at 4:00 PM on January 26, 2011]

[Following a recess, Council continued the previously recessed workshop at this time – see January 5, 2011, 3:00 PM workshop minutes]

January 5, 2011

Joint Meeting Minutes  
Council, HDB and CDC

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

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Barbara Riegel Wayne  
City Clerk, City of Oceanside