



California

# CITY OF OCEANSIDE

## JOINT MINUTES OF THE:

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

NOVEMBER 17, 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

**City Attorney**  
**HDB General Counsel**  
**CDC General Counsel**  
Anita Willis

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 4:02 PM, November 17, 2004.

#### ROLL CALL

Present were Mayor Johnson, Deputy Mayor Chavez and Councilmembers Feller and Wood. Councilmember Sanchez arrived at 4:07 P.M. Also present were City Clerk Wayne, City Manager Jepsen and City Attorney Willis.

#### COUNCIL, HDB AND CDC CLOSED SESSION ITEMS

**CITY ATTORNEY WILLIS** titled the following agendized items to be heard in Closed Session: Item 2(1) and 3(1). [Item 1(A) was not heard].

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

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

**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 was session held

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

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

1. Hi Hope Ranch Ventures, LLC v. Vista Unified School District, Superior Court Case No. GIN036809

Direction was provided to staff

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

PUBLIC EMPLOYEE APPOINTMENT

1. Title: City Attorney

In closed session, Council by a 5-0 vote approved the appointment of Assistant City Attorney Pam Walls as Interim City Attorney at a salary of \$160,000 commencing December 10, 2004.

[Closed Session and recess were held from 4:04 PM to 5:00 PM]

**5:00 PM – ROLL CALL**

**MAYOR JOHNSON** reconvened the meeting at 5:01 PM. All Councilmembers were present. Also present were City Manager Jepsen, City Clerk Wayne, City Attorney Willis and City Treasurer Jones.

**PLEDGE OF ALLEGIANCE** - Councilmember Wood

**INVOCATION** - Pastor Gerald Johnson

**PROCLAMATIONS AND PRESENTATIONS**

Presentation – Oceanside S.U.N. 2004 Volunteer Appreciation/Slide Show  
Presentation - California Literacy award to Oceanside Public Library/Oceanside READS, named Outstanding Literacy Program in California

**Presentations were made**

**CLOSED SESSION REPORT**

4. Closed Session report by City Attorney

**CITY ATTORNEY WILLIS** reported on the following items previously heard in Closed Session: see Items 2(1) and 3(1) above. [Item 1(A) was not heard]

The Mayor determined to hear Item 34 at this time.

**MAYOR AND/OR COUNCILMEMBER ITEMS**

34. **Request by Councilmember Feller to consider the installation of a flagpole at the Murray Bridge to honor General Raymond L. Murray, and direction to staff regarding the City's financial participation, if applicable**

**COUNCILMEMBER FELLER** said it is an honor to have been asked to bring this forward by a group of people as well as the 1<sup>st</sup> Marine Division, which has their division headquarters on Pier View Way. It was before General Murray passed away that this was brought to him. The College Bridge has been renamed the Murray Bridge after General Ray Murray. It would be most appropriate to put a flag pole out there, lit 24 hours a day, 7 days a week, because it is one of the main entrances in and out of Camp Pendleton. It would be an appropriate way to honor this great hero. He asked Randy Mitchell to explain how we came to this point tonight and what he has accomplished so far.

**RANDY MITCHELL**, 161 Parnassus Circle, reported that there are many people in support of this item. This was done in secret so that General Murray would not know about it until just before it was erected. Unfortunately, he passed away before the project was completed, and today a real nation's hero was laid to rest. We would like to erect the flagpole in General Murray's memory. The City is being asked to endorse the project, to assure us that if we fall short on the funds the City will pick up the difference. We have a goal of \$7,500. We have raised \$2,500 and believe we can raise the full \$7,500. The part that will be the City's project is to maintain and operate the flagpole at an estimated \$400 to \$500 a year. He urged Council to give us an endorsement and let us go forward with this project. By January 30, 2005, the flagpole can be installed and the first colors can be raised.

**DICK LYON**, former Oceanside Mayor, said that today General Murray was laid to rest in Oceanside. He was a unique person, a national hero and a Marine Corps legend. It is appropriate that the flagpole be dedicated to General Murray at the bridge, which was also dedicated to him.

**COUNCILMEMBER FELLER** would like to hear from Council that we are willing to go forward with whatever is necessary to continually support this. It would be very gratifying for the men and women who have served for so many years and are so vital to our community to have a true hero honored in this way. He would like to see this done and believes it could be done by the General's birthday on January 30<sup>th</sup>. He recommended that Council direct staff to work out the final details.

He **moved** to direct staff to work out the final details with the 1<sup>st</sup> Marine Division Association [who will continue their fundraising] and return to Council with a solution as soon as possible.

**MAYOR JOHNSON seconded** the motion. He thanked those involved for bringing this item forward. He pledged \$500 toward the effort.

**DEPUTY MAYOR CHAVEZ** said this is a great project and asked if there will be multiple poles so that the Marine Corp colors can also be flown.

**MR. MITCHELL** replied that their intent was to fly the United States Flag only; however, he has no problem with the Marine Corps colors being there, too.

**DEPUTY MAYOR CHAVEZ** said if there were additional funds, we could have 2 flag poles or put the 2 flags on 1 pole together. On behalf of he and his wife, he pledged \$500 to the project. He also pledged to raise money for the effort. He is proud to be a part of the effort.

**COUNCILMEMBER SANCHEZ** questioned how much it is expected to cost to light the flagpole throughout the year.

**CITY MANAGER JEPSEN** responded that preliminary research indicates it would be less than \$1,000 per year to maintain and operate it. He guessed that the whole thing could be done for around \$10,000, plus the ongoing maintenance costs.

**COUNCILMEMBER SANCHEZ** stated the City has a process, and if Council is going to waive a process for dedication of monuments, this seems appropriate to waive. We just started the process for the purposes of coming up with names that are significant to the history of the City. Certainly, this individual was very important not just to Oceanside, but the Country.

**COUNCILMEMBER FELLER** stated we're not changing anything here; we're not renaming something. He is asking Council to give staff direction to come back with the costs and on-going upkeep as soon as possible. He announced that the entire Feller family will also pledge \$500 collectively.

**Motion was approved 5-0.**

35. **Request by Councilmember Feller to discuss the City's participation in providing matching funds for the Ten Point Program from San Diego County's grant, and direction to staff [gang intervention – youth violence prevention faith-based program for at-risk youth]**

**COUNCILMEMBER FELLER** brought this item forward because County Supervisor Bill Horn made a pledge on behalf of the County that was ultimately approved for \$50,000. This is a worthwhile effort to start the process of teaching parents how to deal with their children and neighborhoods and to be responsible for what their children are doing. The national Ten Point Program seems like a start to the solution of gang problems. He would not be here asking for \$50,000 without having a complete business plan, and that is one of the things the City needs to be guaranteed ahead of time so that it is something that the City can responsibly contribute to. Pastor Gerald Johnson has spearheaded this.

**PASTOR GERALD JOHNSON** explained the Ten Point Program, referred to as the "Boston Miracle", is a program that originated in Boston. He was able to go back to Boston for about 3 weeks to go through the program. He did not go there with the intent of bringing it back to Oceanside, but after coming back home we began to collaborate and talk to others. Through our collaboration and communication, we have support pledged by Senator Bill Morrow, Supervisor Bill Horn and all of the County Supervisors. They voted unanimously to stand by their commitment and we are even working in Lemon Grove and East County. We have support letters from District Attorney Bonnie Dumanis, Deputy Director of Health and Human Services Rick Macchione and the Police Chief. We work closely with Lieutenant Jones from the Gang Unit. We also have letters of support from the County Probation Office.

We have been having meetings since February to work out all of the details and iron out all of the wrinkles for the program, taking the template from Boston and customizing it for Oceanside's needs. Some portion of this program is being used in 33 cities nationwide. Council has folders with specific, exact information. This is a San Diego regional concept, and Oceanside is the pilot City. From Oceanside, they will motivate the faith community to step up to the plate and show their concerns, not just by praying on the inside, but actually going to the streets.

The Ten Point Initiative looks at four major areas: 1) homes, which are the first line of defense; helping parents develop skills for dealing with difficult, high-risk youth; 2) schools; 3) the court system; and 4) the streets. Through these four venues, the Ten

Point Initiative opens its arms, and the faith community provides wrap-around services to the health and human services, such as the police department and the Lifeline organization. We follow and work with the family to identify their personal needs. The request for \$50,000 will motivate our mentoring program. We have mentoring programs that start from ages 4-12. Statistics show reaching children as early as four years old is productive against gang activity. There is mentoring for the 13-21 year-olds. There is also what we call "Survival Skills Training" that helps the youth to continue on that road.

We have tutoring, conflict resolution, family and individual therapy counseling, leadership and youth development. In order to attack these things, we look at neighborhood patrols, which is where the faith community actually began to develop relationships through our community with the churches that are located in the individual communities. We also have street counseling where individuals have successfully left the gang lifestyle, and Ten Point will employ them to assist us in communicating with those coming up. We have job training and placement. Crisis intervention teams will be authorized to work in neighborhoods that need them. Mentors will be trained to be court advocates where the Bench can order an individual youth to go to the program or strongly recommend it. Education plans include collaborating with the Oceanside Unified School District. The program will begin with Ivey Ranch, Martin Luther King Middle School and El Camino High School. There will be an adopt-a-school program, where churches adopt schools that are in their neighborhood. Regarding economic opportunities for the youth, we have to really aggressively move toward working with the high-risk youth.

In South Central Los Angeles, there are 50,000 documented gang members and 100,000 in Los Angeles County. The Los Angeles Police Department has 9,000 sworn officers. In Oceanside, there are 1,000 documented gang members and 4,000 in San Diego County.

Earlier in the year, law enforcement agencies met regarding gang violence across the nation. They came up with the Patriot Act, where gang violence will be designated as an act of domestic terrorism and then we can call in Homeland Security. Throughout the faith-based initiative, National Ten Point and other initiatives, the faith-based community has been given an opportunity to step up to the plate and begin to assist and provide an umbrella. The Ten Point Initiative provides an umbrella for all of the social service agencies and law enforcement to come under and to communicate and deal with our at-risk youth.

**COUNCILMEMBER FELLER** asked Pastor Johnson whether he would have a business plan available explaining how the \$50,000 would be spent.

**PASTOR JOHNSON** replied that a plan is available upon request. Right now we're looking at \$130,000 and that is for capacity building. We're looking at 3 years for capacity building, 5 years to establish the training, 10 years for a change and 20 years to change the quality of life, although we will see something at the 10-year mark. All of it is written down, and at any time we can present it.

**COUNCILMEMBER FELLER** said the business plan needs to come forward before the check is written.

**PASTOR JOHNSON** replied that all the City needs to do is let him know what the requirements are, and we can match them.

#### Public input

**JIMMY KNOTT**, 124 Sherri Lane, stated absent in the presentation tonight was a reflection of the diversity. He did not hear anything about Synagogues or Mosques and asked where they are in the scheme of plans. This should not be in a Christian principle alone. There should be other principles that are included as a matter of the

faith-based community. He cannot support this effort until those points are corrected. There are 7 points which exclusively use the words Christian or church. Council should address this issue before they take action. No one should be left out.

**TIMOTHY JONES**, 3869 San Ramon Drive #187, is the Pastor of Community Lutheran Church located at 4507 Mission Avenue. We began working with Pastor Johnson and became involved in the Ten Point Coalition effort just after the prayer service a couple of months ago. Since the founding of our church over ten years ago, our congregation has had a vision to make a positive difference in this community, especially by providing educational and development opportunities for children and young people. We see our involvement in the Oceanside Ten Point Coalition as an excellent opportunity to continue to fulfill this vision. Our location in north eastern Oceanside is surrounded by territories claimed by gangs. While there are many gang members living in our surrounding neighborhood, our church is not currently within an area claimed by a gang. This is an advantage in our participation in the Ten Point Coalition in that we are a relatively neutral territory and easily accessible. Additionally, there are many at-risk children living in the neighborhood. This would make our church a great location to establish a drop-in center, which is one of the points of the Ten Point Coalition for both these at-risk youth that need a positive environment to hang out in or receive tutoring or mentoring, and also for the specific gang members that are looking for a way out of that lifestyle.

A center like this could also provide educational support through tutoring, training and mentoring, as well as after-school programs and summer programs to keep these kids busy. We're fortunate to have 3.5 acres of land that we have a vision to develop as a center for the community. Our intention is to support the Ten Point Coalition; activities and programs can and will be an integral part of our property and facilities. As there are no community centers in our immediate area, we hope that our property can fulfill part of this vital mission to the community around us by hosting and sponsoring programs that meet the needs of the community and especially those related to the Ten Point Initiative.

**THOMAS ALEXANDER**, 2901 Meadowlark Drive, San Diego, represents the San Diego County Probation Department who are in support of the Oceanside Ten Point Coalition.

**JOHN BYROM**, 1745 Fire Mountain Drive, represents North Coast Prevention Coalition which represents 20 different agencies and 40 different community-based programs, including law enforcement, school districts and community based organizations. He used to work at the juvenile facility in Campo, and the young men there were ages 13 – 16 and involved in gangs and drugs. Those young men would leave our facility and go back into their community. They didn't have a lot of hope that they would be successful when they left. He was unable to connect them to something in their community. The Ten Point Program is a perfect connection for those youth as they come out of a facility and want to get out of the gang lifestyle. To stop those individuals from going in, we need strong role models to show young people a different way. The Ten Point Program is perfect for that. Oceanside is very lucky to have this kicking off in the City.

**EDWARD CLIFFORD**, Pastor of Victory Outreach Oceanside, 517 Mission Avenue, has been working in Oceanside for approximately 10 years. Victory Outreach has been laboring in the community for approximately 20 years to reach out to the at-risk youth. He has never seen such an effort made in a city where organizations come together in unity to aggressively attack a situation or circumstance. The Ten Point Program is a great program. He is also the Director of a rehabilitation home. Currently he has about 10 men living in his home with his family, and these 10 men are ex-drug addicts and ex-gang members. His organization could benefit from the Ten Point Program, and we could work together to make an impact and reach some of these at-risk youth before something happens. We are supportive of the Ten Point Program and

he speaks also on behalf of Victory Outreach International. We see this as a work in progress and want to back this with our full support.

**NICK MIRANDA**, Director of Youth Ministries at Victory Outreach Oceanside, comes from the lifestyle of the at-risk youth we are trying to reach. Like these youth, he was lost without any hope and had nowhere to go. The police would catch him, and he ended up right back where he was. He didn't have a way out until he came to a place where there were people like Victory Outreach to show him there was another way out and that there was hope and life. This is what we would like to bring to the table at the City. It is an awesome opportunity that should be looked at as not another bill, but as an investment for the young people in the City. He realized the power of God and that is what changed his life. He will be on the streets with these young people everyday to try to show them they can do it as well. He asked Council to get behind the Ten Point Program because it is an awesome way for the young people in Oceanside to get out of that lifestyle.

**FAGATUA TILI**, 815 Whaley Street, Pastor at the First Samoan Full Gospel Pentecostal Church, has been involved with Pastor Johnson and other faith coalition leaders since April. He learned about the Ten Point System and knew it was a plus. It is something we need to pay attention to so that we can train our youth to go back to our churches, families and community. We can help these people. He is here to support the faith-based leaders for what we are doing with the Ten Point System, so we can educate our people and reach out to those who are lost and who are doing wrong because they have no moral values. He is here so that we can sit together with Council and the Police Department and bring our people back and win our City.

Public input concluded

**COUNCILMEMBER FELLER** asked City Manager Jepsen to highlight what is necessary in the business plan of the Ten Point Program, along with approving this dollar amount.

**CITY MANAGER JEPSEN** responded that assuming there was Council support for this, normally what we would ask for, either as a stand alone investment in this program or as part of the Community Development Block Grant (CDBG), would be the goals and objectives of the program, a budget that ties those tasks back into the goals and objectives, the measures of effectiveness for the program and some way of assuring the long-term sustainability of the program once it was initiated. Those are the components that we would have to work out in order to bring this back as a request for matching funds or any funds the Council would want to dedicate to this effort.

**COUNCILMEMBER FELLER** hoped that with direction from Council we could move forward with however the funds are generated, whether it is CDBG or seed money, etc.

**PASTOR JOHNSON** heard the CDBG mentioned and the CDBG process for a seed program is very slim because then they would be in competition for funds with agencies such as Brother Benno's, the YMCA and much larger agencies that have track records. It would not be a good move to go to CDBG.

**COUNCILMEMBER FELLER** hopes that we could move forward with this as soon as possible, taking into consideration City Manager Jepsen's comments, and try to come up with a resolution, maybe even by mid-December. It may take seed money to take this forward and then be able to flow into the CDBG in future years once that track record is established.

He **moved** to go forward, taking into consideration City Manager Jepsen's comments; as well as input from Councilmembers.

**MAYOR JOHNSON** noted that the City Manager laid out a series of criteria that should be met before any funds are dispersed. He **seconded** the motion.

**COUNCILMEMBER SANCHEZ** appreciates churches stepping up when they see a problem. She has received communications from the public indicating their concerns. There is no quick fix and there is no one fix. The Ten Point Program is like other programs the City has - sometimes they work and sometimes they don't. It is the same as what they are hearing about Boston. She has concerns about a business plan. CDBG would be the appropriate place to go forward. The Ten Point Program needs to prove itself among other programs. She would hope that The Ten Point Program's efforts and the efforts of everyone concerned will be with the communities that already have organizations that are addressing these issues. Calle Montecito has a community organization that has been working together for several years now with the help of staff. She doesn't see anyone here from the Calle Montecito community organization speaking in support and doesn't even know if they have been contacted. The same thing goes for the Eastside community organization. She sees one community organization represented tonight, but she does not see the other. They have been addressing these same issues having to do with children, what's happening in the park at Eastside in Balderrama, and the same thing with Crown Heights. She doesn't see anyone here from the Crown Heights community organization. She does not know if you are doing a test model or if you're picking a site to see what it would take to show some levels of success. This is something that has been going on for a long time and it can only be done with the help of the entire community, whether you're coming from the outside going in or whether you're someone that lives in the community and wants to do something about it.

As a person who works in law enforcement and deals with these kids every day, it's the trafficking and selling of drugs. They don't see any jobs. She sees job training as something that is very important for these communities. Project SER is now going into Calle Montecito, working with the Boys & Girls Club and the community that meets once a month. These partnerships will go somewhere. They know who the kids are. She would want Ten Point to work with them. She would like to see a business plan and funding requests processed through CDBG because they are all going through the same thing. CDBG funds are received based on these challenged neighborhoods and populations. That is what the money is for. If the Ten Point Program representatives are saying that they shouldn't go through that, she begs to differ. In fact, that is the way Council needs to address these issues.

She wants to offer up hope to our youth because our youth are our future. If we don't do anything, we're going to have a terrible crime rate in Oceanside. She is very disappointed that our recreational programs have been closing and the City does not have enough money to maintain these programs. In the Eastside community, we promised a teen center. There are a lot of things they need to do together. Staff, for example, is working with several people at the Balderrama Center who are committed to these youth. These same people have to go through the CDBG process, and Council has treated everyone alike. She is hoping that we can come up with a plan that is in conjunction with other existing programs. Funding requests for the Ten Point Program should go through the CDBG process.

**COUNCILMEMBER WOOD** thanked the churches in the City that constantly step forward and fill in that financial gap. The churches are stepping up and saying that they will try it. It takes finances, and the City will try to support it. He supports it, but would like to see the business plan, the use of the money, how it would be spent, etc. It is commonplace for CDBG that Council has the business plan and somebody has reviewed it. This is something that, with the Council behind it, could easily go forward with the financial aspect from CDBG and if we all get together we can get a quick \$35,000. This is something that is important for the community, especially its violent crimes, which are something that should be a priority for the whole community. Council is trying to address it through the churches stepping forward and trying to fill in that gap with law enforcement, etc.

He supports the Ten Point Program but would like it to go back to staff and the Ten Point Program representatives get with staff to make sure that the business plan is together so that we can agree on how that money would be used. Council can give up to \$35,000 in Block Grants, and they are coming up in January/February. He wants to look at where the money is going to come from. He is trying to think of the best way to get matching funds from the County. He thinks the City can do it, but refer it to staff.

**DEPUTY MAYOR CHAVEZ** acknowledged the gang issue is a serious problem that will take a multi-faceted approach and many years to solve. If they did get \$50,000 and matched \$50,000, that really does not address the long-term sustainability over these 5-15 years. He expressed concern that if Council goes forward with the motion to refer this item back to staff for more work and then come back to Council, it may not come back as fast as we would like. The first part of the motion is for staff direction, but the other issue is regarding funding. He and Pastor Johnson talked about CDBG funding this morning. There is a cap of \$35,000 and they could go through the process to compete. Neither one of those paths is going to address the issue or put the significant gang issue before the City.

Maybe we need a modification to the motion. This is extremely important and there needs to be a business plan and a matrix of success and some way of looking at long-term sustainability. We need to look at what is going on in San Diego where they brought together a number of agencies to deal with domestic violence such as the police, courts, homes and jobs with everything in one center. Domestic violence and gangs are serious issues and need to be dealt with in an in-depth way.

He recommended that 2 members of Council be appointed to an ad hoc committee to work with Pastor Johnson and his team to elevate the importance of this and to show that the City is committed to dealing with the gang issue. He expressed concern that if we don't deal with this issue consistently over a period of time, then it will drop off the net and will be just another program. Another program just uses resources, which he is not very excited about. He is excited about solving the problem and going to the root causes. So, if Councilmember Feller would be willing to modify his motion to have maybe 2 Councilmembers be part of an ad hoc committee to work to push this thing through, he would be supportive of the motion. Otherwise, he would recommend that we go back to the CDBG process.

**COUNCILMEMBER FELLER** stated this program is volunteer-based and church-based. Council is asking these people to commit their time and probably their money to work with the at-risk youth, at-risk parents and the families that are struggling with how to handle their children. Parents know what their children are about, but they don't know how to handle them. This is about teaching parents how to handle them. This is very close to his heart and Council needs to move forward with the plan, taking into consideration City Manager Jepsen's suggestions. We need to move forward with the funding of this and work with City Manager Jepsen to accommodate this program. It is not necessary that 2 Councilmembers get started on an ad hoc committee. We are not the consummate professionals to be doing that. Pastors, staff, etc. deal with this daily. Council just needs to move forward with the original motion.

[Recess was called from 6:21 to 6:23 PM]

**COUNCILMEMBER FELLER** conceded to an ad-hoc committee, if Deputy Mayor Chavez and Councilmember Sanchez would be on that committee (to work with Pastor Johnson and staff and move forward quickly on the criteria and plan/funding). He so **amended** his **motion**.

**MAYOR JOHNSON** as **second concurred**.

**COUNCILMEMBER SANCHEZ** understands that the program has been funded

at \$50,000 and would like to know how it would be spent. Pastor Johnson has said he has plans for the program and there are volunteers, but she does not know what the money will be spent on.

**CITY CLERK WAYNE reiterated that the motion** is to proceed as soon as possible, with some of the recommendations of City Manager Jepsen, and to include the ad-hoc committee, which includes Deputy Mayor Chavez and Councilmember Sanchez.

**Motion was approved 5-0.**

**Changes to the agenda**

**CITY CLERK WAYNE** announced that at the request of the applicant, Item 27 has been continued to December 15th at 6:00 PM.

The Mayor determined to hear the Consent Calendar at this time.

**CONSENT CALENDAR ITEMS** [Items 7-24]

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 14 and 23.

**COUNCILMEMBER SANCHEZ** pulled Item 19 for discussion.

**COUNCILMEMBER WOOD** pulled Item 16.

The following Consent Calendar was submitted for approval:

7. City Council /CDC: Approval of Joint Minutes of the Community Development Commission and City Council of February 14, 2001, 2:00 P.M., Workshop
8. 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)
9. City Council: Approval of an annual purchase order in the amount of \$213,291 to Polydyne, Inc., of Riceboro, Georgia, for chemicals at the San Luis Rey Wastewater Treatment Plant; and authorization for the Financial Services Director, or designee, to execute the annual purchase order
10. City Council: Approval of plans and specifications for the construction of the Myers Street Gravity Sewer Replacement project to replace approximately 1,200 feet of sewer line in Myers Street from Civic Center Drive to 100 feet beyond Seagaze Drive, and to install approximately 650 feet of new eight-inch gravity sewer line in Pacific Street between Mission Avenue and Seagaze Drive, continuing in Seagaze Drive between Pacific and Myers Streets; and authorization for the City Engineer to call for bids
11. City Council: Approval of plans and specifications for the OPD Carports project, and authorization for the City Engineer to call for bids
12. Harbor: Approval of Amendment 1 [**Document No. 04-D930-2**] to the lease agreement with Azure Seas of Oceanside, Inc., extending the term of the agreement from November 1, 2004, through October 31, 2007, for dock space on the westerly side of the Transient Vessel Harbor Village Long Dock, in a total minimum revenue amount of \$24,019, and authorization for the City Manager to execute the amendment

13. CDC: Approval of Amendment 2 [**Document No. 04-D931-3**] to the Disposition and Development Agreement with Oceanside Pier View, L.P., for property bounded by Cleveland Street, Mission Avenue, and Seagaze Drive (OceanPlace Parcel B) amending the method of payment to an all-cash transaction; acknowledgement of the conversion of Oceanside Pier View from an LLC to an L.P.; and authorization for the Chairman to execute the documents [**Document No. 04-D932-3 - Statement**]
14. **Removed from Consent Calendar for discussion – public request**
15. City Council: Approval of a license agreement [**Document No. 04-D934-1**] with the North County Transit District Development Board (NCTD) to own, operate, maintain, and repair streetlight conduit within NCTD right-of-way related to the Rancho del Oro Extension project; and authorization for the Mayor to execute the agreement
16. **Removed from Consent Calendar for discussion – Councilmember request**
17. City Council: Approval of a five-year agricultural lease agreement [**Document No. 04-D936-1**], including one two-year renewal option, with Rancho Del Oro Landscape and Maintenance, Inc., for the purpose of low-intensity farming on 16.44 acres of City property east of Mission Avenue between Jeffries Ranch Road and East Vista Way, and authorization for the City Manager to execute the agreement
18. City Council: Approval to grant an easement [**Document No. 04-D937-1**] for utility purposes to San Diego Gas & Electric to serve the Oceanside Municipal Airport area, and authorization for the Mayor to execute the easement
19. **Removed from Consent Calendar for discussion – Councilmember request**
20. City Council: Adoption of **Resolution No. 04-R940-1**, "...adopting the Water, Sewer and Reclaimed Water Design and Construction Manual", [**Document No. 04-D941-1 (Manual)**] to establish standards for the processing, design, construction, and testing of both public and private improvements for water, sewer, and reclaimed water facilities constructed within the City of Oceanside
21. City Council: Adoption of **Resolution No. 04-R942-1**, "...ordering the Summary Vacation of Certain Public Utility Easements and Public Street Rights-of-Way Within the Harbor View (Windward) Residential Condominium Development (Eighth (Neptune Way) and Nevada Streets" [**Document No. 04-D943-1 (recorded resolution)**]; declaration of portions of the vacated rights-of-way as excess real property and offering the land for sale to the adjoining property owner, Greystone Homes, Inc., for assemblage with its Harbor View (Windward) residential condominium development; approval of a Real Property Disposition and Acquisition Agreement [**Document No. 04-D944-1**] with Greystone Homes, Inc., for its purchase of the property in the amount of \$800,485; authorization for the Mayor to execute the agreement and the grant deed [**Document No. 04-D945-1**] conveying the property to Greystone; and direction to staff to open escrow and conclude the transaction
22. City Council: Adoption of Budget **Resolution No. 04-R946-1** "...amending the Budget for the 2004-2006 Fiscal Years", accepting \$10,000 from the California State Library awarded to Oceanside Public Library to implement the Global Language Materials Grant Program and transferring these funds to the Library Department
23. **Removed from Consent Calendar for discussion – public request**
24. City Council: Approval of the expenditure plan for the COPS 2005 State Supplemental Law Enforcement grant, for required review by the County Supplemental Law Enforcement Oversight Committee (SLEOC); and authorization for the City Manager, or designee, to accept the grant funds from the State of California via the County of San

Diego Auditor and Controller, and to transfer the funds to the Police Department

**COUNCILMEMBER SANCHEZ moved** approval of the balance [of Consent Calendar Items 7-13, 15, 17, 18, 20-22, and 24].

**DEPUTY MAYOR CHAVEZ seconded** the motion.

**Motion was approved 5-0.**

**MAYOR JOHNSON** advised that Items 14, 16, 19, and 23 will be addressed at the end of the agenda.

**6:00 P.M. – 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.

25. **CDC: Introduction of an ordinance approving a Zone Amendment (ZA-201-04) amending the Downtown "D" District regulations to allow for wine tasting establishment–Wine Tasting Zone Amendment–Applicant: City of Oceanside (continued from October 20, 2004)**

- A) Chairperson opens public hearing – hearing was opened.
- B) Chairperson requests disclosure of Commissioner and constituent contacts and correspondence – Mayor and Councilmembers reported contact with staff, public and applicant.
- C) Secretary presents correspondence and/or petitions – None.
- D) Testimony, beginning with:

**GERALD GILBERT**, Planning Director, summarized the item as an amendment to the Downtown regulations to allow for wine tasting establishments. In July 2004, the Council directed staff to amend the "D" district regulations to allow for wine tasting establishments. At the time Council felt that this particular use had matured enough in the industry to be consistent with the emerging tourist and entertainment focus of the Downtown area.

Stand-alone wine tasting establishments are currently prohibited. In evaluating this particular amendment or the use itself, we surveyed a variety of different communities on how they have treated this type of operation. However, it is safe to say that for the regulation that we're proposing, communities don't have the exact or similar type of regulations. Currently, the Department of Alcohol and Beverage Control (ABC) allows for wine tasting establishments in connection with a wine manufacturing operation. Julie Jones, who was the proponent of the use and did come to Council to ask you to look into this, would like to create a wine tasting bar. That is specifically different than a wine tasting establishment in the traditional forms of ABC's classifications.

The wine tasting bar would primarily make available wines for consumption, as well as for sale. The dominant activity of the wine tasting bar would obviously be the tasting and the selling of wine. However, in discussions with Julie Jones, there is also a need to develop alternatives. There are folks that like to drink beer, and one of the items that we've identified in the classification is the ability to consume and sell beer, but they would be micro-brewed beer.

One way to ensure compatibility in the Downtown area and to review the operational characteristics of an establishment would be to recommend that a Conditional Use Permit (CUP) process be included as part of the review process for this type of establishment. There are other pertinent provisions in there. Obviously, wine tasting would be the area for the consumption of alcohol and would be limited to

persons over 21 years old and older. In establishing the location of where this type of an establishment would be or make sense in the Redevelopment Area, we've identified primarily the commercial districts throughout the Downtown area (listed on Page 2 of the staff report). The Redevelopment Advisory Committee (RAC) reviewed this issue this morning, and there was some discussion about the specific use and its operational characteristic. RAC approved it on a 6-0 vote.

The City Attorney's analysis does identify issues that could arise. But we believe with the creation of the definition through the CUP process, that we could regulate the use and ensure that it would be consistent with the goals of the Redevelopment Area, and more importantly not create an impact on the Downtown area.

His recommendation is to adopt the regulations as presented to Council and introduce the ordinance attached to the staff report.

#### Public input

**KIM HEIM**, Executive Director of MainStreet Oceanside, 214 North Coast Highway, supports this amendment and believes that this type of use falls within the guest serving definition of the Redevelopment Area. Although the dispensing and consumption of alcohol is a concern of ours, we believe this would be an appropriate use and a use we will unavoidably see more in the Downtown area as hotels begin to site there. We support the inclusion of a CUP element with this type of amendment to ensure that the operation of the facility meets the standards that everyone is looking for in the Downtown. He encouraged Council to approve this item.

**JULIE JONES**, Vine to Glass, plans to have an upscale establishment that will present fine wines from around the world. We aspire to set the standard for a world class business in Oceanside. It is our hope that we will not be just a destination for Oceanside residents, but an attraction for other world class businesses and tourists.

**JAN GARDNER**, President of the Chamber of Commerce, who sits on the RAC as the representative for the Chamber of Commerce, spoke in support of this project. A lot of times, she wants to buy wine but does not want to pay for it unless she knows what it tastes like. It is a great idea, and she welcomes this business with open arms.

**DAVID NYDEGGER**, CEO of the Chamber of Commerce, stated that the Chamber's mission is to help improve the quality of life and the economic development of Oceanside. This is a step in the right direction. This is not the same as having another bar coming into the City. He supported staff's recommendation.

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

**COUNCILMEMBER SANCHEZ** knows we have concerns from 25 years ago, and the rowdy people have cooled down. This is a great idea. Mostly she wanted to thank Julie Jones as an entrepreneur coming in to do this the first time. We all want to be there to help you be successful. This is just a beginning and she hopes that this continues on and that we become the kind of Downtown that people will want to come to at night, have dinner and have these other types of shops to go to.

She **moved** to introduce the ordinance, "...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)"

**COUNCILMEMBER FELLER** appreciates anyone who takes the step to be a small business person. It is not what it is cracked up to be. It takes the diligence and effort of somebody like Ms. Jones to put the time in and get something like this approved. It is not going to be a normal beer bar. This is a world class type business, and he hopes that the businesses that come in following Ms. Jones' efforts will demand

of the Council that they do world class things for the Downtown and nothing less. He **seconded** the motion.

Following the reading of the title, **motion was approved 5-0.**

26. **Council: Introduction of an ordinance for Zone Amendment (ZA-9-02) amending the zoning district map to place a Planned Development (PD) Overlay over a 16.8-acre lot located at the western terminus of San Dimas Drive, north of San Ramon Drive and west of Rancho Del Oro Drive; the Planned Development (PD) Overlay is for the development of a 29-unit single-family subdivision project – Rancho Vista – Applicant: Pelican Homes**

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

**GERALD GILBERT**, Planning Director, summarized the item as a Zone Amendment that is a proposed Planned Development (PD) plan specifically to be overlaid on a 16.8-acre site located at the western terminus of San Dimas Drive, north of San Ramon Drive and west of Rancho Del Oro Drive. The PD overlay is being requested to implement a 29-unit subdivision, which will be an age-restricted project of 55 years and older. The Zone Amendment, as well as the associated Tentative Map, Development Plan, Use Permit and Historic Permit have been reviewed and approved by the Planning Commission. The action that Council will be taking tonight is dealing with the PD plan (Zone Amendment), but that does open up elements of the project itself if Council has issues or concerns.

The Planning Commission reviewed the project in September and approved it with a 5-1 vote. During the hearing, a few residents addressed the Commission on issues centered on the effects of the project on the existing Rancho Hermosa Homeowners Association (HOA). This particular project will be incorporated into the Rancho Hermosa HOA. There will be separate Covenants, Conditions and Restrictions (CC&Rs), but it would total one complete project. We had encouraged the developer to meet and talk with the Rancho Hermosa HOA, which compelled a vote of the members of the HOA who showed strong support. There were just a handful of negative votes. During the hearing there was no direct opposition of the project. This is one situation where the developer did go through the General Plan Amendment, through the Zone Amendment, and then eventually the project, and worked with the adjacent neighborhood to come up with a good design.

He displayed a layout of the subdivision and pointed out the extension of the existing San Dimas Road. The project is 29 single-family lots that would be age restricted. There are some areas of open space and a larger natural habitat open space area that this HOA would also be responsible for. It is a natural habitat, and there is no expectation of maintenance.

There are 2 particular floor plans proposed that are 1,200 and 1,500 square feet and are designed to be senior friendly. Most of the amenities, especially in the 2-story units, are on the bottom floor. The 2<sup>nd</sup> story is designed for a live-in caregiver. The project will be marketed to the senior community. A huge benefit of this particular project is the preservation, the reservation of a substantial open space area that had opportunities for development. With this project those opportunities would be eliminated and restricted. The PD plan is a good mechanism to come up with a product type that would work in relationship to the surrounding neighborhood. The deviation in standards, minimum lot sizes, were compensated through amenities within the units, as well as the creation of the open space area. All in all, the project utilized the PD Overlay properly.

The Planning Commission approved this item on a 5-1 vote, and Council is being asked to support the zone text amendment. Upon Council's approval, staff will change the appropriate maps and move forward with the development of the project.

**COUNCILMEMBER SANCHEZ** asked if these units are senior restricted and not senior friendly.

**DIRECTOR GILBERT** replied that the units are senior age restricted.

**COUNCILMEMBER SANCHEZ** asked for the comments of the Planning Commissioner who voted against this project.

**DIRECTOR GILBERT** responded the Commissioner was concerned about the design of the 2-story homes, as well as the largeness of the open space areas. The Commissioner had questioned whether the HOA would be responsible for the maintenance and if their fees would increase. The way that this is structured the answer is no, it would not. It would be a 2-tiered approach. The existing HOA would maintain their existing fee structures, and the 29-unit project would develop their own fee structure. It will be one project, but two tiers of fees.

**COUNCILMEMBER SANCHEZ** asked if those that spoke about the impacts from the HOA were addressing financial impacts in terms of the fees and were not talking about traffic or ingress/egress.

**DIRECTOR GILBERT** replied through the development of the plan and layout, issues of traffic always arise in senior communities. The roadway out there is a little narrow. The General Plan and zone change at the time was single-family detached, which was available for market rate. The trade-off was coming in with a product type that was senior only and that would blend really well with the existing. In working with the HOA, their biggest concern was the fiscal impact on the existing residents. The way it is structured there will not be a fiscal impact on existing residents. However, in the development of the CC&R's we will be monitoring them because we will have to approve those as well.

**COUNCILMEMBER SANCHEZ** explained that the PD is required to reduce lot sizes and setbacks. She asked if there were any comments regarding lot sizes and setbacks.

**DIRECTOR GILBERT** replied no. It just makes better sense to be more consistent in the lot area with the adjacent project. However, we are dealing with a more modern project type. The square footages are larger than what is out there, and there are 2-story units. More importantly, the extra outside yard areas were not necessary. They are actually aggregated into an open space area that is part of the project itself. Through the PD plan, deviations can be requested, but those deviations need to be compensated, and they were done by the look of the project itself, the product type and the creation of the open space areas, which were not necessary.

Applicant

**LOU LIGHTFOOT**, President of the Lightfoot Planning Group, 5750 Fleet Street, Carlsbad, represents Pelican Homes, the applicant on the project. The action requested tonight is implementing a decision Council made in May 2003. This property's only access is through the Rancho Hermosa community and had a single-family zone on it and single-family designation in the General Plan. Council recognized the access issue and amended the General Plan to accommodate the development of a senior community here and specifically conditioned the General Plan Amendment to accommodate a senior community.

The Lightfoot Planning Group has implemented that decision and designed this 29-unit project that sits primarily on a ridge on 5 acres of the 17-acre site. The rest of the property, about 12 acres or so, is being left in natural habitat. The only access to the project is through San Dimas, and the project was specifically designed for seniors. All the living areas, including the master bedroom are on the 1<sup>st</sup> floor of the unit. The 2 bedrooms on the 2<sup>nd</sup> floor are designed so that they can serve as a caregiver function or as a place for the grandkids to come and stay over the weekend, etc.

The project is going to be annexed to the Rancho Hermosa HOA, and the reason for that is because under State law in order to do a senior project, there must be a minimum of 35 units. We can only fit 29 units on the project site, so the Rancho Hermosa Community, because they want this to be a senior project, agreed to the annexation. They were given the option of doing either a one-tier assessment or a two-tier assessment, and they elected to do the two-tier assessment so that their own HOA fees would not be impacted. Their fees will stay exactly as they are, and these particular 29 units will pay a different fee to accommodate the maintenance of the open spaces in this particular project.

Even though we're only generating a couple hundred traffic trips out of this project, we will be installing a traffic signal at San Ramon and Rancho Del Oro Drive as part of the traffic mitigation for the project. That was something else that the neighborhood wanted done, and the developer agreed to do it as part of the project. The developer will be subject to some reimbursements so that ultimately he will only pay his fair share of that, but he will install it up front as part of this project.

He could go into a lot of detail on the units themselves and had the architecture package to display if Council had questions. The developer had a very favorable reception from the neighborhood, the Planning Commission and staff, and we hope that Council takes this final step tonight and approves the zone change so that the project can go forward.

**COUNCILMEMBER SANCHEZ** asked if maintaining the habitat was going to be covered in the HOA fees.

**MR. LIGHTFOOT** answered initially yes, until we are able to make provisions to provide for an endowment for that and turn it over to some sort of a third party conservancy group, which is the long-term objective.

#### Public Input

**ELLIE JUDGE**, 282 San Dimas Avenue, requested clarification about the separate CC&Rs and asked if the 29 units would have their own CC&Rs but be under Rancho Hermosa's umbrella of association dues to them.

**DIRECTOR GILBERT** replied we haven't established the format yet. We have crafted conditions so that the CC&Rs would be subject to the review and approval of the Rancho Hermosa HOA first and the City as well. The goal and objective was not to interfere with the existing operations and costs of the existing HOA, and we will modify the CC&Rs specifically for this project. Whether they have an umbrella CC&Rs or break them apart has yet to be determined, and the Rancho Hermosa HOA will be part of the decision making process on how they do that.

**MS. JUDGE** expressed appreciation and said that isn't quite the way it has been presented to the HOA. The other thing that scares her community is we keep hearing single-family. Coming into their area is a sign that says Rancho Hermosa Senior Homes. They would like a sign for the new project saying Rancho Vista Senior Housing. She knows the developer keeps saying that the new project will be restricted to 55 years of age and older, but the residents of Rancho Hermosa Senior Homes want to be sure.

**DIRECTOR GILBERT** confirmed that 55 years is the minimum age for residents of the proposed 29 units.

**FRED EARL**, 3967 San Pablo Avenue, Rancho Hermosa, expressed opposition to this project. He has lived there for 17 years, owns his home and property and does not have a common area; only CC&Rs to govern us. The streets are public. As to the Pelican Development, Council should not approve the project due to the following reasons:

- 1) Access through Rancho Hermosa, which are 2 bedrooms, 1 car garage duplexes;
- 2) The 29 units are not built for seniors because they have 3 bedrooms, 2 stories and double garages and it also has common areas;
- 3) He is against attaching to the Rancho Hermosa CC&R's with the agreement of the Pelican owners to donate \$5,000 to Rancho Hermosa's CC&Rs that the Rancho Hermosa Board insists on changing. There is no need to change them as they have not had any problems with the current CC&Rs;
- 4) It is also going to cost us more dues and hardship;
- 5) It will cause new costs to seniors at both developments;
- 6) The project will lower approval standards; and,
- 7) It will add various costs at the Board's discretion due to the voting changes.

We have nothing to gain from this. Presently we have a 75% owners only voting on any projects of any kind. Out of a majority of 172, we have to have 75% per the current CC&Rs. In the new CC&Rs, the change will be to a simple majority, which could be renters or owners in a quorum vote. He is not sure what a quorum is. What is our minimum to become a quorum? It could be any amount of people that the Board decides to choose. There are too many open ends on this.

Public input concluded

Applicant Rebuttal

**MR. LIGHTFOOT** explained that Brian Johnson, the President of Pelican Homes, had extensive discussions with the community association as part of this project. There was a lot of concern within the association about their own association's structure. Seniors have gone through a lot over the last 10 years relative to being able to keep their age restriction. The State has ruled that new senior projects must have amenities which are specifically geared to seniors in order to maintain the age restriction. Rancho Hermosa does not have any of those types of amenities. So, one of the biggest concerns they had was whether or not including this project within their association would affect their ability to keep their age restriction and would increase their dues.

Mr. Johnson has relayed that as a result of those discussions, he has agreed to the two-tier concept so that their dues will absolutely not be impacted. The association will be able to continue to function the way it has been functioning in the past with this piece tagged on as a separate assessment level, so that the age restriction can be applied to this. This is really the only way to get an age restrictive community here that is compatible with the rest of the association. The membership of the association did vote, not unanimously, to accept that and agreed to the annexation of this project so that they could proceed as an age-restricted project.

This issue was discussed by the Planning Commission, and they actually modified the condition on the project to make sure that the new CC&Rs would be thoroughly reviewed by both the association's attorney and the City Attorney to make sure that there would be no impact on the existing association. We agreed to that condition. We look forward to being a welcomed addition to this community bringing more seniors into the area in a housing type that meets today's senior market demands, which is quite a bit different than what it was 25 years ago when Rancho Hermosa was built.

The Mayor closed the public hearing.

**COUNCILMEMBER SANCHEZ** recognized that some senior communities are concerned about some of the older definitions of senior restricted housing. For example, they are concerned about not having a clubhouse or common areas. It sounds like Rancho Hermosa does not have those kinds of things as mentioned. Would annexing and having these common areas better ensure that Rancho Hermosa stays a senior community?

**MR. LIGHTFOOT** replied that Rancho Hermosa does not have a clubhouse and we're not providing one. We have to provide some common open space to meet the City's ordinance requirements, as well as the new senior definitions. The existing association discussed that among themselves and with their attorney and decided it would not be necessary or beneficial financially to their association to include that within their association dues structure and CC&R structure. Hence the decision to do it as a two-tier association.

**COUNCILMEMBER SANCHEZ** asked if that was something that could be changed if, for example, the definition of senior community changed.

**MR. LIGHTFOOT** replied that if they decide they want to do that through the final review of the project, we'll be more than happy to work with them on that.

**COUNCILMEMBER SANCHEZ** clarified that under the old definition of senior housing that talked about common areas, a clubhouse is not necessarily required, just common areas.

**MR. LIGHTFOOT** said it requires some sort of facility that is conducive to seniors, and we have a viewing area, a little barbeque area, a garden area that we hope the seniors will participate in as a community garden. The open space areas on the proposed project are specifically designed for seniors.

**COUNCILMEMBER SANCHEZ** asked if the barbeque area and viewing area would qualify under the old definition of common area to establish that it is a senior community; would that satisfy the requirement?

**MR. GILBERT** responded we do believe that it will. However, through the finalization of the CC&R's, we'll have to get that final determination, and that is the key. If there are changes through any legislation or case law, we'll have to tackle that. But the intent is for this project to be age restricted 55 and over for seniors and not to create any potential violations or challenges down the road.

**COUNCILMEMBER SANCHEZ** said the only other objection that she heard, besides the HOA's which the City does not have jurisdiction over, Council did receive a written copy of Mr. Earl's comments. He indicated that he didn't believe that these were really senior units because they have 3 bedrooms. She asked if a grandparent could bring in their grandchild if they have some type of guardianship or custody.

**MR. LIGHTFOOT** answered that he did not know how the CC&R's will be structured to address that issue.

**MR. GILBERT** pointed out that there are provisions within the law that allow for caregivers. The issue of allowing families to come in and live is a concern, and the CC&Rs will be developed to address that. He explained that how they bought off on the 2-story unit is that the first floor is designed for the senior activity. The second floor is for caregiver potentials. There are single story units.

**COUNCILMEMBER SANCHEZ** assumes there is a market for these kinds of units for seniors.

**MR. LIGHTFOOT** said people want computer rooms and a place for their grandkids to spend the weekend. He has seen CC&Rs written for senior communities where one member has to be over 55 and the spouse can be under 55; they are allowed to have maybe one child who is not under the age of 18 and grandkids are usually allowed to come and stay for some not-to-exceed period of time. They do try to accommodate an acceptable living environment so that the seniors are not totally isolated from the rest of the community. They will work that through with the HOA.

**COUNCILMEMBER FELLER** questioned what the time frame would be if the amendment was approved.

**MR. LIGHTFOOT** answered that generally it takes another year to get a grading plan and final map approved. The grading would then have to be completed before building permits can be acquired. The best case scenario would be 18 months out before we could even get building permits. The Tentative Map is good for 2 years and sometimes it does take that entire 2 years before permits can be issued.

**COUNCILMEMBER FELLER** said this is a great project as long as everybody is satisfied on both associations. It sounds from the input tonight that a lot of concerns have been addressed. He will support this.

**COUNCILMEMBER WOOD** had visited the neighborhood on several occasions and spoke to the residents about this. There didn't seem to be any concerns except the HOA issue. Not only will this be a senior community, but the developer is also putting in things like community areas plus a traffic light, which is about \$120,000 to \$150,000, down at San Ramon. The developer is trying to address some of the senior concerns. Most of the feedback has been positive for this project. It is senior and fits within the community.

He **moved** to introduce the ordinance, "...amending the Zoning District Map from Residential Medium District-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".

**MAYOR JOHNSON** seconded the motion.

Following the reading of the title, **motion was approved 5-0.**

- [27. **City Council: Approval of a five-year franchise agreement with Samber, Inc., dba Coach Cab Company in a total revenue amount of up to \$14,500 for taxicab services in Oceanside, and authorization for the City Manager to execute the agreement]**

At the applicant's request, this item was continued to December 15<sup>th</sup> at 6:00 PM.

28. **CDC: Adoption of a resolution regarding the Third Implementation Plan for the Oceanside Downtown Redevelopment Project Area**

A) Chairperson opens public hearing – hearing was opened.

- B) Chairperson requests disclosure of Commissioner and constituent contacts and correspondence – Mayor and Councilmembers reported contact with staff. Councilmember Sanchez reported no contact.
- C) Secretary presents correspondence and/or petitions – none.
- D) Testimony, beginning with:

**JANE McVEY**, Economic Development & Redevelopment Director, reviewed that every 5 years the Community Development Commission is required to send a status report to the State. This is a State law, and the report has to be in to the State by the end of this calendar year. Through a PowerPoint Presentation, she reviewed the outline of the report. There is an introduction; it talks about the blighting conditions; a list of completed projects and contributions to blight alleviation; present goals and objectives; an assessment of current conditions of blight; whatever proposed programs the City will be doing to alleviate blight; and proposed expenditures. She noted that this format is particularly dictated by the State. The report then talks about the City's housing production and how the 20% set aside money will be used. As Council knows, 20% of the total tax increment is dedicated to affordable housing projects that are administered by our Housing and Neighborhood Services Department.

[Deputy Mayor Chavez left the dais at 7:12 PM]

This report is simply a status report to the State, and they are asking specifically what we have done, what we are going to be doing and what we have done with the 20% set aside money.

The Project Area Committee met on November 9, 2004, and Margery Pierce, Director of Housing and Neighborhood Services, attended that meeting because approximately 50% of this report has to do with housing. They reviewed the draft report, and Director Pierce spoke at length about what the Department of Housing and Neighborhood Services is doing in the area of affordable housing. The RAC met this morning for the second time on this and made a number of requested modifications to it to update the current status of projects that the City has.

Goals and objectives need to be identified but this is not a zoning document. It does not talk about specific pieces of property or zoning. It is a requirement by the State that if the City plans to expend any monies, somewhere there needs to be language in the report that would authorize the City to do that. It tends to be very broad brushed language. The consultant on this report, Keyser Marston, encourages broad language to enable the City to be as opportunistic as opportunities arise. The basic goals are to eliminate blight and to capitalize on the areas' assets; to develop a plan and program to establish downtown Oceanside as a business and visitor center for commerce, recreation, tourism, entertainment, and residential uses; to provide the necessary public improvements to encourage development; to reduce the concentration and incidents of crime in the downtown; to provide housing opportunities that benefit the Project Area, within or outside the Project Area; and to reposition the downtown to attract a beach-oriented destination resort hotel.

[Deputy Mayor Chavez returned to the dais at 7:15 PM]

Specific objectives outlined in the report are: to remove impediments to land disposition; to create incentive programs; to attract catalyst projects; to secure housing Citywide that benefits the Project Area; to enhance principle streets and improve traffic circulation; to remediate any remaining environmental constraints, which we don't believe we have but we need to keep that there in the event we find some property that does; to enhance the public transit system and the transit center; to abate incompatible nonconforming uses, which the City still has a number of; to improve existing public infrastructure; to acquire and dispose of nonconforming property; pedestrian links; business opportunities through the replacement of functionally obsolete businesses; expand access; enhance the North Harbor Gateway; and create a more pedestrian

friendly downtown.

The proposed programs are a little bit more specific, such as the hotel. The report format separates proposed private versus public and completed private versus public. Listed are the ongoing commercial facade program; housing programs within and outside the Project Area that are paid for by the 20% set aside; and, increasing the supply of visitor lodging through the elimination of functionally obsolete motels and the development of new hotels and motels.

Public goals include enhancing the public rights-of-way; street furniture; signage; landscaping; improving traffic circulation; working on the Walkable Communities ideas with MainStreet; addressing illegal and nonconforming uses through Code Enforcement; gateways; and additional parking lots. Parking Lot 1 is under construction, and we'll be working on Parking Lot 2 and potentially others.

The next segment of the report is a listing of some of the things that have been completed over the last 5 years: the Ocean Place Entertainment Center; the Sunshine Brooks Theater, the Comfort Suites Hotel; the TrendWest Resorts in the Harbor area; the La Quinta Inn on North Coast Highway; Motel 6 on North Coast Highway; the Guest House Inn remodel; the Pacific Village Projects; Neptune Villas; Santarini Villas; Summit Village Phase I and II; and the Surfrider Villas.

Some of the completed public projects included: the Pier View Way undercrossing; downtown landscaping with Redevelopment Funds; the Interstate 5 gateway sign refurbishing; landscaping on Mission Avenue; the addition of palm trees and an entryway sign; and the Facade Program wherein businesses are encouraged and given matching grants to enhance the facade of their business - the Paperback Exchange, Antiques on Mission and 4 Design Architecture are examples of businesses that have participated in the Facade Program

She showed renderings of planned projects that are in the works. The Pac Bell Reuse Building, which is right across from the Post Office. It is a mixed use project of live-work lofts. The Fairfield Resorts down at the Pier will begin in March. Parcel B should be pulling their permits by the end of December. Ocean Village has just completed the undergrounding of their utilities and should be pulling their building permits by the 1<sup>st</sup> of December. The Coastal Town Lofts are almost completed. Renaissance Terrace is an entitled project and is 96 condominium units with white water views. There is a hotel, as yet unnamed that will be above the TrendWest. The proposed hotel has a rather contemporary architecture. For the Oceanside Beach Hotel there are 3 finalists. The next round is due back on December 15<sup>th</sup> with answers to the questions. The 3 finalist are Faulkner USA, Pacifica and SD Malkin Properties. They may be revising their proposals based on input received from the September 8<sup>th</sup> public workshop with Council.

She reviewed the planned public projects: the Car Park; the Pacific Street Bridge; North Coast Highway Landscaping; Pier Beach area improvements; Mission Avenue Walkable Communities; and a future second parking garage.

The 20% set-aside housing revenue is estimated at \$1,000,000 per year. These are not straight line projections and take into account both the 2% increases allowed under California law and some coming projects. So, it ratchets up but right now, it is around \$1,000,000 a year. Projects that have been completed include Vintage Point, on Bush, which contains housing units that are paid for with Redevelopment Funds, and the Old Grove Apartments were partially paid for with Redevelopment Funds.

In summary, the Redevelopment Agency continues to work to eliminate blight and facilitates new projects. There are new households coming into the Redevelopment Area, and households drive retail. The Redevelopment Agency continues to also enhance public infrastructure and increase affordable housing as a result of investing over

\$1,000,000 a year into the Housing Fund.

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

**MAYOR JOHNSON moved** approval [to adopt **Resolution No. 04-R948-3**, "...to certify the review and adoption of the Third Implementation Plan for the Oceanside Downtown Redevelopment Project Area pursuant to Community Redevelopment Law"]

**COUNCILMEMBER FELLER seconded** the motion.

**Motion was approved 5-0.**

#### **GENERAL ITEMS**

29. **City Council: Approval of the Utilities Commission FY 2004-05 Workplan**

**BARRY MARTIN**, Water Utilities Director, recognized the Utilities Commission for their hard work. He introduced Al Myers, Chair.

**AL MYERS**, Chair of the Utilities Commission, explained that this is the annual pass thru for Council to approve our Workplan. The Commission has 3 constituents consisting of the Council, the Water Department and the ratepayers. This particular Commission thinks that it is the defender of the ratepayers, and we take that job very seriously. The Workplan from year to year is generally the same. It is a combination of reviewing the plans, the finances and some of the performance issues that occur. He reported that every time we have a chance to compare the operation of our Water Department with other water departments, we come out looking pretty good. Council can be happy with how this process is unfolding with us.

In addition, this commission is proactive. The Water Recirculation Devices that Council put into the City Code is a nice conservation effort. Oceanside has been applauded by many communities for a forward looking view on water conservation. We had an operations review procedure that resulted in some operational changes within the department that got an award from some folks in the Metropolitan Water world.

Next year, in addition to the annual activities, there are 3 things that the Utilities Commission is actively going to chase after. We have problems from time to time because of trees and the roots will foul things up. It is unclear who is responsible for what. The Commission is often at a loss as to what exactly is the right thing to do, and there are legal issues involved. The Utilities Commission has decided to bite the bullet on this and develop a position paper so that we know how to handle the liability issues and the corrective remediation issues associated with trees damaging the City's water infrastructure.

We've taken it upon ourselves to review our sewer rate structure and specifically to examine if it is robust and if it is fair when there are different types of weather conditions that affect how the rate structure gets applied. During the course of next year, Council will get a recommendation on that and will feel comfortable that people are being taken care of on those restructure issues.

The last thing we will be biting off this year is that the San Diego County Water Authority (SDCWA), because of growth in San Diego County, is going to be putting in a lot of infrastructure. Of course, our own Water Department is going to be putting in infrastructure because of this growth. That has implications for costs that come back to the City. The Commission will complete a position paper to make sure that we allocate those costs fairly to the existing and the future rate payers. We want to try to make sure that when we are taking costs being imposed on the City from outside agencies, that we do it properly. Hopefully, this study will guide Council to feel comfortable that the Utilities Commission is being fair to our ratepayers. He asked for Council's approval

of the Water Utilities Commission Workplan.

No public input

**COUNCILMEMBER SANCHEZ** has had the privilege to work with this Commission for 2 years as a liaison. They are feisty and work hard. She would like to read the position paper when it is completed. She **moved** approval [of the Utilities Commission Workplan for FY 2004-2005].

**MAYOR JOHNSON** **seconded** the motion.

**Motion was approved 5-0.**

30. **City Council: Approval of the Community Relations Commission (CRC) FY 2004-05 Workplan**

**MARGERY PIERCE**, Director of Housing and Neighborhood Services, introduced the new Chairman of the Commission, Tevesi Faapouli.

**TEVESI FAAPOULI**, Chairman of the CRC, requested Council approval of the CRC Workplan for the coming year. He noted 2 major events coming up. The Martin Luther King Civic Award is coming up in January. We are currently accepting applications from throughout the community including Camp Pendleton. The other major event is the Martin Luther King Jr. Scholarships, which will be presented in June. Last year we gave out 16 scholarships totaling \$50,000.

No public input

**COUNCILMEMBER FELLER** expressed appreciation to the CRC for their hard work and efforts in recognizing community members. He **moved** approval [of the Community Relations Commission FY 2004-05 Workplan].

**COUNCILMEMBER SANCHEZ** **seconded** the motion.

**Motion was approved 5-0.**

31. **CDC: Approval of the Redevelopment Advisory Committee FY 2004-05 Workplan**

**JANE McVEY**, Economic Development Director, introduced Rick Wright, the Chairman of the Redevelopment Advisory Committee (RAC).

**RICK WRIGHT**, Chairman of the RAC, introduced several members of the Committee. The RAC provides the Community Development Commission with citizen input on all the non-housing items that come before Council. Meetings are held twice a month, the morning before Council's afternoon meeting.

The Workplan was submitted to Council in writing. This is a very exciting time for Downtown. There are a lot of projects coming up that the RAC is anxious to work on such as the beach hotel, the second parking structure, walkability and a number of other items. The RAC also administers the facade improvement program. We review the design and approve the expenditure on that program.

He reflected on what it was like downtown 10 years ago and named some businesses that are not here anymore and new businesses that are here now. There is one person that has been a big cheerleader for downtown, and that is Mayor Johnson.

**COUNCILMEMBER FELLER** **moved** approval [of the FY 2004-05 Redevelopment Advisory Committee Workplan].

**COUNCILMEMBER SANCHEZ** seconded the motion.

**Motion was approved 5-0.**

The Mayor determined at this time to hear the items pulled from the Consent Calendar for discussion starting with Item 23.

**Items pulled from Consent Calendar for discussion**

23. **City Council: Adoption of a budget resolution authorizing an increase in the Police Department budget in the amount of \$119,875 to provide for expenditures associated with Phase One of the Citywide Red Light Photo Enforcement Program**

**JIMMY KNOTT**, 124 Sherri Lane, stated studies have pointed out that the photo red light camera system is nothing more than a cash cow, and it actually increases minor traffic collisions. The answer to this, instead of just going to this photo enforcement, is to look at the sequencing of lights. The other thing is to extend the yellow light time period. This would accomplish the same goals because commonly the accidents occur when people see that yellow light and they try to rush it because they know the camera is going to take their picture. Why wasn't this included in the report and why we are pursuing it in light of objections. He has no objection to having camera surveillance systems, but it should not be used as a cash cow.

**COUNCILMEMBER FELLER** moved approval [of staff's recommendation and adoption of **Resolution No. 04-R947-1**, "...amending the Budget for the 2004-2006 Fiscal Years"].

**COUNCILMEMBER SANCHEZ** seconded the motion and explained that the main reason why it was proposed to have this was for public safety and to reduce the number of accidents.

**Motion was approved 5-0.**

The Mayor determined to hear Item 19 next.

19. **City Council: Approval to rescind the award of contract to Pascal Steel for the purchase and installation of the general aviation hangars; approval of Change Order 1 in the amount of \$300,000 to Western Rim Constructors, Inc., adding the provision and installation of hangars to the Phase I Airport Improvement Project site work; adoption of a budget resolution transferring \$1,000,000 from the project fund of the airport budget to a special construction fund, to facilitate project accounting; and authorization for the City Engineer to execute the change order**

**COUNCILMEMBER SANCHEZ** was contacted by members of the community with questions, some via email, but she did not see a response earlier today to the questions. The major questions had to do with whether this is somehow increasing any requests from Oceanside for more money from the FAA. From the report, it indicates that the City already has a contract with this agent. They have already had this contract for \$557,396. What is proposed today would increase that contract to \$857,396. She asked for confirmation that it is well within the grant.

**PETER WEISS**, Public Works Director, answered that is correct. The action when the contracts were originally awarded was a contract for the site work and a separate contract for the construction of the hangars. The contractor that was awarded the contract for the construction of the hangars cannot fulfill their obligation. All we're doing is asking Council to literally re-award the construction of the hangars to the

contractor doing the site work. There is no additional expense or cost to the City. At this point in time, we are not pursuing with this particular contract any additional FAA or State funds. This contract is still for the first phase for the first 10 hangars that are being built.

**COUNCILMEMBER SANCHEZ** asked if this was the grant that was voted upon over a year ago by a 3-2 vote, and once we accepted the funds we were obligated for a 20-year period.

**DIRECTOR WEISS** responded that is somewhat correct. The money we're using is actually a low interest State loan. The agreement that the City made was that that loan would be paid off over a 15-year time frame to coincide with the obligation the City has with the FAA in regards to a grant we previously acquired from the FAA for the acquisition of property. This money being spent on the hangars is actually a low interest State loan.

**COUNCILMEMBER SANCHEZ** asked if this affects the rentals.

**DIRECTOR WEISS** responded at this point it does not affect the rentals. Council has already adopted a resolution increasing the hangar rents. All we're doing is substituting contractors so the overall construction price is not changing. Therefore, the rent structure for these new hangars will not change as well. Now, the rents that we will be charging for the new hangars are going to be significantly higher than the existing rents we charge.

**COUNCILMEMBER SANCHEZ** thanked staff for those responses to clarify the origins of the funds, the effect in terms of the payback and how it affects the rentals.

She **moved** approval [of staff's recommendations to: 1) rescind the award of contract to Pascal Steel Corporation of Encinitas for the General Aviation Hangars; 2) approve Change Order 1 [**Document No. 04-D938-1**] in the amount of \$300,000 to Western Rim Constructors, Inc., adding the General Aviation Hangars; 3) authorize the City Engineer to execute the Change Order; and, 4) adopt **Resolution No. 04-R939-1**, "...amending the budget for the 2004-2006 Fiscal Years" transferring \$1,000,000]

**MAYOR JOHNSON** seconded the motion.

**COUNCILMEMBER WOOD** wanted the hangars to be at a higher quality rate and didn't want bargain basement. That is important because the airport is supposed to be the jewel of the community. There is a lot of stuff happening at the Carlsbad Airport now that might address ours. He is not happy about the quality of the particular hangars.

**Motion was approved 4-1;** Councilmember Wood - no.

[Recess was called from 7:51 to 8:01 PM]

The Mayor determined to hear Item 16 next.

16. **City Council: Approval of a professional services agreement with Jacy Bolden of Marina Del Rey in an amount not to exceed \$60,000 to complete a Base Year Solid Waste Tonnage Generation Study, and authorization for the City Manager to execute the agreement**

**COUNCILMEMBER WOOD** noted that the individual who had wanted to speak on this item left the meeting. He **moved** approval [of staff's recommendation to approve a professional services agreement (**Document No. 04-D935-1**) with Jacy Bolden to assist the City in meeting Assembly Bill 939 diversion requirements, and authorize the City Manager to execute the agreement].

**MAYOR JOHNSON** seconded the motion.

**Motion was approved 5-0.**

14. **City Council: Approval of Amendment 2 in the amount of \$385,000 to the professional services agreement with Tetra Tech, Inc., for additional environmental studies for the proposed interchange at Rancho del Oro Drive and State Route 78, and authorization for the City Manager to execute the amendment**

**SHELLEY HAYES CARON**, Marron Adobe in Carlsbad, said on October 20<sup>th</sup> Council approved a General Plan Amendment removing the Marron Road connection from Rancho del Oro into Carlsbad, and that is not reflected in the language in the document. She asked if the proposed Monarch del Oro project will increase the funding needed because with that project there is a change in the alternatives. Alternative Number 7 would be greatly impacted and maybe precluded by the project, and that would be the avoidance alternative. She was wondering if this amount of \$385,000 would adequately cover researching and developing another alternative, which would be an avoidance alternative.

**MAYOR JOHNSON** saw an email earlier today that did address some of her concerns. Staff will address them again.

**RUTH GANS**, 4918 Delos Way, said there are terrible traffic conditions that the residents are being confronted with. Putting another interchange on State Route 78 will be a disaster. The money would be better spent on El Camino Real. Tonight the off-ramp to El Camino Real was backed up all the way to Interstate 5 on State Route 78. If Council puts in another interchange a short distance away from that, it will only add to the disaster. Do something with El Camino Real and put aside any thoughts of Rancho del Oro at the present time.

**COUNCILMEMBER SANCHEZ** recalled that when she came on the Council, one of the first things she did was talk to Gary Gallegos with Caltrans to get a breakdown of the projects in Oceanside. He spoke at length about this proposed interchange at Rancho del Oro and State Route 78. At that time, he explained that this would require a full Environment Impact Study/Environmental Impact Report (EIS/EIR) because of the impacts. She is not really sure why we're asking for more funds because we knew back then that that is what we were doing.

She also finds it curious that the other reason given for providing more in depth studies is that we are being directed to include putting back this connection with Marron Road. The revisions to the traffic study updated for Year 2030 traffic projections and analysis included a connection to Marron Road. She doesn't understand that. We took off that connection. Carlsbad has wanted to take off that connection. We know about the wildlife corridor in this area, and yet we're putting it back in. She does not understand why they would want that information if there is no intention at all to ever connect Marron Road. She asked staff to explain to her why the State and Federal agencies would be requesting this because this is something that is never going to happen. It seems that it's a waste of time and money. She does not know how much this is going to cost, but it sidetracks what Council is really trying to do. Why does the scope of the EIS/EIR need to be updated when we've been doing that for 4 years, and why is Marron Road being thrown back in.

**GARY KELLISON**, Senior Civil Engineer, replied that Marron Road/Rancho del Oro intersection would be in the City of Carlsbad. The Federal Highway Administration's (FHWA) normal criteria is for the traffic study to analyze links between all segments shown in the adjacent cities' General Plan. As of this moment, that link is still in Carlsbad's General Plan, so they requested that analysis be done. Staff, Caltrans and

the consultant recognize that the connection will not happen in reality, and that Oceanside is deleting it from the City's General Plan. At the end result of the process, the final version of the traffic study will reflect that deletion.

Regarding the second question, we had one amendment to elevate the environmental process from an environmental assessment to a full EIS/EIR. In the time that the EIS has been worked on, Caltrans has come up with a number of requirements that reflect current laws. For example, the water pollution regulations require a study that the areas of potential effects include physical structures to allow for clean water runoff from the freeway ramps and the freeway mainline. That triggers a re-study of the boundary of the project itself for the potential effects. The traffic study went through revisions specifically because of the Marron Road and Rancho del Oro connection/non-connection, alternating between the two. The technical requirements of the noise impacts and air quality studies have evolved in the last 2 years in terms of what Caltrans wants to see. Because of the length of the study, the Wildlife Resource Study was refreshed and will need to be refreshed in case new habitat changes or new species arrive in the study area.

A new requirement from Caltrans is a Transportation Management Plan. This is a study to look at how the project can be built while maintaining traffic on local streets. A Preliminary Foundation Report is an early study to verify that the footings for the overpass structure can be built in the existing soil. Normally, this is done as a part of the final project design. This is being advanced into the environmental phase.

There has been a new requirement to actually study aerial deposited lead on the shoulders of State Route 78. This is from the years when there was leaded gasoline. As construction happens, Caltrans wants to make sure that this lead contaminated soil is not inadvertently deposited somewhere that it shouldn't be. So, that is a test that needs to be done. There have been additional public meetings just to handle the scoping meeting that was necessary on the job to get all residents' questions answered. Those are the primary reasons.

**COUNCILMEMBER FELLER** hoped that sometime during the EIR/EIS there could be some sort of model created to show why El Camino Real and College Boulevard are backed up, and possibly explain to the general public what the real need is out there. If that is something that could be done, he would like to see that.

**MAYOR JOHNSON** said also it is worthy to note that when we restriped the bridge, traffic flows significantly increased, and there is a much better flow of traffic going both directions. It has assisted with the traffic coming on and off State Route 78. There is still room for improvement as the money comes in. Hopefully from the passing of Proposition A, that will happen.

**COUNCILMEMBER WOOD** asked why the City is spending \$385,000 that could be used somewhere else, if this is not going forward. If Council denies it, this just dies.

**MR. KELLISON** answered that the money being applied to the environmental studies was actually provided from a Special Demonstration Project Grant Fund and is federal money. It is unique in that it was applied to this project and no other project.

**COUNCILMEMBER WOOD** asked if this is denied, whose money is the \$385,000.

**MR. KELLISON** replied that it belongs to the federal government.

**MAYOR JOHNSON moved** approval [of staff's recommendations to approve amendment 2 to the professional services agreement (**Document 04-D933-1**) with Tetra Tech, Inc.].

**COUNCILMEMBER SANCHEZ** wanted to follow up on Councilmember Feller's comment. Her understanding is that the major arterial for north/south is El Camino Real, and those are the improvements that Council should be looking at. That's what she wants to do. Council will not know if that is going to be enough until we do it. It is not fair to say that we should require this other east/west when in fact it's not regional. It's only within Oceanside.

**FRANK WATANABE**, Transportation Manager, said regarding the regional arterial system, to respond back to the traffic study that was done, Mr. Kellison was correct. The traffic study did look at all the arterials. It looked at College Boulevard and El Camino Real as options as part of the study. El Camino Real is considered the City's congestion management corridor (CMP) and is one of our primary corridors. So, it is something that we are looking at. To answer Ruth Gans' question, the City will be looking at starting a project studies report for that interchange at El Camino Real and State Route 78.

The answer we're trying to resolve today is we want to try to move forward and get closure on this document. It is an environmental studies process. All we want to do is to continue on and finish the document. We're midway through. The reason it took a little longer and is costing us more is because of changes in the agencies. A good example was just within the traffic studies alone. During the time when we went forward with the traffic studies, the federal agencies wanted to see the worst case scenario, so they wanted us to show larger link capacities on State Route 78, auxiliary lanes on State Route 78 and certain other devices that changed the dynamics of that document that kept changing. One of them was Marron Road. We knew from a local standpoint that we wanted to take it out and not include it. But from the FHWA, they wanted to look at the worst case scenario, which was almost a year ago. That is why that document still has that in there. Mr. Kellison is correct that once we get the draft through the review process, the final one will scale it back. At the same time we'll scale it back to also show and reflect Council's change in terms of the Rancho del Oro from 6 lanes to 4 lanes. Some of those things will be reflected in the final document and at the same time, it will reflect what additional capacities we are placing onto College Boulevard and El Camino Real.

**COUNCILMEMBER SANCHEZ** asked how much of the funding is left from the federal government. This is an increase, and there was an increase before.

**MR. KELLISON** answered that the grant amount was \$3,500,000. The Tetra Tech contract was approximately \$1,300,000 with the amendments.

**MR. WATANABE** estimated we still have approximately \$1,700,000 left.

**MR. KELLISON** said at the time that the grant was written, more than 10 years ago, it was anticipated that a lot of that would be available for right-of-way acquisition or maybe even left over for construction.

**COUNCILMEMBER FELLER** seconded the motion.

**COUNCILMEMBER WOOD** asked if there has been a feasibility study on Rancho del Oro and Highway 78, or are we strictly in the phase of 10 years of environmental impact.

**MR. WATANABE** said in terms of a freeway project in a general sense, when it gets to the environmental stage as we are in, the feasibilities or the preliminary engineering studies were done in advance of that and laid out some options or alternatives. Then the environmental document looks into those alternatives to make sure which ones are the preferred, which ones are the avoidance, which ones can be or are possibly the ones that should be looked at in detail. From that point on it goes into a more detailed preferred alternative, and that moves into design. If you are talking

about some sort of feasibility study, it was done in advance of this environmental document.

**COUNCILMEMBER WOOD** asked for Mr. Watanabe's input regarding this use of the \$385,000 with the general consensus that this isn't going forward.

**MR. WATANABE** believes that at the end of this we will get to a point where we can get closure on it. Whether the Council wants to move forward or not, once we get that final document through the review process through the agencies, then we'll have an opportunity to make a decision then to move forward or not.

**COUNCILMEMBER WOOD** asked if in the alternative we deny this, then what would happen.

**MR. WATANABE** replied that the Federal Highway Administration and the City are looking at that with the Circulation Element. If we don't have this interchange, how much additional burden do we place onto our other 2 interchanges, as well onto the arterial street system. He truly believes that many nodes and links are good for the system. However, it is the community's roadway system. From the regional standpoint, we want to keep as many links and nodes because it makes it better for any system. However, if it came down to costing \$70,000,000, that is a lot of money compared to other options that we could look at. That comes down to the bottom point. When we get this environmental document done, we'll have that option to take a look at it. We're still in the draft stage of the environmental document, and only the traffic study has gone to the Federal Highway Administration for review. The remaining document has not yet. Until we get that process through, we can't make those determinations.

**COUNCILMEMBER WOOD** asked if Ms. Caron had any further input on this.

**MAYOR JOHNSON** said keep in mind that the money that is being talked about is coming from the federal government. If the City does not use it, someone else is going to use it.

**MS. CARON** asked for clarification from what was just said about the FHWA requesting the Marron Road study as a worst case scenario. The City's documentation shows a different report. It's because it's on the Circulation Element that hasn't been updated for quite some time. The traffic studies that are going to the FHWA don't reflect updates that need to be done, such as removing the Marron Road segment. The City's documents state the reason why the FHWA was requiring this Marron Road Study was because the Marron Road connection showed on the City's Circulation Element. Since Council has removed that as of October 20<sup>th</sup>, then the documents and the traffic report should reflect that so that assumptions are not made with these scenarios.

**CITY MANAGER JEPSEN** reminded Council of the process that the City went through to reduce the number of lanes on Rancho del Oro Road from 6 to 4 and the environmental review that we did to provide the justification for that. One of the alternatives that is being looked at for this interchange is the no-build alternative. By going ahead with the completion of the environmental work, if the Council chooses in the future to not build this interchange, you will understand what the implications are and what we need to do to improve the College Boulevard and El Camino Real corridors. It will provide Council with the justification and rationale to go ahead and modify the Transportation and Circulation Element accordingly. He encouraged Council to move forward because it is going to answer a lot of questions with regard to the impacts to the transportation network.

**Motion was approved 5-0.**

The Mayor determined to hear Item 32 at this time.

**MAYOR AND/OR COUNCILMEMBER ITEMS**

**32. Appointments to the following Citizen Advisory Groups:**

- A. [Library Board of Trustees] – No appointment was made.
- B. Oceanside Building Authority

**CITY CLERK WAYNE** stated that for the Oceanside Building Authority the Mayor has nominated the reappointment of Anne Speraw.

**MAYOR JOHNSON moved** to reappoint Anne Speraw to the Oceanside Building Authority to a term expiring on November 30, 2008.

**COUNCILMEMBER FELLER seconded** the motion.

**Motion was approved 5-0.**

**33. Request by Councilmember Sanchez to call for review the Tentative Map (T-8-04), Development Plan (D-9-03), Conditional Use Permits (C-13-03, C-21-03) and Variances (V-5-03, V-6-03) for a mixed use development project consisting of 28,544 square feet of commercial uses and 201 residential condominium units and 20 live-work units on a 14.76 acre site located at the northwest corner of Vista Way and Rancho del Oro Drive. The Variances are for the use of non-plantable retaining walls and to exceed the maximum height. The project site is zoned CS-HO (Special Commercial – Highway Oriented) and is situated within the MiraCosta Neighborhood – Monarch at Rancho Del Oro - to address residents concerns regarding noise, traffic, high density, impacts to the environment and impacts on possible future projects**

**COUNCILMEMBER SANCHEZ** explained that this item was before the Planning Commission on October 25<sup>th</sup>, and at that time there were several concerns presented. Since that time, she has had a chance to review the documents that were reviewed by the Planning Commission, as well as the Mitigated Negative Declaration. This is Mr. Steiger's property on Vista Way and Rancho del Oro Road. One of the purposes for the Planning Commission to go through these projects is to flush out any problems, and there are several problems that appeared to have survived the Planning Commission's decision. One of them has to do with the fact that there is on-site about half an acre of coastal sage scrub in the northwestern portion of the subject site. That is within the Multiple Habitat Conservation Plan (MHCP) corridor that the wildlife agencies say is critical. There is no way that the City can mitigate this piece. If there is no corridor, the migration doesn't happen. She has had several members of the community voice their concerns and ask her to place this before Council for a call for review. That is one of the issues.

The other issue had to do with the fact that this was also in close proximity to Costa Serena, a senior community. That was not in this report, and she was surprised. Having a senior community so close to this project would impact the transportation needs and patterns of the Costa Serena community, and that was not taken into consideration. Since we had a critical piece of habitat in this parcel, she was surprised to see that we had a Mitigated Negative Declaration instead of a full EIR. With respect to some of the findings, she had some concerns that, especially with this half-acre piece. There is a question that asks if the project has impacts that are individually limited but cumulatively considerable. The City's response was no, but she believes it should be yes. That is what should have brought this to a full EIR.

This project was presented as a mixed-use project. When the developer met with the community, the community wanted to have mostly a residential project. This area is zoned Special Commercial. The residents did not want to have commercial

activity in this area. It went from, as she understands it, mostly apartment projects to condo projects. The result is that 9% of the units are non-residential. So what we have is a residential project. She had no problem with that. In fact, she would have preferred to have this go before Council as a zone change. It's not a fit to have commercial here.

For over 30 years, this area has been vacant because it has been difficult to build anything there. In the year 2000 we came up with this idea of mixed-use. Her sense is that just 9% being non-residential was an effort to try to satisfy the Council. 9% does not create jobs or a revenue generating stream. This should have been resolved by the Planning Commission, and she would like to see this go back to them to resolve these issues, especially the habitat. She is prepared to support an all-residential project, if that would assist in resolving these issues. She has no opposition to the development of this piece. It is the preservation of this half-acre that she is most concerned about. She understands that there are several people here to speak.

#### Public input

**SHELLEY HAYES CARON**, Marron Adobe in Carlsbad, stated her main concern is with the Rancho del Oro Interchange, the Mitigated Negative Declaration does not address that, nor does it address the traffic circulation on College Boulevard or El Camino Real, which is very surprising because this is within the proximity. Alternative Number 7 is precluded by this project because it would have to do a take on this project later and elevate the cost. So, it is precluding the avoidance alternative for this project.

The first scoping meeting was in December, 1998, so it's been almost 6 years since we've been opposed to this interchange because it affects cultural resources and an environmental corridor of wetlands. The Marron Adobe has qualified for the National Register in 2000, and it is now defined as an historic district including the Native American Archeology, etc. This is a connective corridor and is the Buena Vista Water Shed. The El Salto Waterfall is connected to this, and the preservation of the Buena Vista Lagoon is involved with this. This is a big concern. Council can't just address this project without the related project of the Rancho del Oro interchange.

Council indicates in the Mitigated Negative Declaration that you have a preferred alternative. If you haven't finished the environmental process, how could Council have arrived at a preferred alternative? People have written letters and we want to have the Council address why this was not part of the Mitigated Negative Declaration and why the issue of the interchange was not addressed.

**DIANE NYGAARD**, 5020 Nighthawk Way, representing the San Diego Chapter of the Sierra Club, said we are one of many groups, along with the building industry and representatives from North County cities, who worked for many years to come up with a Regional Conservation Plan. Actions taken with this project can jeopardize all of those years of effort.

We have 5 key issues with this project:

1. The wildlife agencies have made it clear that they will not issue permits for the project the way it is currently configured. It fails to meet the criteria because it is occupied by endangered species and the project would preclude the use of this regional wildlife corridor. It will need to be changed in order to receive the required permits. We believe that both Council and the public should have the opportunity to review these project changes before they are finalized. If it moves forward as-is, it will be negotiated at the staff level, and we lose that opportunity to make sure that this project is right for this community.
2. The project will seriously degrade the Regional Wildlife Corridor. The

Corridor through Oceanside is currently highly degraded and fragmented, and the Regional Plan won't work unless the corridor can still function through Oceanside. This parcel is within the area designated for the highest level of protection within the City - the Wildlife Corridor Planning Zone. All parcels within this Zone are subject to the specific conditions that apply to the Zone to protect the biological function of the Regional Corridor. This is part of the functioning Wildlife Corridor. Biological Surveys have documented gnatcatcher movement from south of State Route 78, across the freeway, and onto this property.

3. The project is not consistent with the provisions of the Wildlife Corridor Planning Zone. Section 5.3.1 specifically says that if it is over 2 acres south of State Route 76, they have to conserve at least 50% of the parcel as open space, and can remove no more than 25% of the Coastal Sage Scrub. This project clearly violates those conditions. Mitigation at another location within the Zone does not protect the wildlife movement because the wildlife are moving at this location.
4. This project is part of several cumulative impacts in this immediate vicinity. Vegetation mapping shows that there has been considerable loss of natural habitat on this parcel. In addition, there have been 2 recent illegal habitat takes on the parcel across Vista Way, and further impacts on that parcel are currently under consideration. The combined impacts of all of these projects will further degrade the Wildlife Corridor.
5. The project precludes the least environmentally damaging alternative for the interchange. The City has spent years and hundreds of thousands of dollars to eliminate all but 3 alternatives. To lose the least environmentally damaging alternative at this stage further impacts the Corridor and jeopardizes that whole project.

For all of these reasons it is important that Council conduct further review of the project so that we assure we can maintain our Conservation Plan.

**RUTH GANS**, 4918 Delos Way, said Council should fight to preserve the Adobe. It's a vestige of the heritage of Oceanside.

She trusts that Council has walked the area and envisioned what 201 homes would do on that tiny parcel of land. The visual impact in itself would be a disaster. Add to that the traffic impact on Vista Way. Most people are now using Vista Way as an adjunct to State Route 78. She asked if Council has really looked at the traffic pattern that the developer plans to use on Vista Way, with the entrance in one direction and the exit in another. That would create a real hazard on Vista Way. She asked Council to take a serious look at this.

**GEORGE McNEIL**, 2153 Anda Lucia Way, lives within walking distance of this project and is very much in favor of it. This corner has been an eyesore for years. Right now, it is just an open dirty space with nothing on it. He and a number of his neighbors were at the Planning Commission meeting on the 25<sup>th</sup>, saw the presentation and what it will look like, talked to the developer, and are very much in favor of having a quality development on this corner. He knows this developer because he has friends that live in condominiums that the developer built in San Diego. They are of a high quality and the ambience is excellent. He would expect this developer would build condominiums and commercial areas in this section that would complement what we already have on Rancho del Oro. There may be some problems with the wildlife corridor issue, but he hopes they can be solved quickly. This is a project we need and that the neighborhood supports.

**LOU LIGHTFOOT**, Lightfoot Planning Group, 5750 Fleet Street, Suite 200,

Carlsbad, represents the Monarch Group and the property owner, John Steiger. His understanding of what happens here tonight is that Council has to determine whether or not there is something about the Planning Commission action that is erroneous or not to Council's satisfaction that would cause Council to call this property for review. We're not really discussing the merits of the project, but rather the merits of the process and the information that was presented at the Planning Commission. In that regard, everything that Council has received in writing and everything heard tonight was also heard by the Planning Commission. All of this information was reported to the Planning Commission, including the letters from the Fish and Wildlife Service who expressed some concerns about the ability to get the agency permits.

At the Planning Commission, it was clearly stated in the biology reports and traffic reports done on this project that this is not occupied habitat. Protocol studies were done on this site, and there are no Gnatcatchers on this site. There are Gnatcatchers on the other side of Vista Way, east of this property, but not on this site. This property is not in the Wildlife Habitat Corridor. It is on the fringe of the planning area, right at the very corner of the planning area. In recognition of the spirit of the habitat plan, this property is preserving 7.5 acres, 50% of the project size, within the habitat corridor area. The owner has bought a very critical piece of habitat in the corridor area adjacent to El Camino Real, adjacent to the 50 acres that the City already owns, in order to provide the continuity of the habitat corridor. So, the mitigation far outweighs the loss of this half an acre of coastal sage that was hydra seeded on a slope bank created by the construction of Rancho del Oro Drive back in the mid-1980's. There is not naturally occurring habitat on this particular piece of property.

The traffic report addressed the fact that the traffic generation on this project is dropping from 17,000 projected average daily trips (ADT), if it were a total commercial project, to approximately 2,500 ADT as a result of it being a mixed-use project. All of the identified traffic projects in the area that are already in this current City process are being contributed to by this project. This project is going to contribute to the widening of the bridge on El Camino Real, the construction of the traffic light at Rancho del Oro and Cameo, and the construction of the traffic light at Vista Way and Buena Hills Drive, which is the entrance to Costa Serena. We cannot contribute to projects that have not been identified yet.

As Council knows, the final configuration of the proposed Rancho del Oro Drive interchange, if there is even going to be a Rancho del Oro Drive interchange, has not yet been determined. There are problems with requiring a project to contribute to constructing or preserving the possibility of future projects. The City can't do that; they have to address projects that have already been identified. This particular project has contributed its fair share and will contribute its fair share to all of the identified projects in the City's Circulation Element that the project has any impact on.

The Planning Commission in approving this project found that it was in complete conformance with the General Plan, zoning regulations, and the draft MHCP, which is in its second draft and does not identify the preservation of habitat on this property as being necessary in order to implement the MHCP. They found it to be an exemplary project that fully implemented the intent of the City to have a mixed-use project on properties like this in Oceanside. We hope Council will find that there is nothing at all remiss with the Planning Commission action, that they had all of the information, that no new information has been presented and that there is no need for Council to spend their time reviewing the same information that has already been reviewed and acted upon. The Planning Commission's action was unanimous in approving this project.

**COUNCILMEMBER SANCHEZ** does believe that there is something new here. The wildlife agencies have met and indicated that these objections are firm. She does not believe that the Planning Commission really believed that. In speaking with Mr. Gilbert today, he was surprised when she told him that the wildlife agencies were making a firm decision. Oceanside's MHCP is actually a subarea plan, but the entire

MHCP does recognize this as important. The MHCP is a minimum that is needed to meet its goal of allowing these wildlife migration corridors. During these meetings, any time someone suggested that they were going to have a project that would build upon one of these pieces, it made everyone nervous because 10 years of work would have meant it was all gone.

Ms. Nygaard indicated that this is critical and Councilmember Sanchez recognizes her as an expert in this area. Councilmember Sanchez's experience with the wildlife agencies is that sometimes they are equivocal, and then they make a deal and that's it. This is not that situation. She sees that this is very important and in fact termed vital in the letter from the wildlife agencies dated October 15<sup>th</sup>. Their position has not changed. There is no one here saying that a project should not be built. She is asking what Council can do to resolve these issues because it is our responsibility to do so. The way to do it would be to send it back to the Planning Commission and to allow this dialogue to take place so that we can get this done. She is prepared to give up this commercial; it's not really adding to the project.

Council has not defined mixed-use. When Council is saying that we want some commercial, we are saying that we want it to contribute to the financial stability of the City. Council has a gap; anytime that we have approved housing, the taxes from those houses are not going to pay for the services that those folks are going to require. She noted that one of the boxes that was checked 'no' asked whether or not this was going to impact on recreational services. These are family homes. It should have said yes. She doesn't understand how it is that Council is allowing people to build and not think about how we will provide for these new residents. She is not against this project. However, she would like Council to come up with a resolution. She asked Mr. Gilbert if he believes that the project is actually going to look like what has been represented if it is ever built.

**GERALD GILBERT**, Planning Director, replied staff is making a commitment that the project will look as presented. The wildlife agencies have taken a position and said that they would not support the permit. We have come up with responses to their position that address the issues. If they choose not to issue the permit, the project will come back. The agencies have taken a very strong position, and this is going to need to go through that process for them to deny that permit. In our initial consultations before we embark on a project, we talk to the wildlife agencies on the process and procedures. The response we received initially is that the path that we have taken is supportable by the wildlife agencies. The October 15<sup>th</sup> comment letter did surprise us, but we looked at the issues that the wildlife agencies raised, the comments, and severity. That was a stern letter.

Realistically from the MHCP or Focus Planning Area, the mitigation being proposed is a good solution to the issue. If the agencies felt compelled as their message indicated, it would need to be addressed through their final permitting. We have followed the process that was set before us. The wildlife agencies are responsible for the ultimate permit here.

**COUNCILMEMBER SANCHEZ** stated when staff received the October letter, why didn't they just change the project then?

**MR. GILBERT** explained that we looked at the issues that were raised by the wildlife agencies and, in the context of the City's Focus Plan Area and MHCP, felt that the mitigation measures far exceeded the issues raised. If the wildlife agencies were compelled to state that they want to preserve the half acre at the site, and the position they have taken today is not indicative of the MHCP as it is prepared, the wildlife agencies can do such, and then we will redirect our emphasis and energies on that. If they say this is an alternative corridor, then we will take that action.

This is one of those points where we felt there was good science in place from

the analysis that we've conducted in concert with the wildlife biologist. But the process we go through in environmental review and the outside agencies is not perfect, and the position that we're taking with the mitigation was a good solution. If the agencies in the end felt that the science was not adequate or there was a different path that they were going to take in policy, ultimately the agencies would make the decision on the issuance of the permit and that would occur. The process that we've gone through is replicated on each and every project that has come before the Planning Commission and through the discussions that we've had with these outside agencies. If they are strong in their position and do not issue the permit, this project will be back through a process. We think we have good science here; we have followed correct procedures; and in the end the agencies are going to make that final determination.

**COUNCILMEMBER SANCHEZ** asked if Council sent this project back to the Planning Commission, could we get a resolution within a short period of time.

**MR. GILBERT** hoped that it would be done expeditiously. However, he is not convinced that it will, and that has to do with externalities of what the agencies' workloads are and how they interface with the City. The wildlife agencies do demand that process on that interaction.

**COUNCILMEMBER WOOD** noted that generally these issues are ironed out before coming to Council. This issue causes him a lot of concern because he went and talked to the surrounding neighbors, went out with the developers who put on neighborhood meetings and had everyone invited. The general consensus at the time was that everybody was in favor of the project, everybody liked the project and even some of the outspoken neighbors at a later date were very supportive of this project. Some of the underlying issues were obviously Rancho Del Oro at State Route 78 and the overpass. That set aside, it seemed like it was a favorable project.

The other thing that concerns him is that he was not aware of the complaints and issues with the U.S. Wildlife, etc. It was given to him late last night, and that was at the 11<sup>th</sup> hour, coming before Council with a project the community was in favor of. It is not fair to Council to vote on it when we don't have all of the accurate facts. It puts Council in a real dilemma at the last minute. He called some of these people this morning, and the developer indicated they were giving away 7 acres to make up for this portion. It was a better deal and best for the environmental aspects. Now they have people saying that's not the case.

If this project went forward and there is still a problem with Fish & Game or whoever, would the agencies block this, and if so, would it come back to Council?

**MR. GILBERT** replied that the final issuance of the permit with the mitigation that we are proposing is in the hands of the wildlife agencies, and yes, they can block the project. If they do not issue the permit, the project would need to come back with revisions to the Planning Commission and we would address those specific issues raised by the wildlife agencies. We do believe that we addressed the issues. He thinks the wildlife agencies are going to have to take a position. This has not been uncommon for us on a project review to have this type of a comment from the agencies, and then down through the process they negotiate a solution that they are satisfied with. Often it is more mitigation.

**COUNCILMEMBER WOOD** expressed concern that Council has received a stern letter that he did not see until last night. He would have liked to have been able to ask these questions a month ago about what happened and why. This is time stamped for October 15<sup>th</sup> and another one for September. There is a real issue here that we weren't aware of and now tonight, on short notice, we are trying to resolve. The alternative is Council could send it back to Planning and start this over. That might be time consuming for these developers who have a project that the neighborhood seems to like. If Wildlife or Fish and Game says no to this, it does not go anywhere and comes

back.

**MR. GILBERT** replied that the project will go through the County, and the ultimate decision will be with the wildlife agencies. If they deny it, the project will come back and start over again. The assumptions made as part of this project will be gone. There may be other issues that surface as a result of change in State law, case law, and a variety of things can occur. We don't think that the agencies will say no, and there will be some amicable solution in the end. We've gone through what we think is the appropriate process.

**COUNCILMEMBER WOOD** stated the developer came up with an alternative of an extra piece of land larger somewhere else. He asked if since then someone from his group has talked to Fish & Game. He asked if he is missing something and if something had changed since the last time he spoke to the developers.

**MR. LIGHTFOOT** replied we are going through the process. We had an agreement with the wildlife agencies, before this letter was written, for the mitigation that we were proposing and the take of the half-acre. Then the wildlife agencies wrote the letter countermanning that. Then we went back and worked with staff and our biologist and formally put the 7.5 acres into escrow, and offered it as the mitigation. The Planning Commission had that letter, understood what the mitigation was, had staff support for that mitigation and approved the project. The onus is now on the developer to get that permit, and if we don't get that permit, we do have to start over on this project under a new set of rules and come back through the process. We totally understand that. This is the risk that the developer takes.

In the meantime, we're going through the process. Our biologist has been in daily contact with the agency since the Planning Commission approved this project. We are feeling very confident at this point that there is a solution that will result in this project getting a permit so that it can proceed the way it is currently designed.

[Recess was called from 9:12 to 9:15 PM]

**MAYOR JOHNSON moved** to deny the call for review.

**DEPUTY MAYOR CHAVEZ** said this has been a good discussion because it deals with 2 major issues in the City: traffic and quality of life. He addressed 3 points.

The first point is there is a process to deal with the issues of the environmentalists. The developer understands that they need to get through these agencies. It is also important to point out that the letter that has been referred to was addressed by the Planning Commission.

The second point is traffic. On one hand we are saying we'd like to have this residential, and the next thing we are saying is that we would rather it be commercial but don't really want a mixed use. Each of these categories impact upon the traffic and the volume. This project, as discussed, is going to reduce the amount of traffic on the road. That is important for people to understand.

The third point is this has been going through a number of studies within the City. It went before the Planning Commission and was passed by a 5-0 vote.

For those three reasons, he **seconded** the motion.

**COUNCILMEMBER SANCHEZ** received several calls and comments from people opposed to this project. The procedure for looking at this problem is to call it for review. And, that the way to fix this was to send it back to the Planning Commission. Council is saying to give up here and give the responsibility to the Fish & Game, which is kind of ridiculous. The staff report says that it is pending the approval of the wildlife

agencies. Why does the project not have approval of the wildlife agencies? What makes this so special.

She is opposed to the denial and thinks that Council could have resolved this. She is all for bright lines so that developers know exactly what they can develop and what they can't. Council needs to work on that. She saw a bright line when she saw this letter, and she saw this letter after she requested the call for review. She had received complaints from those that had been at the Planning Commission meeting. We have 3 people here from Costa Serena opposed to this project, if it is not going to address these issues. It is Council's job to address these issues, and passing the buck is disconcerting to her.

**COUNCILMEMBER FELLER** said this is not passing the buck at all. This is part of the developer's responsibility, and the risk they take is part of this process. He is satisfied with what Mr. Gilbert and Mr. Lightfoot have told Council. He has not had one call about this project saying that there is a problem. He listens to all, so he does not know why he does not hear about the problems that Councilmember Sanchez hears about. He supports the denial.

**Motion was approved 4-1;** Councilmember Sanchez - no.

The Mayor determined to hear Item 6 at this time.

#### **PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS**

No action will be taken by 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:**

[A] Request by Pastor Gerald Johnson to speak regarding Supervisor Bill Horn's challenge to match the County's award to the Oceanside Ten Point Coalition]

This item was considered as part of Item 35 on agenda.

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

**JIMMY KNOTT**, 124 Sherri Lane, read a letter from Dolores Skolimowska, who is disabled, uses a wheelchair and has encountered problems within the City that have caused in part her injury and has also added impediments to the disabled community. There are problems with debris on handicap accessways, the timing of the street lights, and other conditions that need proper maintenance.

**GEORGE McNEIL**, 2153 Anda Lucia Way, spoke regarding the open Council seat. He is opposed to an additional election and spending \$250,000 to seat somebody for a year and a half. That is a waste of money. With excessive gasoline costs, the need more for more police officers and more money in the fire department and a lot of places in Oceanside, money does not need to be wasted to fill the empty Council seat. If there turns out to be an open seat then the 3<sup>rd</sup> person in the Council race should get it, and that is Shari Mackin.

#### **CITY COUNCIL REPORTS**

36. **Mayor Terry Johnson** – No report

37. **Deputy Mayor Chavez**

**DEPUTY MAYOR CHAVEZ** attended the opening of the Artisan Studio where a lot of the City's artists are working. Next to that is the Phantom Studio, and half a block

away is the Oceanside Museum of Art.

He attended the wake and funeral for General Murray. Few men have accomplished what General Murray did: two Navy Crosses, the Army Distinguished Service Cross, four Silver Stars, two Legion of Merits and a number of Purple Hearts.

38. **Councilmember Feller**

**COUNCILMEMBER FELLER** reported that on November 4th there was a Fire Department Table Top Exercise on terrorism and weapons of mass destruction. The Girl Scouts cleaned Ocean View Cemetery on November 6<sup>th</sup>, and they found 20 more headstones this year. There were great Veteran's Day celebrations. He was very impressed with the Order of the Purple Heart Organization and the Elk's Lodge who put on a celebration.

He thanked the voters for reelecting him.

39. **Councilmember Sanchez**

**COUNCILMEMBER SANCHEZ** thanked the voters for re-electing her.

40. **Councilmember Wood** – No report

**ADJOURNMENT**

Following a moment of silence in memory of General Raymond Murray, **MAYOR JOHNSON** adjourned this joint meeting of the Oceanside City Council, Community Development Commission and Small Craft Harbor District Board of Directors at 9:38 PM on November 17, 2004. [The next regularly scheduled meeting is at 4:00 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

## MINUTES OF THE:

### OCEANSIDE CITY COUNCIL

TUESDAY

DECEMBER 7, 2004

**REGULAR 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

**Treasurer**

Rosemary Jones

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**City Manager**

Steven Jepsen

**City Attorney**

Anita Willis

The regular meeting of the Oceanside City Council was called to order by Mayor Johnson at 10:04 AM, December 7, 2004, for the swearing-in of newly elected officials [Mayor Jim Wood, Councilmember Jack Feller, Councilmember Esther Sanchez, City Clerk Barbara Riegel Wayne and City Treasurer Rosemary Jones].

**ROLL CALL**

Present were Mayor Terry Johnson, Deputy Mayor Rocky Chavez and Councilmembers Jack Feller, Esther Sanchez and Jim Wood. Also present were City Clerk Wayne, City Treasurer Jones, City Manager Jepsen and City Attorney Willis.

**INVOCATION** - Pastor Ralph Wood, Calvary Chapel - Oceanside

**PRESENTATION OF COLORS** - Oceanside High School Marine Corps JROTC Color Guard, led by Colonel Mike Sullivan, U.S.M.C. (Ret.)

**PLEDGE OF ALLEGIANCE** - Pearl Harbor Survivors Association

1. **PERFORMANCE BY "OCEANSIDE SOUND WAVES," OCEANSIDE HIGH SCHOOL CHOIR, CONDUCTED BY RICH LANGEN, CHOIR DIRECTOR**

The Oceanside Sound Waves performed several holiday songs.

2. **ADOPTION OF A RESOLUTION CERTIFYING THE RESULTS OF THE CITY'S GENERAL MUNICIPAL ELECTION HELD ON TUESDAY, NOVEMBER 2, 2004**

**BARBARA RIEGEL WAYNE**, City Clerk, reviewed that the Council adopted a resolution on June 16, 2004, calling for the election on November 2, 2004, to elect a Mayor, 2 members of the City Council, a City Clerk and a City Treasurer for full terms of 4 years. The General Municipal Election was held on Tuesday, November 2, 2004, in Oceanside and followed all the rules and regulations for an election for Oceanside and the State. The official ballot contained 4 candidates for Mayor, 8 candidates for the 2 seats on the City Council, 3 candidates for City Clerk and 3 candidates for City Treasurer. On December 1, 2004, the City Clerk's Office received the certified results from the San Diego County Registrar of Voters, which indicated that out of 79,726 registered voters, there were a total of 61,249 ballots cast. She congratulated all of the Oceanside registered

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

voters. The City had a 77% turnout.

The following candidates received the highest number of votes in the City and are hereby elected to a 4-year term:

For the office of Mayor:

Jim Wood with 22,313 votes

For members of the City Council:

Jack Feller with 22,095 votes

Esther C. Sanchez with 21,010 votes

For City Clerk:

Barbara Riegel Wayne with 25,744 votes

For City Treasurer:

Rosemary R. Jones with 34,839 votes.

Therefore, it is recommended that Council adopt the resolution certifying the results as stated.

**COUNCILMEMBER FELLER** moved approval of **Resolution No. 04-R978-1** "...reciting the fact of the City's General (Consolidated) Municipal Election held on Tuesday, November 2, 2004, declaring the results thereof and such other matters as provided by law."

**MAYOR JOHNSON** seconded the motion.

**Motion was approved 5-0.**

3. **REMARKS BY OUTGOING ELECTED OFFICIAL**

At this time, the outgoing Mayor Johnson presented his final comments as a public official.

**MAYOR JOHNSON** was thankful for being able to serve Oceanside for 12 years. Oceanside is a jewel and everyone can be very proud. He thanked his family and friends for helping him through the years and was glad to be able to work with an outstanding staff. He spoke of the improvements and changes in the City that have occurred during his tenure. He thanked Alex Kapitanski for his flag display in the Council Chambers.

He is proud of what they have done together. The journey is not over yet, and no matter who is at the helm, this City will continue to move forward in a great, mighty way.

**CITY CLERK WAYNE** said that Mayor Johnson has served the City for 12 years, 8 years as a Councilmember and the last 4 as the Mayor of the City of Oceanside. There will be a reception held for Mayor Johnson on Friday at 5:30 PM at the Museum of Art. She invited everyone to attend and celebrate all of the Mayor's years of service. Mayor Johnson has served faithfully. Even though the position is considered part-time, he has served the City full-time, and we all thank Mayor Johnson for bringing the City through the last 12 years.

4. **SWEARING-IN OF NEWLY ELECTED OFFICIALS**

**HOLLY TROBAUGH**, Assistant City Clerk, gave City Clerk Wayne the Oath of Office, along with a Certificate of Election.

**CITY CLERK WAYNE** gave the Oath of Office and Certificate of Election to City Treasurer Rosemary Jones. Judge Gilbert Nares, Fourth District Court of Appeals and Oceanside native, gave a ceremonial Oath of Office to Councilmember Esther Sanchez who was then presented with her Certificate of Election. Superior Court Judge Timothy M. Casserly gave a ceremonial Oath of Office to Councilmember Jack Feller who was then

presented with his Certificate of Election. Superior Court Judge Michael Kirkman gave a ceremonial Oath of Office to Mayor Jim Wood who was then presented with his Certificate of Election. [Note: Mayor/Councilmembers were administered their official oath by City Clerk Wayne prior to this meeting]

**CITY CLERK WAYNE** encouraged members of the public to also accept their responsibility on the direction of the City by staying actively involved and ensuring that the new Council is aware of their views and desires to make this City the best it can be.

**ROLL CALL** [of new Council]

Present were Mayor Jim Wood, Deputy Mayor Rocky Chavez and Councilmembers Esther Sanchez and Jack Feller.

5. **REMARKS BY NEWLY ELECTED OFFICIALS**

**CITY CLERK WAYNE** said the election was an interesting process since there were many rules and regulations established this time. We were trying to have a wonderful election night, but the results came in so slowly. The preliminary results finally concluded at 4:00 AM, and then the lingering of the absentee count went on for a long time after that.

For campaign purposes, as a re-elected official, she thanked the people that worked so hard on her campaign. For the next 4 years, she promised to do the very best that she can, and hopefully people will consider the City Clerk's Office as their source for information for the City. She thanked everyone for their vote.

**CITY TREASURER JONES** thanked the citizens of Oceanside who voted for her. She thanked everyone who worked on her campaign and her staff.

**COUNCILMEMBER SANCHEZ** thanked her family, the Firefighters Association and the Police Officers Association. She looked forward to working with the Council and pledged to do her best.

**COUNCILMEMBER FELLER** explained that he loves representing the citizens, and Oceanside is a great City. He cares about Oceanside and there are great people that set the path for this City many years ago. It is Council's job to expand on it. He thanked his wife and family.

**MAYOR WOOD** is honored to be Oceanside's Mayor and thanked everyone for their support. He thanked his opponents and said they made him a better person. He thanked the Police Officers Association and the Firefighters Association and their boards, the Teamsters 911 and City employees. He is a public servant, not so much a politician, and Council is here to represent the people. Referring to the vacant Council seat as a result of him being elected Mayor, he did not want a vacant seat for 7 months because it is important to have a full Council to represent the people. He will try his best to make it a better City. He encouraged the public to call all Councilmembers with questions and concerns. He asked the public and Council to treat everybody with respect at the podiums, in the press and in the community.

Councilmembers thanked all and the judges for their attendance.

**COUNCILMEMBER SANCHEZ** said Judge Gilbert Nares, Fourth District Court of Appeal, has been on the bench for 29 years. Judge Nares grew up in the East Side and was always an example of people who, if they wanted to do something, they could do it. Also present is Judge Tim Casserly, also an Oceanside resident who for the last 4 years has been the Presiding Judge for the criminal courts. Judge Michael Kirkman is taking over the Presiding Judge position for criminal courts.

6. **ORAL COMMUNICATIONS FROM THE AUDIENCE REGARDING ITEMS NOT ON THIS AGENDA** – None

December 7, 2004

Council Meeting Minutes

**BENEDICTION** - Reverend Carl Souza, First Baptist Church of San Luis Rey

**ADJOURNMENT**

Mayor Wood adjourned this regular meeting of the Oceanside City Council at 11:30 AM on December 7, 2004. [The next regularly scheduled meeting is Wednesday, December 15, 2004].

**ACCEPTED BY COUNCIL:**

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Barbara Riegel Wayne  
City Clerk, City of Oceanside