

April 4, 2012

Joint Meeting Minutes
Council, HDB, CDC and OPFA

until 3:00 p.m. There was no quorum present.

[Recess was held from 2:01 PM to 3:00 PM]

3:00 PM – ROLL CALL

Mayor Wood reconvened the meeting at 3:00 PM.

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

City Attorney Mullen titled the following item to be heard in Closed Session:
Item 1. [Item 2 was continued to April 18, 2012]

[Closed Session and recess were held from 3:01 PM to 4:01 PM]

CITY COUNCIL, HDB, AND CDC CLOSED SESSION ITEMS

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

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

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

Item discussed [OFA and OFMA]; no reportable action

2. [CONFERENCE WITH REAL ESTATE NEGOTIATOR (SECTION 54956.8)]

Property: Property bounded by Pacific Street, Myers Street, Seagaze Drive, and Civic Center Drive (APN 147-261-01 through 12; 147-076-1,2,3,10,11,12); Negotiating Parties: SD Malkin Properties; Negotiator for the City: Peter Weiss, City Manager, and John Mullen, City Attorney; Under Negotiations: Terms of Disposition Agreement and Lease]

No closed session held; continued to April 18

4:00 PM – ROLL CALL

MAYOR WOOD reconvened the meeting at 4:01 PM. Present were Mayor Wood, Deputy Mayor Feller and Councilmembers Sanchez, Kern and Felien. Also present were Assistant City Clerk Trobaugh, City Manager Weiss and City Attorney Mullen.

CONSENT CALENDAR ITEMS [Items 3, 4, 6, 7]

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 TROBAUGH announced there is a request from the public to speak on Item 5.

The following Consent Calendar items were submitted for approval:

3. City Council/Harbor/CDC/OPFA: Acceptance of Joint Minutes of the Small Craft Harbor District Board of Directors, Community Development Commission, City Council, and Oceanside Public Financing Authority of the November 30, 2011, 2:00 p.m. Regular Meeting
4. City Council/Harbor/CDC/OPFA: 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)
5. **Removed from Consent Calendar for discussion – Public**
6. CDC: Adoption of **Resolution No. 12-R0188-3**, "...approving the revised Administrative Plan (**Document No. 12-D0189-3**) for the Section 8 Housing Choice Voucher Program".
7. City Council: Adoption of **Resolution No. 12-R0190-1**, "...authorizing approval of a memorandum of understanding (**Document No. 12-D0191-1**) with North County Lifeline for the 2012 ACT program" (Alternative Court Treatment Program), which will provide alternatives to detention for youth in North County and reimburse the City in an amount up to \$12,000 for approved expenses"; approving the expenditure plan; appropriating the funds to the Police Department; and authorizing the City Manager or designee to execute the MOU.

COUNCILMEMBER KERN moved approval of the balance of the Consent Calendar [Items 3, 4, 6 and 7].

DEPUTY MAYOR FELLER seconded the motion.

Motion was approved 5-0.

Items removed from Consent Calendar for discussion

5. **City Council: Approval of Amendment 1 (Document No. 12-D0187-1) in the amount of \$175,000 to the professional services agreement with Tory R. Walker Engineering, Inc., for an update to the City's Master Plan of Drainage, for additional compilation of Geographic Information System database records, detailed analysis of local historic precipitation, and establishment of precipitation time series for continuous simulation analysis; approval of budget appropriations totaling \$175,000 from the Unassigned Fund Balances of various Drainage Funds to the project account; and authorization for the City Manager to execute the amendment.**

JOAN BRUBAKER, 1606 Hackamore Road, asked if there is no one in the Water Department who could do this particular study. It seems the personnel there would be aware of all the laterals, drains, and lines that are in place, would know what probably will be needed in the rather near future, and be able to plan for those. Certainly the people in that department are knowledgeable. Why do we seem to be spending thousands of dollars on outside services? Is it so specialized that you need an outside firm?

SCOTT SMITH, City Engineer, responded the services provided for the Master Plan of Drainage are extremely specialized. There's a lot of modeling that needs to occur. In this particular amendment, the lion's share is actually collecting additional field data that will allow for a 3-dimensional or geo-spacial model, which is highly technical. We are in a situation where we do need the consultant to proceed with this

effort.

CITY MANAGER WEISS stated Ms. Brubaker also referenced sewers and laterals. This is only for storm drain and open-channel analysis. The sewer and water Master Plans, as they relate to Morro Hills, are going to be coming back to Council at a future time.

COUNCILMEMBER SANCHEZ stated the staff report has a reference to the Council meeting of November 9, 2011, when the South Morro Hills Association expressed deep concerns over the Council direction, which suggested that the City should somehow pay for a potential development. Development should pay for itself. This is an amendment to the tune of \$175,000. Her question was how much of the reason for having to pay extra dollars has to do with the South Morro Hills community.

MR. SMITH responded none of it is directed at that. This is a Citywide effort.

COUNCILMEMBER SANCHEZ clarified that none of this increase is because of what happened on November 9, 2011.

MR. SMITH responded that's correct. There is no increase as a result of that. Because it was brought up, he wanted to make note that when South Morro Hills comes forward with any type of plan, ultimately an amendment can be incorporated in the Master Plan of Drainage at that point in time. But there is nothing associated with this amendment.

COUNCILMEMBER SANCHEZ stated it sounds like you are trying to plan ahead to address issues having to do with TMDL's and the implementation plan. That would hopefully result in a cost-savings to the City in future years. She liked that part. She'll be supporting this.

She **moved** approval [of Amendment 1 (**Document No. 12-D0187-1**) in the amount of \$175,000 to the professional services agreement with Tory R. Walker Engineering, Inc., for an update to the City's Master Plan of Drainage, for additional compilation of Geographic Information System database records, detailed analysis of local historic precipitation, and establishment of precipitation time series for continuous simulation analysis; approval of budget appropriations totaling \$175,000 from the Unassigned Fund Balances of various Drainage Funds to the project account; and authorization for the City Manager to execute the amendment].

COUNCILMEMBER KERN **seconded** the motion.

Motion was approved 5-0.

GENERAL ITEMS - None

CITY COUNCIL REPORTS

8 **Mayor Jim Wood**

MAYOR WOOD will talk about his visit to our sister cities in Japan at another meeting. He will say that the cities and services were immaculate.

9. **Deputy Mayor Jack Feller**

DEPUTY MAYOR FELLER stated we had a business visitation to S&S Electronics. The owner is an inventor and a joy to have in our City. He is admittedly a high school drop-out, but he has a several million-dollar-a-year business going.

He attended the Crystal Apple Awards put on by the Church of Jesus Christ of Latter Day Saints honoring teachers at Carlsbad High, Oceanside High and El Camino High where the students recognize the teachers that have made a difference in their lives.

He attended the Arts Commission meeting. We have a redesignation ceremony tomorrow at Camp Pendleton for Nick Murano, who is retiring and the new Brigadier General who is taking over.

The Easter Egg Hunt is Saturday at 9:30 at Balderamma Park, and 10:00 at Buddy Todd park.

10. **Councilmember Gary Felien**

COUNCILMEMBER FELIEN attended the Veteran's Association of North County fundraiser at Outback, which raises money to complete the Veteran's Center.

He also attended the Crystal Apple teacher's recognition ceremony.

He watched the Ironman competition where we have visitors from all over the world participating in this event.

Oceanside School District announced that Palmquest and North Terrace Elementary Schools were named as California Distinguished Schools for 2012. Only 387 schools receive this recognition Statewide.

11. **Councilmember Jerome Kern**

COUNCILMEMBER KERN attended the Ironman; it was a tremendous asset to downtown. The restaurants were full, and there was a lot of activity. Unfortunately we're going to lose some of those lots where they transition, so if we're going to keep it down there, we're going to have to scramble to figure out how we're going to do it with the new downtown configuration with the hotels. The Sunset Market was packed on Thursday night because of the event as well.

He also visited S&S Electronics. It's 2 guys who are relatively young but have been at it for a long time.

Tomorrow there is a Change of Command ceremony at Camp Pendleton, but it's also a change in the structure of how Camp Pendleton is going to be managed. It's going to be almost back to the same structure they had before.

He was at MainStreet Oceanside yesterday, and they're excited about the upcoming summer and are happy with Council for doing the parking structure on Cleveland Street, as well as the Mission Avenue improvements.

12. **Councilmember Esther Sanchez**

COUNCILMEMBER SANCHEZ attended on behalf of the Mayor a ceremony for Pastor Malaki Tauilili, who is moving from Los Angeles to take over the Oceanside Samoan Congregational Church of Mesa Margarita. She received a contribution from the church, which she will be donating to youth programs in Oceanside.

Peter Douglas passed away 2 days ago. He was the Executive Director for the Coastal Commission.

She wished everyone a joyous Easter and weekend with their families.

[Recess was held from 4:29 PM to 5:03 PM]

5:00 – ROLL CALL

Mayor Wood reconvened the meeting at 5:03 PM. All Councilmembers were present.

INVOCATION – Pastor Malaki Tauiliili

PLEDGE OF ALLEGIANCE – Kay Parker and Kelly Matthews

PROCLAMATIONS AND PRESENTATIONS –

Presentation – “Pet of the Month” presented by Elkie Wills, San Diego County Humane Society & SPCA

Proclamation – Fair Housing Month

Proclamation – National Library Week

Presentations were made

5:00 P.M. – PUBLIC HEARING ITEMS

Public hearing items are “time-certain” and are heard beginning at 5:00 p.m. Due to the time-certain requirement, other items may be taken out of order on the agenda to accommodate the 5:00 p.m. public hearing schedule.

17. **CDC: Adoption of a resolution approving the 2012-2013 Annual Public Housing Agency Plan, and authorization for the Community Development Commission Chairperson to submit the plans to the U.S. Department of Housing and Urban Development with the inclusion of changes made to the PHA Plan as a result of public comments, and execute all related documents (continued from March 28, 2012)**
- A) Chairperson opens public hearing – hearing was opened.
 - B) Chairperson requests disclosure of Commissioner and constituent contacts and correspondence – Mayor Wood, Deputy Mayor Feller and Councilmembers Sanchez and Kern reported contact with staff, Councilmember Felien reported no contact.
 - C) Secretary presents correspondence and/or petitions – none.
 - D) Testimony, beginning with:

ANGIE HANIFIN, Housing Program Manager, stated this item is our annual Public Housing Agency Plan for fiscal year 2012-13. As the Housing Authority for the City, which comes under the Community Development Commission, we are required to prepare and submit this plan to the Department of Housing and Urban Development (HUD) on an annual basis. As part of the program, we are required to submit both a 5-year plan, which has already been prepared and submitted for 2010-2015, as well as this annual plan.

We assist about 1,600+ Oceanside low-income households, comprised mostly of seniors, persons with disabilities, and families. The program has about a 6-year wait for those who live or work in Oceanside. With these tough economic times, we continue to see our waiting list grow. We received some new vouchers during the last year, which were welcomed as we had not received any new funding to assist new participants or new voucher recipients since 2002. We were the only Housing Authority in Southern California to receive these special vouchers. They are known as Family Unification Program Vouchers. They are specially designed to help families who are separated due to inadequate housing or are at risk of separation. We work closely with the County Department of Health and Human Services Child Welfare Services in coordinating services. The other population that we assist with those vouchers are youths transitioning out of foster care, former foster care youth ages 18-21.

Regarding who we serve, 39% of the households are families with children, 31% are seniors and 26% are households in which the head or spouse is a person with disabilities. 82% of the households' primary income is either wages or Social Security. We are helping a lot of working families, disabled and elderly persons in Oceanside. There is just over \$1,400,000 sent out to landlords in Oceanside on a monthly basis.

The Housing Authority Section 8 program has been rated as a high performer by HUD, so we're in good standing with them. The HUD requirements are that a public hearing be held after a 45-day public comment period. This is not a substantially controversial item, but we're here for the public hearing part of that.

There is also a requirement that a resident advisory board comprised of participants in our program meet and assist us with this process. We had 5 participants in our program that met with us to develop the plan.

Staff is recommending that the CDC approve this item.

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

COUNCILMEMBER SANCHEZ appreciates the Housing Department's due diligence in insuring that all of the paperwork is done and that we the most that we can with the funds that we get.

She **moved** approval of [adoption of **Resolution No. 12-R0193-3**, "...approving the 2012-2013 Annual Public Housing Agency (PHA) Plans (**Document No. 12-D0194-3**), for the PHA fiscal year beginning July 1, 2012 and authorizing the Community Development Commission Chairman to submit the PHA plan to the U.S. Department of Housing and Urban Development (HUD) and execute all related documents", with the inclusion of changes made to the PHA Plan as a result of public comments].

COUNCILMEMBER KERN **seconded** the motion.

Motion was approved 5-0.

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

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

Advance written request to reserve time to speak: None

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

ANN BESSINGER, Sullivan Solar Power, stated in just one hour the sun casts enough energy on the Earth's surface to provide the entire world with electricity for one year. However, less than 1% of our electricity comes from the sun.

Sullivan Solar Power is the top residential installer in the local utility territory, according to the California Solar Initiative data. Our vision is to transition San Diego County into a national case study. This week marks the launch of the San Diego Solar Program, which is an exciting incentive program we're offering for all homeowners in the County. The program has been developed to help the San Diego region reach its renewable energy goals. The incentives offered to residential property owners through the San Diego Solar Program are larger than those currently being offered under the State rebate program. Homeowners in the County that participate are able to go solar

for little to no out-of-pocket expense and receive cash back. County residents are actually going to be getting paid to go solar with this program. Similar to the State rebate, cash incentives offered through the program will continue to drop until fully exhausted. The San Diego Solar Program offers Oceanside homeowners the opportunity to get paid to go solar through December 31, 2012.

We're excited to administer this innovative program and we hope that Council can lend their support by letting your constituents know that the San Diego Solar Program is a way for residents to receive additional cash incentives on top of the State rebate and the federal tax credit.

Finally, for all San Diego residents it will go a long way to spur additional adoption of renewable energy in our region.

SUZANNA RAY, 200 North El Camino Real, is here to address the issue of electronic signs that will be coming before Council soon. Do not do what everybody else is doing. Look for advice from somebody who is in your same situation. She related a story that she compared to the City's electronic sign options.

JIMMY KNOTT, 127 Sherri Lane, stated on April 10th a group of citizens will be going to Metropolitan Water District (MWD) to advocate for our residents with respect to the proposed rate increase. He invited people to send him any messages that they would like to have delivered to MWD while they are there.

MAYOR WOOD stated there is a bus going. He went up last time, along with Councilmember Felien. It does make an impact when we talk to them in person. The water rate hikes over the last few years are not from our water association in San Diego, but from MWD in pass-through fees. We're complaining, and there is a lawsuit against MWD by San Diego. Going up on the bus is highly recommended as this will impact our daily rates. Maybe we should send a message along from the entire Council.

CLOSED SESSION REPORT

13. Closed Session report by City Attorney

CITY ATTORNEY MULLEN reported on the item discussed in Closed Session:
Item 1. [Item 2 was not discussed]

5:00 PM - PUBLIC HEARING ITEMS - Continued

15. City Council: Adoption of a resolution approving the fee schedule to be charged for emergency medical services; and establishing an automatic annual increase for ambulance service rates based on the published annual Consumer Price Index-Urban for San Diego County

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

PETE LAWRENCE, Fire Battalion Chief, stated this is a rate increase on ambulance fees. The last time we updated these fees was in 2009. We currently charge significantly less than our neighbors for ambulance transportation. In 2009, we built into the resolution an automatic adjustment, an ambulance inflation factor. It has proved ineffective at keeping pace with the actual costs in Oceanside.

The mileage chart, which is a large component of our transport fee structure, was not tied to any automatic adjustment and was not based on it continuing to change as the costs of our ambulance fleet change. We also are looking for the rate increase because the Finance Department is looking to outsource the ambulance billing. The higher rate that we would charge would be more in line with what our costs are and with our neighbors, which would allow us to get a better bid in the Request for Proposals (RFP) because those types of contracts are based on revenue collected and it allows them to have a better return.

Additionally, two studies were done of the Fire Department within the last year – one by PFM and one by TriData – and both studies recommended that the City increase their ambulance fees. They've looked at our surrounding agencies and our costs and have identified that we are well below our surrounding agencies.

The increases that we're looking for are within the base rates. We have 3 base rates. Two are advanced life support (ALS) and one is basic life support (BLS). All of our ambulances are staffed with paramedic/firefighters, but there are times when some of the payors, such as Medicaid, do not allow or recognize an advanced life support level of service so we have a BLS rate. The rate for a resident for BLS will increase from \$600 to \$840 and for ALS from \$725 to \$1,010. The non-resident rate will go from \$950 to \$1,290 for BLS, and from \$1,050 to \$1,460 for ALS.

The mileage increase goes from \$16.25 to \$25 per mile. That's a loaded mile. This is comparable to a lot of our surrounding agencies. It is based on the cost to operate our ambulances. Part of the reason that the fee has gone up is that the diesel ambulances that we're currently using have increased in price, as well as the radios, and the computer system is being built into the price of the ambulances. However, there are some initiatives that both Fleet and Fire are looking at to reduce the cost of our mileage in our fleet to bring that rate down.

Our intubation cost will go from \$60 to \$80. This increase for the number of patients who are intubated or receive an advanced airway is very small, but the cost of providing the equipment, because we've gone to a different type, has gone up. Medical devices are very expensive, and the new airways that we're using are a little more costly than the previous ones.

An important item to point out is that a lot of people are concerned about the elderly or the low-income, and in Oceanside the active duty and retired military, but none of the patients who have MediCal or are active or retired duty will have any increase in their co-pay due to these increased ambulance fees. That is because their payor has already maxed out with what they're going to be reimbursing. Those individuals who are transported will not see an increase over current rates in the cost of that ambulance transport.

For the revenue that the fee increases we are proposing will bring in, conservatively, the expectation is that the increases will result in \$330,000 and \$350,000 in additional revenue each year. Additionally, unrelated to these fee increases but along the lines of ambulance transport revenue, is that we have a new program that is going into effect within the State, in partnership with the State Department of Health Care Services (DHCS) and the Center for Medicare and Medicaid Services at the federal level, called a Ground Emergency Medical Transportation Program. This is the result of AB 678 that was signed into law by Governor Brown last fall. It allows an expenditure of funds by the Fire Department - public agencies - to be considered a provision of care to low-income or indigent individuals, and it will be considered a public expenditure of funds in the Medicaid program. Therefore, the federal government will match that expenditure of funds based on a conservative estimate of the number of MediCal transports and those Medicare/MediCal. The expectation is that the City will receive another \$120,000 in revenue from this EMT program, which is expected to go into effect

this next fiscal year. Additionally, because the program is retroactive to late January of 2010, we're looking at approximately \$150,000 in retroactive reimbursement that should arrive this next fiscal year. These are all conservative estimates of revenue based on a good analysis of our payor mix and the expected reimbursement from those entities that are recognized in the increase.

In 2009, we built in an automatic inflation adjustment into our ambulance rates, called the Ambulance Inflation Factor (AIF). That was created by a national negotiating group that he participated in back in the late 1990's or early 2000's, and it set the Medicare ambulance fee schedule at the federal level. The AIF was designed to capture the cost of the increases in CPI-Urban. As part of the Healthcare Reform Program, Congress included a productivity factor in the AIF. The Chief Actuarial from CMS, as well as the 2 assistants, have all testified to Congress that the addition of the productivity factor makes it impossible for agencies that use the AIF to recover their costs. Unfortunately, Congress continued forward on their path, so the AIF has actually been going negative on a couple of the last years. The use of CPI-Urban San Diego is specifically tailored to San Diego County. It specifically addresses and identifies the costs associated with urban living within the County and will better reflect our charges in going from AIF to CPI-Urban.

The mileage charge, which previously did not adjust automatically, and only adjusted when we came back before the Council, is designed and based on the cost of the ambulance fleet. The formula is then placed into the resolution so it is very clear as to how it was created. Fleet and the Fire Department have done a very good job of identifying ways to reduce the cost of our ambulance fleet. One thing we're looking at is changing from these very expensive and costly-to-maintain diesel engines to the newer gas engines. That's going to save us about \$20,000 per ambulance. Additionally, because of the reliability we're hoping to gain with these gas ambulances, we're looking to possibly reduce one ambulance out of the fleet, going from 8 to 7.

Finally, we've standardized our ambulance fleet. Hopefully, with the purchase of the next ambulance, we'll have a fleet that has standardized boxes in the rear of the ambulance. Those boxes are going to be able to be pulled off of the ambulance chassis at the end of the chassis' life, which is approximately 8 years, and be remounted on a new chassis, which saves us about 30-40% of the cost of a new ambulance. All of those cost containment efforts will result in the mileage charge going down in future years as we implement these reductions throughout the entire fleet. Even if we reduce the mileage back to the fees that we're currently charging, the estimate is that we'll still be pulling in the \$330,000 to \$350,000 in revenue. Again, he's been very conservative in those estimates so we do not miss the target. We do not want the Council to expect a certain amount of revenue and have that revenue not materialize.

The Fire Department requests that Council adopt the resolution.

Public input

KAY PARKER, 4377 Albatross Way, stated this appears to be a cost recovery. She was interested to see that compared to surrounding cities, we are a little bit lower. Twenty percent of our population is senior citizens. It is probably our senior population that uses this service extensively, so we depend on it to save lives. When you cut to the bone, then you've got to increase revenue. Going to cost recovery seems to be a prudent way to go. She supports this and hopes Council will too.

JIMMY KNOTT, 127 Sherri Lane, believes there should be a bifurcation of the service within the emergency medical area, where the non-emergency load could be handled privately. He also encouraged the Fire Department to consider the flex-fuel systems on the ambulances, which could be more useful in the future with biosolids being used for fuel. He would like to see more data on the cost for transport of

emergency versus non-emergency.

CORA FROLANDER has 2 grandsons who have seizures and have to take the ambulance to the hospital. They aren't under Medicare or Medicaid, so what is the increase to the average citizen with their insurance? How much more will they have to pay out of their pocket?

CHIEF LAWRENCE responded the increase will depend on their insurance program. There are only 2 kinds of insurance programs. The first is that it is 100% paid by the insurance program, in which case those patients would have no out-of-pocket expenses because they have no co-pay already. The other common insurance plan within the State is an 80/20, where 80% is paid by the commercial insurance company, and 20% is paid by the patient as a co-pay. In that case, you would see, on an ALS call, about a \$50 increase in the cost of the ambulance transport versus today, at a 20% co-pay.

MS. FROLANDER stated that's not the whole cost because they're going to the emergency room where they also have fees. Everything adds up, and it just keeps adding up. When can we stop so people don't have these high medical costs?

KYLE KRAHAL FROLANDER, 2931 McDonald Street, commended the proposal for having two tiers for residents and non-residents. That's key in protecting our people here who are vulnerable. It's important to note that the PFM and TriData studies did both recommend this increase, and that would be a prudent choice for cost recovery. In addition to it being a cost recovery, it also puts us in line with other comparable cities. Escondido and Vista would still charge more than we do under this proposal. Most important is the idea that this would raise about \$300,000, and that's the equivalent to keeping our senior center open, or a number of other programs such as parks and pools. What matters the most is keeping our services and our quality of life.

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

DEPUTY MAYOR FELLER asked if the other cities we compared here have two firefighter/paramedics on each ambulance.

CHIEF LAWRENCE responded all of our surrounding agencies that participate in the boundary drop arrangement with the City do have 2 firefighter/paramedics on board. Those are Carlsbad, Vista, Camp Pendleton and North County, which is Fallbrook Fire.

DEPUTY MAYOR FELLER asked how about the other ones that you compared like Escondido and San Marcos.

CHIEF LAWRENCE responded Escondido runs a 2 firefighter/paramedic system and San Marcos runs a 1 firefighter/paramedic and 1 EMT system.

DEPUTY MAYOR FELLER asked how much we anticipate saving with outsourcing our ambulance billing.

CITY MANAGER WEISS responded at this point we don't have an estimate because we've not completed the RFP process. The reality is that our base costs are around \$180,000. He doesn't suspect it will be a big savings; however, the recovery process and the time line to turn things over to collections would happen much quicker.

DEPUTY MAYOR FELLER asked if we don't fully recover the costs then what are we falling short on and how much are we falling short?

CHIEF LAWRENCE responded that the current costs are identified on Page 3 of

the staff report as approximately \$1,000,000 in costs exceeding revenue. He believes the Deputy Mayor is asking what we would have to raise the rate to in order to recover 100% of our costs.

DEPUTY MAYOR FELLER responded that is correct.

CHIEF LAWRENCE stated it would obviously have to be more than that. Because there are so many statutory write-offs with Medicare and Medicaid and there is a huge uninsured population that does not have the means to pay ambulance bills regardless of how many credit reporting agencies we send them to, the City actually is only getting between \$0.20 and \$0.27 for every dollar that we raise the rates. That's comparable across all of the providers within the County. Essentially, we raised the rates \$285 for an ALS level transport and that gave us \$300,000. To get another \$1,000,000, we would have to probably quadruple the cost.

DEPUTY MAYOR FELLER stated it scares him what the costs actually are that we're not recovering.

CITY MANAGER WEISS stated Deputy Mayor Feller raises a good point in regards to the full cost recovery. Unfortunately, as Chief Lawrence mentioned, there are a number of statutory write-offs. To try to get to full cost recovery, you would be placing an unfair burden on those people who have insurance and who can pay versus those where you have the Medicare/MediCal reimbursements.

COUNCILMEMBER SANCHEZ stated this is a cost recovery action, and it is in line with other cities. We're still going to be charging less than several cities. She understands how hard it is to get full recovery, and it would be unfair to put the burden on those that do pay their bills and are insured. Until things change, we have to figure out a balance of what would be fair and would not put undue burdens on our residents or on services that taxpayers are paying for and look to the City to provide, including maintaining and having access to public parks, swimming pools, the beach, etc. There's a cost to everything. She understands how critical this is.

She **moved** approval of [adoption of a resolution approving the fee schedule to be charged for emergency medical services; and establishing an automatic annual increase for ambulance service rates based on the published annual Consumer Price Index-Urban for San Diego County].

She thanked staff for trying to get to a more realistic estimate. She knows how hard that is to do with all of these variables.

MAYOR WOOD seconded the motion.

COUNCILMEMBER FELIEN asked if on the mileage charge you're saying that's just been fixed, and we should have an automatic adjustment factor attached to it like the other part of the ambulance fee.

CHIEF LAWRENCE responded that is correct. There was no automatic adjustment on mileage prior to what we're recommending now. From 2009 to today, all of the costs have basically been absorbed by the City's General Fund for the increase in the cost of the ambulances.

COUNCILMEMBER FELIEN asked which healthcare bill included this ambulance productivity factor.

CHIEF LAWRENCE responded it was the Patient Protection and Affordable Care Act. It required that a productivity factor be applied to payments of suppliers within Medicare and physician groups. A large quantity of individuals who are receiving

payment under Medicare had a productivity factor applied to their annual adjustment. In the case of ambulance, the annual adjustment is called the Ambulance Inflation Factor. Richard Foster is the name of the Chief Actuarial, and he can provide Council with copies of his memorandums. Mr. Foster has identified that there is no way for the practitioners, other than some of the physician practitioners within the Healthcare Part V Program, which is the non-hospital program, to be able to be more productive according to what Congress expected this productivity factor to do. In fact, they're saying you would have to have twice the rate of productivity just to make up for the loss of the extra increase that would have been provided by CPI-Urban.

COUNCILMEMBER FELIEN stated we're basically saying the dishonest accounting from Obamacare back in Washington DC had flowed all the way here to Oceanside.

CHIEF LAWRENCE cannot speak to the honesty or dishonesty of it; he can just point to the fact that the actuarial for CMS has identified that he doesn't feel it was appropriate.

COUNCILMEMBER FELIEN stated you're basically saying that the government assumed there was going to be some magical productivity increase and it was rammed through as part of the law. You're telling him that there's no way to make an ambulance drive from Point A to Point B more productive to save the amount of money they were assuming would be there in terms of the costs they were factoring into the cost of the bills. Is that correct?

CHIEF LAWRENCE responded what we need to keep in mind on the federal government's reimbursement for ambulance transport is that according to all of the current studies, including the General Accounting Office and the Office of the Inspector General within Health and Human Services, the reimbursement currently being provided by Medicare for ambulance transport does not even meet the basic cost of the ambulance transport. There is a shortfall already existing. Added to it is the productivity factor adjustment that makes that shortfall even greater. The statement that was coming out of the Actuarial's office is that as long as you are continuing to reimburse at a rate lower than the federal government's investigative arm is even saying, then you are taking additional reimbursement away from those providers.

As part of the Taxpayer Relief Act that recently passed, Congress did identify that they want the Health and Human Services Agency, and specifically the Center for Medicare and Medicaid Services, to look at what is the true cost of providing an ambulance transportation service, both in the urban and the rural environment, and identify whether or not the current Medicare program's process for reimbursement that's been in place now for 10 years is appropriate and effective as a tool for providing reimbursement to the companies providing the service.

COUNCILMEMBER FELIEN stated in terms of the engines you were talking about on the ambulances, has natural gas been looked at? You were talking about the difference between gas and diesel. With technology breakthroughs natural gas is becoming a lot more practical and efficient from a price standpoint. Is that a practical option for ambulances?

CHIEF LAWRENCE is not aware, as he is not the Fleet Supervisor, whether natural gas would be a better option. He does trust that Mr. Hart has looked at the cost, but he will address it in his next meeting with him as to whether natural gas would be an option or a better option.

CITY MANAGER WEISS stated we have looked at natural gas. The problem is we currently do not have access to a fueling facility and to establish one at the Operations Center would be cost prohibitive. We have had preliminary discussions with

Waste Management, who is in the process of, as part of their contract, putting in a CNG fueling facility. Once that is operational, we may have the ability to negotiate something with them to convert some of the fleet to natural gas.

COUNCILMEMBER FELIEN understood you to say earlier that we're only recovering 27% of our costs on the ambulance billing service.

CHIEF LAWRENCE responded no, that was not his statement. He was referring to the fact that for every dollar that we increase our ambulance bills from this point forward, once we met the maximum reimbursement that's provided by Medicare or Medicaid, we are only going to recover between \$0.20 and \$0.27. So, 27% of any future increases, once we meet the maximum. This increase meets that. Our overall ambulance collection rate is somewhere in the neighborhood of 50%. He's not running the program so that would be a question for the Finance Director. Additionally, with statutory write-offs the maximum potential collection rate is nowhere close to 100%. With our payer mix, it's probably closer to the 81%-83% range.

COUNCILMEMBER FELIEN asked in terms of the current fee we charge of \$600, for someone who pays \$600 does that cover their cost of the ambulance ride.

CHIEF LAWRENCE responded that would depend on the amount of care they received in the ambulance. Are you referring to a basic life support transport?

COUNCILMEMBER FELIEN responded it obviously averages out, based on a case-by-case. But if you subtract out the non-payers and if everyone paid their bill that showed up, would we be getting our money back charging \$600 for an ambulance ride for basic life support, or \$725 for advanced life support. Are we factoring in that we know a certain percentage are not going to pay their bill?

CITY MANAGER WEISS responded we're factoring in a certain percentage aren't paying their bill. In the staff report we show that for fiscal year 2010-11, we collected about \$2,500,000, but we actually billed almost \$5,300,000 for that year.

COUNCILMEMBER FELIEN stated we're basically talking about raising costs for the people who pay the bill. Are the people who are already paying the bills, paying their share or are they being asked to pay a share of the bills for people who aren't paying?

CITY MANAGER WEISS responded they're not paying the entire portion of their bill.

COUNCILMEMBER FELIEN asked what the cost is on an individual basis for an ambulance ride.

CHIEF LAWRENCE responded if all 6,200 ambulance transports paid \$600, we would generate approximately \$3,700,000 in revenue, which would cover our cost of providing our service.

COUNCILMEMBER FELIEN stated so the people who pay the bills are already paying their share of the bill, right?

CHIEF LAWRENCE responded correct.

COUNCILMEMBER FELIEN stated in dealing with our Fire Department, we have the issue of performance and the issue of costs. On the issue of performance, in terms of his own personal experience and what he hears from his neighbors, he has nothing but rave reviews, and everyone is happy.

In terms of costs, our contracts have 2 very onerous provisions that are unfair to be passing on the costs. One of which is the 9% EPMS pension increase, which is a process whereby the City is paying the 9% employee share. So, from a CalPERS standpoint, the base salary goes from \$100 to \$109. Then when you retire at 90% of your salary at 50 years old, instead of getting \$90 per \$100, you're getting \$98 per \$100. This kind of provision is excessive, and taxpayers shouldn't be getting handed the bill for this. These kinds of provisions need to be removed from our contracts. Before we come back and ask for more, we need to get these costs under control. We have an opportunity to do that with the new contracts that are being negotiated as we speak. He hasn't met a taxpayer yet who says they want to pay increased ambulance fees so we can have a 9% pension spike.

His other favorite is overtime for being on vacation. We have a provision that says that vacation, holiday and sick hours will be treated as hours worked for computing overtime. That is unacceptable. We have an opportunity to remove that provision on our ongoing contract. He has not met a taxpayer who says they want to pay increased ambulance fees so we can pay overtime for being on vacation. In the private sector, you actually have to show up for work to be able to collect your overtime. With this provision, you collect overtime from the comfort of your own bed. He doesn't find that acceptable. He's going to be hard pressed to vote for any increases when we have these kind of costs on our budget. If he meets a taxpayer who is happy to pay increased fees so we can pay overtime for being on vacation and so we can pay 9% pension spikes, he'll be open to changing his mind. He has yet to meet that taxpayer, especially since he heard that the people who are actually paying the bill were already paying their share at the fees we're charging. He is leaning against this.

COUNCILMEMBER KERN clarified that we billed \$5,500,000 and you were saying \$3,600,000 covers costs. He's confused with the math.

CHIEF LAWRENCE used a \$600 figure and did not include any mileage. He was using base rate with no supplies. The fee will be much higher. He was answering to his interpretation of the question as being the base rate portion of the transport at \$600 would generate \$3,700,000. There are a lot of components to the ambulance billing. He could provide that information to Council in a memo if requested.

COUNCILMEMBER KERN was hoping this would come up during the budget hearings, but it's here now and we'll have to deal with it now. He tends to agree with Councilmember Felien on some of his issues about the people who are covering their full costs when they pay. The people that aren't paying, we're going to have to cover their costs. We're basically subsidizing the non-payers by people who pay, whether with insurance or cash, etc. He's reluctant to go forward with that.

It was mentioned that TriData recommends that. Have we seen that study? They're quoting something that he hasn't seen yet.

CITY MANAGER WEISS responded we have seen the staff draft. The comments have been made, and we expect the final version to be released to the City, which we will make available to the Council and the public next Tuesday or Wednesday.

COUNCILMEMBER KERN thought it would have been nice to see the data before we have to decide.

If we went back to 2009 and applied the CPI index for San Diego, where would we be now versus using the other index that somehow got pushed aside?

CHIEF LAWRENCE responded we would not be at full cost recovery then because we were not starting from a cost recovery component in 2009. He believes the AIF for 2009 was actually a negative number.

COUNCILMEMBER KERN is asking if we went back to 2009 and applied the CPI index to it, where would we be today.

CHIEF LAWRENCE cannot answer that question. He could have it in memorandum form for Council by Friday.

COUNCILMEMBER KERN would like to see that. Maybe that's the problem here. If we would have applied that CPI index in 2009, we wouldn't even be here today because we'd have that automatic adjustment coming forward.

Some payors don't recognize advanced life support reimbursement, they just give you basic life support. Are we subsidizing advanced life support? Do some just reimburse for basic and not for advanced.

CHIEF LAWRENCE responded that is correct in terms of the State under the MediCal program, which is an extension of Medicaid, and currently has a very limited reimbursement for advanced life support skills. They reimburse for ECG monitoring. However, under that Ground Emergency Medical Transportation (GEMT) program that was authorized by AB 678, the paramedic level reimbursement will now be recognized by the State program, via the transfer of funds from CMS directly through intermediary to the City. So, as of the of implementation date of the GEMT, they will be recognizing the paramedic level of care.

COUNCILMEMBER KERN asked if AB 678 has been approved by Congress? That's a State thing, and we requested Congress to make that adjustment. Has that been done?

CHIEF LAWRENCE responded his understanding of the process is that the Certified Public Expenditure (CPE) program and process has been approved by Congress and is in effect in the State and lots of areas from schools to public health to maternal and child health and is in place in emergency medical services throughout the country. The program has already been approved by Congress. It does not require Congressional approval to add other entities into the CPE program, such as ambulance transportation within the State.

COUNCILMEMBER KERN understands that's \$90,000,000 for the entire State, which doesn't sound like very much.

CHIEF LAWRENCE responded the \$90,000,000 is an estimated amount of costs for public ambulance services. This is only for public entities. A private ambulance company is not eligible under the Medicaid program to certify their expenditures as a public expenditure in the provision of indigent medical care. They're for-profit. Cities, fire agencies and local districts are not. Congress never approved a CPE program or the Medicaid program to match private dollars. It only matches public dollars. So the \$90,000,000 is only for fire agencies, local districts, hospital districts, public entities and Indian tribes. It is not the entire Medicaid ambulance transportation component within the State.

COUNCILMEMBER KERN stated AB 678 requires that the participating agencies be reimbursed by the Department of Health Care Services for related administrative expenses. What are those?

CHIEF LAWRENCE responded the expected expenses under AB 678 are right now approximately \$330,000 to \$350,000. It sounds kind of funny that it matches our revenue, but there is no correlation to them. The State DHCS has contracted with the Sacramento Metropolitan Fire District for the administration of the CPE or GEMT program. The current estimates are that approximately \$10 per transport or less is the

expected administrative costs associated with the program. He took the costs out of the revenue projection to insure that what he was giving Council was the actual revenue coming in, not a program that you were then going to have to pay money in order to obtain. So, the \$120,000 in annual expected reimbursement from this new program, based on AB 678, already takes into account the expected up-to-\$10 fee for the City to participate.

COUNCILMEMBER KERN clarified then you haven't budgeted in that \$10 at all. If there were 600+ transports last year and you multiple it by \$10, would that be our budgeted amount for that reimbursement?

CHIEF LAWRENCE responded the data that's been provided to him that he ran his numbers with, show a little shy of 1,000 transports that could be eligible, either being Medicare/MediCal or straight MediCal. If there are approximately 950 total transports, the expected cost would be 950 times up-to-\$10, based on the number of transports in Los Angeles and Long Beach, who are some of the largest users. It's expected to be below that \$10 figure.

COUNCILMEMBER KERN stated this program is just starting so when does it actually get paid. When does it start kicking in? It's at the federal level and is coming back to be test driven by Los Angeles and Sacramento, so when will it be available Statewide?

CHIEF LAWRENCE responded that the expected implementation is about 90 days from the point that CMS says we can go for the program. CMS has approximately 90 days from when the last questions are answered from the State. He understands that last set of answers were provided to CMS's questions sometime in the middle of last month. We should be in a 180-day time frame before we would be seeing the revenue. At that point, we would be getting a retroactive reimbursement, back to January of 2010.

COUNCILMEMBER KERN asked if that's paid quarterly or monthly or how?

CHIEF LAWRENCE responded the current expectation is that we'll be doing a quarterly cost report for retroactivity and an annual cost report for ongoing, paid on a quarterly basis.

COUNCILMEMBER KERN stated parks and other things were brought up by a speaker and a Councilmember. Does any one-time money coming in go to the General Fund, instead of going back to that department for other projects? The Fire Department is a General Fund department, so if we get extra money coming in, it should come back to the General Fund and our CIP budget since it's one-time money. Some of the complaints he's heard internally are that other departments have to cut and have been doing their best to do that, but the Fire Department raises fees so they don't have to cut. He doesn't see any effort here to actually cut; he just sees efforts to raise fees to cover their budget numbers. He's concerned about that pattern.

He is still undecided about this item because he doesn't have enough information right now. He hasn't seen the TriData stuff or the CPI numbers.

COUNCILMEMBER SANCHEZ stated we're trying to recover some of the costs with this. We are not able to collect all costs because it would be unfair to the public that pays or has insurance. It's unfortunate that there are certain things that are not within our control. This is an essential service that we provide. It's a life-supporting/life-threatening situation. These are not the kinds of things we need to cut, like a park. Public safety is a very different situation.

We are in the process of looking at our contract with our Fire employees. She

doesn't see that we have to wait for that to be able to vote on this. Even if we are able to make adjustments to our contract with our Fire employees, we're still going to have these costs. We're still going to be subsidizing these costs from the General Fund. That's what we're here to address, the subsidies. If we continue to pay these unfunded costs, then we're going to be hit with another demand by the public as to why we're closing a program. There has to be some kind of a balance, and we have to look to our Directors who are trying to provide that balance for us.

The City Manager signed this staff report, so it is staff and the City Manager's recommendation that we go forward on this today as part of preparing the budget. We still have a shortfall. Hopefully, with some of the discussions we're having, we'll be able to close the gap. She appreciates her colleagues' comments, but we have something we have to deal with. These costs are real and they aren't costs that we can just close the door on. It is a huge plus that our responders to these calls are paramedics and can immediately administer and assess people, and lower their stress level. A lot of lives have been saved.

This is a balance. Our staff has looked into this and is making a recommendation based on logic and facts. Regardless of what happens with the employee contracts, these costs are going to continue. We all have family here. What if something happens and there is a delay in that call because we've had to close a station? What if the person who responds is not a paramedic, but an EMT, and all they can do is throw them in the vehicle and get them to the hospital. We have had those kinds of contracts, and they did not last long. We get what we pay for. We get excellent service. We understand that the budget is making us ask what is acceptable in terms of that service for life-threatening, life-supporting services such as public safety. What are we willing to do to insure that we maintain a level of service that the community will accept?

These are the kinds of thoughts that the City Manager and staff have been thinking about, and this is their presentation. She will be supporting it.

COUNCILMEMBER FELIEN stated when we had our budget workshop in January, he had expressed a willingness to look at true cost recovery issues. Several points were brought up today that we don't have all of the information on. He and some of his colleagues would be more comfortable postponing this item until we get all of the information. This was part of the original budget workshop that we had, and the amounts involved are $\frac{3}{4}$ of 1% of our budget. The end of the world isn't going to come if we take time to get more comfortable with this amount that is still unresolved. In the meantime, we're having a budget workshop next week. Please contact the Councilmembers and let us know the trade-offs you would like us to make.

He's uncomfortable with the idea of raising the fees on the people who are paying the bill, so they can foot the bill for the next guy who's not paying their share. That rubs him the wrong way. If we're going to be subsidizing the people who aren't paying their way, it needs to be a broader base than the unlucky guy who has to call 911 and pay the double to price in order to give a free ride to his neighbor who is not paying his share.

If the citizens tell him his approach is wrong, then he'll take another look at it. If they tell him his approach is right then, he'll have reason to hold his ground on this issue. We want to hear from the public on this. What you're seeing here are the very difficult decisions we're going to have to make on a whole range of issues. He's surprised we only have conflict on $\frac{3}{4}$ of 1% of our budget. We're close to where we want to be. Since he doesn't see unanimity here, it doesn't require a decision tonight. He's not voting no tonight, but he's not willing to vote yes.

He encouraged the public to participate in the budget workshop and let Council

know how they feel and what they want. Its up to the maker of the motion and the second to decide if we want to vote tonight. If they insist on going forward, as is their right, we can take that vote. He would like to offer an alternative motion if we're going to go ahead with this vote.

MAYOR WOOD is willing to continue this. When people on the Council ask for continuations, which he's done before, he's willing to go along with it. We want all of the information. He **withdrew his second**.

COUNCILMEMBER FELEIN would like to know the amount of time we're talking about to get the documentation that's been requested by Councilmember Kern, as well as when we expect to see the studies that were referenced. He **moved** to continue this item to the second meeting in May, which is May 16th.

MAYOR WOOD **seconded** the motion.

CITY MANAGER WEISS stated if Council's intent is to continue this, it will have to be to the second meeting in May. The public hearing has already been noticed for the April meeting. Council should have the TriData study and the other information requested by next week.

COUNCILMEMBER KERN asked if this information would be available at the workshop so we could do something at the workshop.

CITY MANAGER WEISS responded Council cannot approve these fees at the workshop; they have to be at a notice public hearing.

COUNCILMEMBER KERN thinks if we use that CPI-Urban number, we'll be almost where we're supposed to be anyway. Probably a lot of these indicators lag true costs.

CHIEF LAWRENCE responded his gut feeling of knowing the numbers is we will be no more than half of where we are asking you to be. Again, because we were not starting from a number, the 2009 numbers were not a number that was providing for the appropriate cost recovery.

COUNCILMEMBER KERN asked if we go forward with this, after we have all of the information and we approve a number, will we have to bring this back in a couple of years because the indexes aren't keeping up with the true costs? This is a tough thing for us to do. Once we do it, he'd like it to be done.

CHIEF LAWRENCE responded what we're trying to do is insure the fleet costs. For example, the mileage and base rate are the 2 large components of an ambulance bill. They want to follow and track costs as much as possible. Recognizing that we're not at full cost recovery, it will depend on the Council's desire for revenue as to whether or not it comes back in a shorter time frame than the average. We normally run between 3 and 5 years to bring a fee back and tweak it, based on whatever the changes in costs are that have not been accounted for by the CPI. The CPI is really geared to insure that we're not having to increase it a huge amount. It comes down to the City Manager and Council's need to adjust revenue upwards or downwards, which forces the need to bring the rate forward.

COUNCILMEMBER KERN asked how often this evaluation takes place. Is it annually or every 5 years to compare those costs with the index?

CHIEF LAWRENCE responded we normally bring it back on average every 3-5 years. The goal is to use the automatic adjustments. If you notice, medications are cost plus a certain percentage. Those are designed to insure that as medications are

added or as they go from on-label to generic, we are passing the savings along to the patient. When a medication becomes a generic medication and we are no longer paying \$30 a dose, but \$10 a dose, we actually adjust that downward. They're only paying cost plus a percentage for that medication. The goal is to try and do some of the same adjustments with the mileage, as well as with the base rate. The base rates, because we are not in a full cost recovery format, are also brought forward to Council every 3-5 years at the City Manager's request, or other request, in order to adjust upwards or downwards the need for revenue.

COUNCILMEMBER KERN knows Fire is trying, and he commended them. He's just not comfortable voting on this tonight. He would like to see the TriData study and the numbers run on the CPI indexing to see where we are before he votes on this. He's not opposed, but he's not comfortable enough to go forward.

ASSISTANT CITY CLERK TROBAUGH stated the Mayor already closed the public hearing, so does that mean Council is only continuing the discussion?

CITY ATTORNEY MULLEN recommended Council reopen the hearing when you go to May 16th.

DEPUTY MAYOR FELLER asked when you are hoping this will take effect.

CITY MANAGER WEISS responded the intent was, as a result of Council's budget workshop near the end of last year, to have something in place to rely on putting a budget recommendation together for Council. If we continue this to May for your budget workshop on April 19th, the Council's direction was already to look at eliminating these fees from that budget consideration. What we're putting together now, that we hope to release to Council by Monday, will be options to further reduce the City's budget by approximately \$450,000, which are these fees. If you supported this tonight, that would change. By continuing this until May, on April 19th you'll be looking at program eliminations and reductions to meet that \$450,000 threshold.

DEPUTY MAYOR FELLER asked if the City Manager and Chief Lawrence have read the TriData and PFM studies.

CITY MANAGER WEISS has read the TriData study and has had conversations with at least one of the principals of the firms that we had previously talked to about outsourcing ambulance billing. We'll be looking at submitting a revised proposal for that as well.

CHIEF LAWRENCE has read the TriData study.

DEPUTY MAYOR FELLER is it the City Manager's opinion that they have recommended raising the fees.

CITY MANAGER WEISS responded that's correct. In providing Council with those studies, it's just a matter of time for you to evaluate that information, along with the additional information. Doing this on May 16th will be a little bit cumbersome because you're budget adoption is scheduled for June 6th, so we would have to have some fair certainty at that point. On April 19th we're going to show up with additional reductions. Somewhere we're going to need a final decision because changing the budget on May 16th is going to make it very difficult to have something in front of Council by June 6th.

DEPUTY MAYOR FELLER stated there's no question we're not covering the costs. Everything costs more now thanks to the environmental people. He wants to make the best effort to provide the best service that we can afford. That's the bottom line for him. If we can't afford to provide a service, we're probably going to have to

eliminate it. That's what he sees coming forward if we're not able to provide the service. He doesn't completely agree with Councilmember Felien regarding the people that are paying their fair share. It actually costs more for the service. We need to come back with some pretty solid evidence in order for us to make this decision.

MAYOR WOOD always thinks the Council has the right to say they want more information. He'll always back someone saying they need more information. He is concerned about the budget. We don't want to make cuts, but we don't want to go outside the box to come up with things. We've asked every department to come up with ways to make money, and we always turn them down when they do. Now we're here trying to increase fees because everything else has been turned down to get us more income.

He can relate to people asking why the small percentage of the people who have insurance pay the full cost of every service in our town. The problem is if you're one of those people paying, then you're upset that nobody else is. When it comes to public safety, should we say it's pay-as-you-go when the ambulance pulls up? He doesn't want to put the burden on the Fire or Police Department to say who gets that service because they can't pay.

This is public safety, and it's a priority. We're trying to make up ways to pay for the people who don't pay their bills. If we don't approve this, will we be bringing back the library issue again next month? Should all of the services provided by the City be if you can't pay for them, then you can't use them? That's not right.

He doesn't like vilifying the employees because they had good contracts in the past. Those were during good times, and we all approved them. When it comes to public safety, we can't start guessing who can pay and who can't. This is a tough one. If we turn it down, we'll lose more money; that comes out of the General Fund, which means pools, libraries, senior centers, etc. Somebody is going to take this hit. In this particular field, we're never going to collect the full amount. There are people out there without money and without insurance. The people with the insurance will be paying some of this, and hopefully that will help us get through and not have to close some other service.

He asked the City Manager if we should even address Item 16, considering the direction of this action.

CITY MANAGER WEISS would suggest at least having the item heard. If there is additional input or information needed by Council or the public, we can address it again in the future.

MAYOR WOOD stated this is a motion to continue to the date suggested.

Motion was approved 4-1, Sanchez – no.

[Recess was held from 7:01 PM to 7:08 PM]

16. **City Council: Adoption of a resolution establishing a fee schedule for the Fire Department's re-inspections of specified occupancies**

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

GREG VAN VORHEES, Acting Assistant Fire Marshall, stated these fees are designed to cover the costs of re-inspections required by the Health & Safety Code. The Fire Department does not currently charge for these services. The Fire Prevention Division's primary objective is the protection and preservation of life and safety. We do this through a two-tier process. The first is plan-check, along with systems inspections of new construction. The second is annual inspections or periodic inspections on existing occupancies. The Fire Prevention Division has currently been conducting these annual inspections, but we have not been charging any re-inspection fees. These existing safety inspections include hotels, motels, apartments, vacation timeshares and condominiums of 3 or more units. The authority for the cost recovery is based on the Health & Safety Code. However, if the re-inspection is required, the owner of the occupancy would be responsible for that re-inspection. They would not be charged for the initial, only the re-inspection fees.

The current fee for fire inspections for new development is \$119 per inspection. Staff proposes the same for the residential re-inspection, with a slight increase for larger facilities. Based on the average inspection time and the type of facility, as applied to the cost of staff time, staff anticipates the cost recovery for the program will be approximately \$100,000 annually, based on inspecting approximately 900 occupancies of various types throughout the City. Even with the increase, fire prevention is not a full cost recovery program. We have 900 occupancies, and the initial inspections would have no fee. It's been his experience in the past that we re-inspect approximately 75%, which put us in the ballpark of over 600. Of those approximate 600, 50% have to be re-inspected again, which would be approximately 337 occupancies.

We did a comparison study with several other jurisdictions, and we're significantly lower than San Diego, Escondido and Chula Vista.

Public input

JIMMY KNOTT, 127 Sherri Lane, stated as long as this is aimed at businesses then he agrees with it because they're able to pass along the costs. The last proposal of this type was aimed at the individual, who is not able to pass along the cost. This is a more fair proposal.

SHIELA KADAH, 5301 Village Drive, thinks this is great. If you own a hotel or motel, you can take it off of your taxes. It's a win-win for all. We need to make money, and this could save jobs or services. The Fire Department would have to do the re-inspection anyway, which would cost us money, so they should charge.

JOAN BRUBAKER, 1606 Hackamore Road, believes this had been before the Council previously and was adopted, but later it was cancelled by the Council. These costs should be charged to the businesses. She is in favor of this. This charge should never have been eliminated in the first place.

CHRIS WILSON, 770 Harbor Cliff Way, urged Council to adopt these fees. From the standpoint of public safety, it stands to reason that this will encourage people to maintain their properties better so they don't have to be re-inspected. If they don't fail the first time, then they won't have to pay this additional fee coming back. It would provide an incentive to the property owners, property managers and people that are maintaining the properties, to provide a safe environment for the people who live in them and use them.

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

DEPUTY MAYOR FELLER asked what determines periodic inspections.

MR. VAN VOORHEES responded we're required to inspect these residential occupancies annually. We say periodic because we are not always able to get to them all annually. We have many inspections that we do annually such as schools, residential, jails and high-rises. Right now, we're almost caught up on the schools. Our focus has been on the educational facilities. We should be 100% complete on the educational facilities within approximately 2 months. Then our focus will go to the residential inspections. We have to work within the number of inspectors we have, and we anticipate bringing in engine company inspectors to help us. It is required by the Health & Safety Code, and we try to do them annually.

DEPUTY MAYOR FELLER asked if by "re-inspection" you mean after the annual.

MR. VAN VOORHEES responded yes. For the annual inspection, which is the first inspection, there would be no fee. If they fail that inspection or there are violations and we have to come back in 30 days for a re-inspection, they would be billed for that re-inspection.

DEPUTY MAYOR FELLER stated so you're not talking about charging the \$119 for the annual inspection.

MR. VAN VOORHEES responded no.

DEPUTY MAYOR FELLER asked if the first fee is for the Certificate of Occupancy.

MR. VAN VOORHEES responded yes. We charge those for plan checks, system inspections, fire alarms, fire suppression, etc.

DEPUTY MAYOR FELLER clarified if you go out on an annual inspection and there are no issues, we're not making up issues to get that re-inspection are we?

MR. VAN VOORHEES responded no. The initial inspections that we charge the \$119 for is based on the California Building Code. Once it's put together, we do the annual inspections, and then it goes to the California Fire Code, which is the maintenance code.

COUNCILMEMBER SANCHEZ moved for [adoption of **Resolution No. 12-R0192-1**, "...establishing a fee schedule for annual re-inspections for specified occupancies"] designed to cover the costs of re-inspections required by Health & Safety Code Section 13146.2, becoming effective July 1, 2012.

MAYOR WOOD seconded the motion.

COUNCILMEMBER KERN would like to see the re-inspection costs implemented on the third inspection. If somebody comes out and inspects and there is a list of discrepancies, they would re-inspect in 30-days. If those discrepancies have cleared, there would be no cost. If they have to go back the third time, that is when the fee should kick in. He doesn't mind going to the Escondido numbers to do that, to really incentivize people to bring their property up to a level of safety.

There are 2 issues here. There's cost recovery, but there's also an issue of safety. If somebody has a fully-charged fire extinguisher but it's out of date and you have to come back in 30 days to make sure they got it up to speed, he doesn't agree with charging them \$119 for that. If you give them a list of discrepancies, and they correct them in 30 days and you clear them, then they should be good. They do pay their taxes, and that's why the first one is free. After that point in time, you have people who are abusing the service. If you have to keep coming back and re-

inspecting, people should cover that cost. They should recover it at a cost that gets their attention. If they don't make the corrections, it will cost them to have somebody come back out.

He would like to see that kind of system in place, rather than paying to have it re-inspected for small things. If you have to come back for more than one re-inspection then the cost is on them. If you have to keep going out and they're not making the corrections, they should pay, and they should have to pay at the Escondido rate.

COUNCILMEMBER FELIEN asked if he heard correctly that half of the inspections fail their first time.

MR. VAN VOORHEES responded it's been our experience that on the residential inspections – the large apartments, facilities with 3 or more units – ¾ fail the initial inspection.

COUNCILMEMBER FELIEN asked what the primary reason is for failing the initial inspection. That seems like a very high percentage. If you know the inspector is coming, you should have some reasonable idea of what they're expecting to see, and yet 75% are failing.

MR. VAN VOORHEES responded it could be a number of items such as smoke detectors, fire extinguishers, alarms systems not working, improper storage of flammable liquids, combustible storage, wiring issues, hot water heater issues, etc. The Fire Code is very thick, and we're very thorough on our inspections.

COUNCILMEMBER FELIEN stated it seems to be a two-step process for people who are trying to comply with the law. He's sympathetic to Councilmember Kern's idea that if you have to come back the third time, they should be charged and at the higher charge such as Escondido charges. He would support a motion by Councilmember Kern to charge for the third inspection.

DEPUTY MAYOR FELLER asked if when they go out on their calls, they have given them notice within a certain amount of time, or is it a surprise visit?

MR. VAN VOORHEES responded there are no surprise visits. We send them a flyer letting them know the program is in progress and what we're looking at. They have a laundry list they can look at of general items, which are the top 20 items that we look at on these inspections. We schedule the date we're coming and they know we're coming.

DEPUTY MAYOR FELLER asked what the time frame is prior to inspection.

MR. VAN VOORHEES believes it's 30 days.

DEPUTY MAYOR FELLER clarified then they have 30 days to know you're coming.

MR. VAN VOORHEES responded yes.

Motion was approved 3-2, Kern and Felien – no.

INTRODUCTION AND ADOPTION OF ORDINANCES - None

ADJOURNMENT

MAYOR WOOD adjourned this joint meeting of the Oceanside City Council, Community Development Commission, Small Craft Harbor District Board of Directors and

April 4, 2012

Joint Meeting Minutes
Council, HDB, CDC and OPFA

Oceanside Public Finance Authority at 7:27 PM on April 4, 2012. [The next regular meeting is scheduled for 2:00 PM on Wednesday, April 18, 2012].

ACCEPTED BY COUNCIL/HDB/CDC/OPFA:

Barbara Riegel Wayne
City Clerk, City of Oceanside



California

CITY OF OCEANSIDE

MINUTES OF THE CITY COUNCIL

APRIL 17, 2012

SPECIAL MEETING 2:00 PM COUNCIL CHAMBERS

2:00 PM - OCEANSIDE CITY COUNCIL

Mayor

Jim Wood

Deputy Mayor

Jack Feller

Councilmembers

Esther Sanchez
Jerome M. Kern
Gary Felien

City Clerk

Barbara Riegel Wayne

Treasurer

Gary Ernst

City Manager

Peter Weiss

City Attorney

John Mullen

The special meeting of the Oceanside City Council was called to order by Mayor Wood at 2:02 PM, April 17, 2012.

2:00 PM - ROLL CALL

Present were Mayor Wood, Deputy Mayor Feller and Councilmembers Kern, Sanchez and Felien. Also present were Assistant City Clerk Trobaugh, City Manager Weiss and City Attorney Mullen. The Pledge of Allegiance was led by City Treasurer Gary Ernst.

DISCUSSION ITEM:

1. **Acceptance of the City Manager's proposed FY 2012-13 General Fund Budget Plan, and direction to staff**

PETER WEISS, City Manager, reviewed that Council had a budget workshop in March. As part of that, the Council gave direction to address a number of questions that Councilmember Kern had forwarded to staff in a March 19th memorandum. Council also asked what the cost-savings would be to reduce Council Aides to 33 hours a week, had additional questions regarding the City Clerk position, and asked staff to prepare a number of budget options for the Council to look at to address an additional \$450,000 revenue reduction. That \$450,000 was based on Council discussion regarding the loss of revenue from the City's ambulance fee increases, the fire inspections fees and the Clerk's position.

Staff did provide a response to Councilmember Kern's questions in a memorandum and a packet of information dated March 30th. We previously provided the back-up information, which was quite voluminous, so it was not provided to Council again here.

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

Reducing the Council Aides from 40 to 33 hours per week results in an annual savings of approximately \$50,000.

Part of the discussion at our last budget workshop was in regards to the City Clerk's position and salary. We had originally recommended reducing the salary to match the Treasurer's office position. Part of that discussion included the recommendation that money be allocated for a part-time position to the Clerk's office. During that discussion there was some debate that instead of a part-time person it should be a full-time position, so this chart reflects adding a Senior Office Specialist to the Clerk Department.

Finally, Council requested looking at different options to address an additional \$450,000 reduction. The Council did take action on approximately \$90,000, which were the fire inspection fees. So that \$450,000 is actually slightly less than that. For the purposes of what we prepared for Council today, we tried to target the range between \$320,000 to just over \$450,000 in a number of those options. The basis for the program reduction options is the departmental program costs, which is attached to your memorandum and packet of information. It lists all of the City's General Fund programs by program, not simply by department, and it identifies the costs of each of those programs. Also, if any of those programs generate revenue, it identifies those revenues. We are not including in what we're providing to Council the elected officials, including Clerk and Treasurer office, because we cannot simply eliminate them; revenue generating programs; and services and programs necessary to support basic City services, which includes the Attorney's office, Human Resources, Payroll and Finance.

The goal in the options we are presenting to Council is to not eliminate any program or service, but it will require that some programs be consolidated and access to those programs would require that services be provided through the private sector or non-profits. Any of those reductions would be in addition to the department funding allocation cost reductions that we've already presented to Council.

If Council were to implement the recommendations that were presented in the March 13th memorandum, which was the topic of your March 21st workshop, we would not need any further reductions to balance the 2012-13 budget. However, as we've already let you know, we have been notified by PERS that our PERS rates for 2013-14 are going to be going up. We know that our healthcare costs and other benefit increases are going to continue. We don't know the exact amount of those yet, but we are aware as we move forward that our reductions and budget challenges are going to continue in the absence of any significant revenue increases. We are looking at a number of different revenue options. Unfortunately, none of those, if affected, will be in place prior to this July's budget adoption.

We've identified a number of options for Council. Option 1 is using your Healthy Cities Reserves until negotiations with the Fire Management Association are completed. We predict that those should be completed within the next several months and that would be an appropriate use of one-time money until you see the savings associated with those.

Option 2, as requested by some members of the public and Council, was the total cost of Council Aides, which is about \$375,000.

Option 3 is a library focus, which would effectively close the branch library and consolidate all services with the Civic Center library. That would be a savings of approximately \$434,000.

Option 4 has a Parks & Recreation focus, which would be to close the El Corazon Senior Center and the Balderrama Recreation Center, as well as eliminate the senior transportation program. The total savings there would be \$408,000. As we identified,

the intent would be to outsource or partner with some outside agency to provide the services at those centers and they would be responsible for all operational costs. We have not gone out to the market to see if anyone would actually be interested in that; however, if this is an option that Council is seriously interested in pursuing, our goal would be to continue those services but have them be provided by someone other than City staff.

Option 5 is a Resource Center option, which would effectively close the Chavez, Crown Heights and Libby Lake Resource Centers, which are minimal amounts. In order to get over the \$300,000 mark, we'd also need to close the Melba Bishop Recreation Center.

Option 6 is a public safety focus. We've would look at eliminating 3 police officer positions. Those positions, with the other reductions the police department has put on the table, would result in eliminating filled positions and reducing the seasonal beach lifeguards.

Option 7 is a Public Works focus, where we would look to eliminate the City's anti-graffiti program, and we would eliminate maintenance of the 16 non-sports field parks. That eliminated maintenance would be the ongoing routine maintenance. They would still be maintained, and we would look at least once a month to take care of any weed or graffiti problems as they would arise.

Option 8 would be a 1% pay reduction for all General Fund employee groups. It is the equivalent of \$492,000. However, the reductions do require an agreement by each of the affected bargaining units. Neither Council nor the City Manager has the unilateral ability to impose that reduction. We have had informal discussions with the various bargaining units whose contracts are currently not up, and at this point not one of those bargaining units has offered to consider any such concession.

Option 9 would be if Council has any other thoughts, ideas, programs or priorities that you feel are low priority or redundant. They have the memorandum and costing detail attached to the memo that they could go through to identify savings associated with the reduction or elimination of those programs.

He recommended that Council accept the proposal that was presented in the March 13th memorandum and provided to them at the March 21st workshop. That would address the fiscal year 2012-13 budget, or they can provide alternate direction to staff.

We have had several requests in regards to today's meeting. Although it is not being broadcast live on KOCT, we are taping it, and it will be available on the City's web site.

MAYOR WOOD doesn't have the opportunity to go talk to the rest of the Councilmembers as it would be a violation of the Brown Act, so he doesn't know what the feelings are. At the last meeting regarding ambulance fees, they wanted more information. He understands requesting time to look at more information. With that information available now, he really doesn't want to go down the path of these options and cutting services like police, fire, public safety, libraries, parks, etc.

He **moved** to approve the City Manager's previous recommendation for the 2012-13 budget that was brought to Council on March 13, 2012. He'd **further move** to increase the ambulance fees to cover all of these alternative options. That would impact less people and service.

COUNCILMEMBER SANCHEZ seconded the motion.

Public input

KATHY CHRISTY, 3250 Roberta Lane, is a member of the Library Board of Trustees. When you talk about the option to close the Mission Branch Library, it seems like it's a small place and would be easy to close. But it's important to note that about 48% of the circulation last month, which is typical, goes through the Mission Branch Library. It's a very important component of our library system. With its location, it serves a lot of population, including seniors who might have trouble making it downtown on a daily basis. The fact that it handles so much of our library services is an important thing to consider.

JIMMY KNOTT, 127 Sherri Lane, thanked the City Manager for partially accommodating the disabled and seniors in our City, but more can be done. He would like Council to commit to putting all workshops and commission meetings live on the internet.

What's missing as a recommendation is giving the citizens their right to determine another option. No one wants to step forward and give our citizens that right of self-determination on whether they want to tax themselves. This decision goes beyond Council's decision-making capabilities. It is a heavily weighted decision that Council should not make alone. This could solve this problem and a lot of future problems.

Short of that, Option 8 [1% employee pay reduction] needs to be imposed. You have not investigated what other cities have done to implement Option 8. It has been imposed in numerous cities. Employees have been told they can either accept it or have that position eliminated and contracted out.

You're talking about increasing ambulance fees, and there has already been testimony that program is already in a deficit. If you increase it, it would just continue to grow.

Public input concluded

COUNCILMEMBER SANCHEZ stated the Mayor's motion would eliminate cuts to the library and critical public safety, senior and youth services. That includes resource centers, which are very critical to maintaining our delicate balance in terms of crime and the homicides that we've experienced a spike in. We're constantly trying to refocus those energies and insure that Oceanside continues to be a city that has control over its crime rate and continues to be attractive to businesses. The crime rate is a critical piece to insuring that businesses will want to come to Oceanside. We have some very exciting plans for the City in terms of several hotels, and we are trying to recruit more businesses to Oceanside. These are critical in terms of the quality of life. That's what people are going to look at besides looking at schools. To close a library site would not be beneficial to us at all. In fact, the Mission Branch has a very high demand and serves probably over 50% of those that use the public libraries. She understands how hard it is to make these decisions, but the City Manager and staff have come up with a very fair budget that will continue to keep our budget balanced and allow us to continue to dialogue with our City employee groups. That doesn't end here, and we understand that. This is not a fix-all.

She is supporting the Mayor's motion and staff, who have looked really hard at what we have and at what our residents want, demand and expect because of the taxes they pay.

COUNCILMEMBER KERN asked if the ambulance fees have to come back for a public hearing before Council can approve them.

CITY ATTORNEY MULLEN stated there is a public hearing that's pending. The final vote on that resolution of approval or not would be occurring on that date. The City Manager is looking for direction to finalize the budget consistent with his

recommendations.

COUNCILMEMBER KERN clarified that this would be approval of the City Manager's recommendation more than approving the ambulance fees.

For right-of-way clean-up, trash removal, street sweeping services, parking enforcement and maintenance, fleet services, recreational custodial services and harbor administration and maintenance, where do we stand on those RFPs as far as timelines? It's probably not going to be happening before July 1st, but he'd like to know where we're at.

CITY MANAGER WEISS responded Council will hear three of them before July 1st. The street sweeping and right-of-way clean-up staff is looking to schedule for the May Council meeting. For the recreation custodial it's highly likely Council will see that at the May meeting. The absolute latest would be June. The Fleet and Parking RFPs are in various stages of being drafted. Since they're being done by the same people who are doing the other ones, that probably will not happen before June. It is the same with the harbor one. It will probably be later in the Fall, at the earliest before those are completed and put out.

COUNCILMEMBER KERN stated those will just be marginal savings. It's not going to save us a lot of money, but it's going to save us some operation-wise. It will also save us a lot of money further down the road on our PERS costs. We need to get those settled and done as quickly as possible.

He'd still like to explore some of the other program options like outsourcing of the senior center and recreation center to a non-profit like YMCA or the Boys & Girls Club. We ought to continue to pursue that and not stop just because it doesn't get voted on today. That is one of the directions we should go in to save us money. We have this budget, but we also need to look at the following year's budget because we're going to have another hit by PERS. It's already been stated that in the 2013 budget year, PERS' change in the assumed rate of return is going to result in a much higher cost for the cities. That's a \$1,500,000 hit that we're going to have to get out ahead of for the following year. If we can do that during this budget year, we will be in much better shape the following year, and we can avoid having this same stressful meeting next year about what we're going to cut.

He asked for clarification that the police officer positions are filled currently, or are they vacant?

CITY MANAGER WEISS responded the 3 that are in the Council's options are filled. Part of the prior recommendation was to eliminate a police officer position, and that one is currently vacant.

With respect to the maintenance on the 16 non-sportsfield parks, **COUNCILMEMBER KERN** thinks that warrants an outsource opportunity for somebody to maintain those. We probably won't save the \$210,000 because they have to be maintained.

CITY MANAGER WEISS stated all of the mowing of those parks is currently outsourced. The only provision of the park that we do anymore is the irrigation maintenance. Everything else is outsourced.

COUNCILMEMBER KERN asked then what is the \$210,000?

CITY MANAGER WEISS responded it would be to stop maintaining them altogether. We'd mow them as the weeds got too big and do litter and graffiti abatement. Examples are Women's Club Park, Spring Creek Park, Alamosa Park and others.

COUNCILMEMBER KERN would like to provide direction to staff to look within the entire City budget for further possible savings, including, but not limited to, recommendations to reduce the size and scope of the City government programs and services. Reductions in overtime; hourly extra help positions, except the seasonal lifeguards; consulting and professional services; vacant positions, both funded and unfunded; and initiate a pay and step freeze where contractually possible.

He's not enamored with trying to reduce pay, but if we can freeze the pay and step raises where we can, including executive staff, it would be helpful. We should initiate a hiring freeze, except for essential positions, and require Council approval prior to hiring. Eliminate City take-home vehicles as widely as possible and create a Council policy that requires justification for use and Council approval prior to authorization. Bring back a listing of all possible savings for Council's consideration at the next Council meeting. Possible savings should include all departments within the budget, including fire and police. We need to keep looking. No matter what we do this year, on day one of next year we're going to need another \$2,000,000. This just gets us past July 1st, and then we'll have to do it all over. This is a continuous process that we need to be engaged in. This has been a painful process for everybody. It's been tough trying to cut another \$1,500,000 to \$2,000,000, and it's going to be even more painful next year. We're all in this together, and we're all trying as hard as we can. Every individual in this room is concerned about the health of the City. Hopefully we can initiate an ongoing process now to keep doing that.

Those would be his recommendations for staff or directions to the Manager's office. He and Councilmember Felien have come up with a small solution for one little step, but Councilmember Felien can address that.

COUNCILMEMBER FELIEN stated this is part of the ongoing pain that isn't going to have any immediate conclusion. There are basically 3 roads that we can go down either entirely or partially.

Road 1 is what we've been doing, which is having the same amount of money and getting less and less for it as pension costs eat up a larger portion of the budget.

Road 2 is to pay more money for the same services, trying to increase fees and taxes of various kinds as pension costs keep going up. We're never going to have fees and taxes that keep up with the pension increases that are going to be on a parabolic curve as this bubble keeps going up.

Road 3 is to try and create restructurings or efficiencies, either within the existing City staff or by outsourcing. As it relates to the outsourcing, about a month ago the library was taken off the table because it was a controversial issue. He made the point of saying if the library is going to be off the table, then other things are going to be on the table. Now we see a long list of everything that's on the table because no one wants to make any hard decisions. The math doesn't change.

Regarding the public comment that the voters should decide, that's certainly true and the voters will have a chance to decide this November which direction they want to go. We have candidates currently sitting and challengers who have been adamantly opposed to any cuts and deficiencies and just want to raise taxes and fees, and those candidates can be voted for. You also have candidates like him who have taken a hard line on increasing any taxes and fees and who emphasize restructuring, cutting, deficiency improvements and outsourcing. Voters can vote for the candidates who hold those views. We don't need a separate election on a tax increase. The voters will have their say in November, which is quite close.

Unfortunately, we're right in the middle of negotiating some of our labor contracts, and it's important to go back to those contracts. They were negotiated at a

time when everyone who negotiated those contracts knew that we were entering an ongoing period of financial difficulty. Sadly, we did not have the political leadership as the majority on the dais at the time to tell the bargaining units that the world had changed. The money just wasn't available to keep doing things the same way we had been doing them. The cuts we're doing now are to pay for the one-sided, lopsided contracts that were approved. The contracts that were approved, knowing we were in these financial difficulties, still maintained a 9% pension spiking, known as EMPS, that still included overtime for being on vacation in the fire contract and mandatory staffing levels when there weren't the financial resources to make that kind of promise. These are the kinds of things that need to change in the new contracts. The contracts that have been negotiated to date have been going in the right direction. Some didn't go quite as far as he would have liked, but they were better than the ones they replaced. We need to keep going in that direction. Now the public has on the table the kind of cuts that are going to be needed if we're not going to have our labor costs under control. Unfortunately, because we're stuck on CalPERS' system, which has been dishonest to the taxpayers, the public and the employees they're supposed to represent, we have this massive bubble that we're supposed to try and solve.

In terms of this budget, he'd like to see some structure and would urge his colleagues to support having pending cuts that would go into effect either August or September 1st, pending the outcome of our labor negotiations. If we start getting our labor costs under control, we don't have to make these kinds of cuts. It's obvious that there are quality of life issues that would be severely impacted if we need to go in this direction. He would like to see if we're going to get some savings in our current negotiations, and the public has before them the choices that are available. We'll see if the public supports the Council trying to get realistic labor contracts or if they prefer going ahead with the cuts listed here.

He would support Councilmember Kern's suggestion to go back and take another look and re-emphasize doing things better and smarter instead of thinking things are going to automatically turn around next year. California is already competing with a few other states for the highest personal income tax, sales tax, corporate tax, cost of worker's compensation, and electricity and water. It's causing businesses to flee the State, and all of the productive members of the State to go elsewhere. He's had half of his extended family leave the State, most of whom were born here, because the economic climate isn't conducive to the people who create jobs and pay taxes.

The burden of government is getting more and more onerous. Oceanside doesn't have control over that program, but we can try and control what we do have control over. He's not going down the road of raising taxes and fees to try and keep up with an ever-expanding increase in the cost of doing our budgets. We need to be a lot more creative and come up with better ways to do things.

He would not favor putting on the table the removal of the graffiti expenses. While it's a small amount, it's critical to the image of our community that people don't see graffiti spray-painted everywhere. That's something that would have a huge negative impact, far greater than any cost-savings of eliminating that program.

Obviously, in the challenging times we've had with our public safety issues, he would not support eliminating any filled police positions. Lifeguards are also a critical service that's provided to the beach.

Regarding the senior centers, the City Manager mentioned the El Corazon Senior Center, so does the current budget propose keeping both senior centers open?

CITY MANAGER WEISS responded the proposal, based on the recommendation in the March memo, would keep both senior centers open.

COUNCILMEMBER FELIEN asked what the need is from the standpoint of

servicing the senior community, to have 2 senior centers open at the same time.

CITY MANAGER WEISS responded the primary need for the Country Club Senior Center is it contains the nutrition program, and the El Corazon Senior Center does not have the capability at this time to provide a nutrition program, in terms of providing meals and cooking.

COUNCILMEMBER FELIEN asked if there would be an option to complete the El Corazon Senior Center to provide those services and have the savings come from closing the Country Club Senior Center that he understands is in the RFP considered for Goat Hill.

CITY MANAGER WEISS responded the nutrition program is currently contracted out, and the staffing costs for Country Club are fairly minimal. The cost at one point to complete the kitchen for the El Corazon Senior Center was between \$750,000 and \$1,000,000. We're still looking at grants to do that, but also there are age issues that come into play in regards to that. As we have the ability to identify costs to finish the kitchen, then that's something that could certainly be on the table at that time.

COUNCILMEMBER FELIEN stated since this is being taped, he would like to go back to the ambulance issue in order to have it on the record. What is the actual cost of someone being transported in an ambulance?

CITY MANAGER WEISS responded part of it depends on the type of transport, if it's advanced life support or basic life support and if you're a resident or non-resident.

DARRYL HEBERT, Fire Chief, doesn't have those numbers in front of him, but it's anywhere from \$600 to \$1,100.

COUNCILMEMBER FELIEN clarified he's asking what it costs the City and not what we're charging the user.

CHIEF HEBERT doesn't have those numbers.

COUNCILMEMBER FELIEN stated he's looking for the \$3,000,000 divided by the number of actual service calls that have been delivered to get a per-service call cost.

CHIEF HEBERT believes the TriData study addresses that a little bit. There are other factors to consider, because those firefighter/paramedics on the ambulances are also used for structure firefighting, vehicle accidents, hazardous materials, and other types of services as well. It's close to \$3,000,000, as stated.

COUNCILMEMBER FELIEN's understanding from the last workshop is that the people who actually pay the bill they are given are paying their own cost for being transported in an ambulance.

CITY MANAGER WEISS believes Chief Lawrence had made a comment about 6,400 transports. If you do the math, it comes out a little over \$600 per transport if you just do the straight math, recognizing that an advanced life support transport is a little more costly than a basic life support.

COUNCILMEMBER FELIEN agreed. But with each of those alternatives, the bill that we're giving people covers their cost for the people who pay their bill. The shortfall that we have that we're considering increasing fees to cover, is to cover all of the people who don't pay their bill.

CITY MANAGER WEISS responded that's partially correct because on a number of the bills that are federally subsidized, we do not recover the full cost of

providing the service.

COUNCILMEMBER FELEIN part of it is the spread difference of not getting full recovery, plus the ones who don't pay anything. The people who do pay the full bill are paying their share of the ambulance service that's being provided by the City.

CITY MANAGER WEISS responded the people who are paying their bill are paying their fair share.

COUNCILMEMBER FELIEN stated the issue here, once again, is basically a cost-shifting issue. It's not getting recovery from the people who actually use the service; it's charging people more for a service they've already paid for in order to cover people who aren't paying for their share. He doesn't know why ambulance users should be singled out to pay additional fees for services they actually haven't used to cover some broad shortfall of citizens who aren't paying their share. He's not comfortable going down that road and hasn't gotten any feedback from the public that they want to pay higher ambulance fees to cover the people who aren't paying their share of the costs. He would be interested to hear from his colleagues to see if there's any interest in setting up contingency cuts, effective August or September 1st, until we know what type of contract we have and whether or not these kinds of cuts would need to go forward.

MAYOR WOOD is concerned that the Council majority don't seem to want to bring in any fees that would cover some of these costs. He understands that, philosophically speaking, they don't think people should pay any more taxes or fees in this economy. He agrees with a lot of the things they've said about looking into cost-cutting and savings within the City. At some point you reach the point where you're cutting into services that our public demands of us and that they pay taxes for: police, fire, roads, highway, sewers, water, etc. They also like the parks and libraries. We're doing what every other city is doing, trying to address this economy. It's not that we've forgotten or done something different with our employees and their retirement system. We're no different than any other city. We're trying find savings, and the employee groups understand that. We're still trying to work with them on an individual basis, but those are meet and confer where our side sits with their attorneys to work that out.

He doesn't agree totally with the Council majority on this. He'd like to make the cuts that we can make and look at it smartly. We try to do the right thing for our City, but on the other hand, we're looking at drastic cuts as you can see by this list of options. Nobody wants to go down that path. The public should be involved and we should see what they want to do and not just what Council wants to do. He's said before that we should at least look at the half-cent sales tax increase. That's seems to upset everyone during this economy, especially some of the Councilmembers. He's looking at it realistically that the least amount of impact on people in the City would be a half-cent sales tax increase, like all of the other cities. He hears other Councilmembers saying they don't want to come back year after year and do this over again and try to cut. He hasn't looked into exactly what it would take, but it should go out to the citizens to see if they want this. If they do, they need to understand what it would be paying for. It's not for employee benefits or retirement. It's strictly for the beach, harbor, downtown, fire stations, etc.

That's \$8,000,000 a year if we increase the sales tax by half a cent, which means all of this stuff would be easily covered and taken care of. We could probably hire back and bring more services, which would bring more business and tourism. It's a simple approach. The citizens could have it on the ballot and decide if it's what they want. We didn't go to the citizens for the new Charter or for vacancy decontrol. This is an opportunity to ask them. If they say no, we'll keep chopping and cutting, but if they say yes, we won't be having any of these meetings for quite some time. Philosophically speaking, the Republican party, which he is a member of, says no tax or fee increases, but in this economy something has to pull us out of the hole. We're hoping to have the

economy change and improve, but it's slow. Instead of cutting libraries, pools, services and employees, something as simple as the half-cent sales tax, which would mainly be paid by people visiting Oceanside, would go a long way toward solving that.

He understands what Councilmember Felien is saying. People are getting an increase because they pay their bills for ambulance services. State and federal subsidies don't pay for it all, and some people don't pay at all. But then it goes back to pay-as-you-go fees. That's public safety and something we have to just swallow once in a while. In a society like this, we don't get everything paid for.

He doesn't want to look like he's trying to force the half cent sales tax down anyone's throat. He's brought it up before. If he doesn't get any support from the Council, then he can't put it on the ballot in the future. He would like to have it in order to make up for some of these unbelievable cuts in services.

We have a motion here that would really resolve a lot of things for some of you today. Down the road, if we decide to put something on the ballot to help pay for things then we can.

COUNCILMEMBER SANCHEZ would like to address Councilmember Felien's point having to do with ambulance fees. This came to us as a cost recovery item. Even with what is being presented to us in terms of a program to try and recover the costs for this, which are being subsidized by the General Fund, it is not a total cost recovery program that is before us. We are not going so far as to say we're going to do that all at this point. She agrees that it would be unfair to charge anyone more than their fair share. The unfortunate piece is that the City has been making Herculean efforts to recover those costs, but we're not able to recover all of them because some people can't do it. We do make collection efforts, which is something the City Manager is considering outsourcing to get hold of those costs. This is not a total cost recovery, and as she understands it, the City has tried many ways to collect those costs.

CITY MANAGER WEISS stated we do use an outside collection agency for those bills that are delinquent, but the reality is that our rates are low in comparison to providing the actual service, even if you just use the gross numbers they may appear to be paying. There are a number of factors where we do not have the ability to recover anywhere near our costs simply because of Medicare and Medicaid reimbursements. It's just not possible. For those accounts that we have the ability to go after, we do turn them over to a collection agency if they're delinquent.

COUNCILMEMBER SANCHEZ wanted to make it clear that no one on the dais wants to charge anyone more than they should for ambulance services. We always hope that nobody has to call for an ambulance because that means they are probably in a life or death situation. When it does happen, we have a good service that is provided. What we're trying to do at this point is just recover most of those costs. We can't recover them all, but the City is going to continue to try to collect on those costs.

COUNCILMEMBER FELIEN stated one of the issues when he had requested a deferral for the meeting was to recalculate the ambulance fees based on using the newer index that was recommended that took out the artificially low rate of ambulance costs due to the federal government having a productivity factor. Were those fees recalculated so we can see what the current rate would be if we had used the different method of adjusting the ambulance fees?

CITY MANAGER WEISS responded they were, and they were forwarded to Council in an email format that showed both what the CPI increases would be and the effect of those.

COUNCILMEMBER FELIEN missed that. How would those new rates compare to what you're recommending?

CITY MANAGER WEISS responded they would still be below. In 2009, the initial rates at that time were still set low and were not adjusted to what the actual cost of service was.

CITY ATTORNEY MULLEN stated to the extent we're starting to get into new evidence to support or not support the new fees, that really needs to be the subject of the continued public hearing so the public will have an opportunity to hear that information as well. This wasn't noticed for that purpose.

COUNCILMEMBER FELIEN would be open to the idea of having fees adjusted to match being adjusted for the new index, since the Ambulance Fee Ordinance that was passed anticipated adjustments going forward using an objective criteria. He agrees with the presentation by staff that the existing formula isn't an accurate reflection of increasing costs. We will get the details at the public hearing.

The other issue that Councilmember Kern alluded to, which has come up and had some controversy, is the Council Aides. Last year when he was a new Councilperson and there were some recommended adjustments in last year's budget, he didn't support any reductions at that time because he was using his Aide full-time to do research that was critical for his ability to do his job. Since he's gotten more acclimated to his position, based on the needs that he has, the Council Aide position is not a full-time position. He's open to having reductions in that direction. One of the options he's talked with Councilmember Kern about is sharing his Aide and seeing if he can impose on Councilmember Feller to share his Aide a little bit. He hasn't come to a definite conclusion yet, but that's the direction we're going in. Council shouldn't be immune from the cuts that we're asking from everyone else. He's ready to put his budget on the chopping block as well.

DEPUTY MAYOR FELLER asked who is not a General Fund employee.

CITY MANAGER WEISS responded sewer, water, solid waste and harbor are your Enterprise Funds. We also have internal service funds, which would include, not directly, Fleet Services and Building Maintenance. Staff can get you a comprehensive list if you'd like.

DEPUTY MAYOR FELLER thinks that's an option we should consider in Option 8 as we go forward. Options 4, 5 and 7 had opportunities to look at private partnerships. We need to go forward with all of our discussions. He doesn't know if you should have a 1% reduction or if you should negotiate furloughs in the Memorandums of Understanding (MOU). As you go forward, he would like to see that as part of your discussions with the bargaining groups. It may be that we have to do it throughout the entire City as far as the utility budget.

CITY MANAGER WEISS clarified the number that's here is just General Fund. However, any type of salary reduction would affect all of the non-General Fund programs because they are covered by those same bargaining units.

DEPUTY MAYOR FELLER doesn't think you can eliminate the maintenance of those non-sports field parks because those are pretty heavily used in almost all of the locations. He doesn't think everyone uses the beach. We pay for the sand, lifeguards, etc. He doesn't think the Oceanas like paying for the schools, but they do. We all pay for the beach and schools, and not everybody is using them or paying to use them. He views what you're talking about with the ambulance fees much in that same light. He asked the Mayor to restate his motion.

ASSISTANT CITY CLERK TROBAUGH stated the Mayor moved to approve the City Manager's previous recommendations from the March workshop and to give direction to staff regarding increasing ambulance fees.

CITY ATTORNEY MULLEN clarified that the increase could not be done today, it would have to be done at the public hearing.

DEPUTY MAYOR FELLER asked if the Mayor's motion is what the City Manager recommended March 13th.

MAYOR WOOD responded yes, and the other part for the ambulance fees, which can't be done here.

CITY MANAGER WEISS stated then we would prepare the preliminary budget with those additional revenues showing.

DEPUTY MAYOR FELLER stated there is a possibility that some adjustments can be made with the Council Aides. We could reduce the amount of time down to a certain amount of hours and divide it by 5, or something like that. If Councilmember Felien takes the Aide out of his budget then he looks like a hero for cutting that. Deputy Mayor Feller would look like a heel for keeping his full-time Aide when he'd actually be sharing. His Aide does not work part-time. That's something to review as we go forward. There are a lot of suggestions out here that the City Manager can glean some direction from.

Motion was approved 4-1; Felien – no.

2. **Review of FY 2012-13 Capital Improvement Program (CIP) Budget**

SCOTT SMITH, City Engineer, stated last week Council was provided a binder regarding the CIP budget. This presentation is intended to highlight certain projects in the current program as well as next year's program.

This year's program was a \$43,000,000 project with approximately 90 projects and 13 programs. The project close to home is the downtown storm drain, and most of you have seen that and can identify with the improvements that have happened there to improve the drainage, as well as new curbs, gutters and asphalt. We've also done the harbor maintenance building, which is currently still under construction, but should be completed this fiscal year, as well as the harbor beach restroom, which is open to the public right now.

Street restoration has been identified previously as a priority by Council and this year we completed approximately 50 lane miles of major streets and slurry sealed approximately 60 lane miles of residential streets, which prolongs the life of those facilities.

For the upcoming fiscal year, we're proposing a \$37,000,000 budget. There are approximately 90 projects in 13 different programs. The Planning Commission will review the Capital program on April 23, 2012, to certify consistency with the General Plan.

We've allocated \$3,700,000 towards asphalt overlay, which we are anticipating to be approximately 25 lane miles. We've proposed \$1,400,000 in new appropriations for slurry seal, which should address about 60 lane miles. A computer graphic was used to show new traffic signals coming aboard. The construction contract was awarded on March 14, 2012; however, this will span into both fiscal years.

The Melrose Extension design and permitting will follow the Council meeting on June 6, 2012. It will be brought forth at the first meeting following that.

Other notable projects for the 2012-13 fiscal year are we should be completing the Coastal Rail Trail and extension of Parking Lot 26, Mission Avenue improvements,

Lot 23 parking structure, Loma Alta Creek Detention Basin at Rancho del Oro, and the vegetation removal study for Loma Alta Creek between Crouch Street and El Camino Real.

CARI DALE, Water Utilities Director, stated this past year we've spent a lot of time doing planning and preparing studies that are looking at our infrastructure. We started out at the Weese Filtration Plant and other water and waste water plants, and we took a good look at what needed to be added to the CIP in the upcoming year.

From that, we've developed a list of projects that total a little bit over \$8,000,000. Some of the notable projects on our CIP this year are continuation of the ocean desalination geotechnical studies, desalter facility expansion improvements, the 511 pump station, integrated water utilities Master Plan, continuing work on a recycled water project with approximately 10 other regional agencies in North County, the Weese Plant upgrade, replacing the water reclamation plant at the San Luis Rey Waste Water facility, replacing several water mains in South Oceanside, and other miscellaneous water projects. Two of these projects are partially grant-funded, one from a State grant and one from a grant from the Bureau of Reclamation.

With our sewer projects, we've been going through a similar series of assessing our infrastructure and determining which are the most important things to fund first. We have a little over \$3,000,000 in projects proposed, a lot of which are looking at our infrastructure, planning or design work. Some notable projects include some minor improvements at the San Luis Rey and La Salina waste water facilities, various lift station upgrades, rehabilitation of one of the digesters at the San Luis Rey wastewater facility, initiation of the water utilities Master Plan, an odor study, completing the construction of the Myers/Tait sewer line, and other miscellaneous projects.

MAYOR WOOD asked if staff has been dealing closely with North County Transit District (NCTD). He understands there is a future plan to do more parking down there and a potential residential/commercial project.

MR. SMITH is dealing closely with NCTD on a lot of the rail improvements, but he hasn't been the lead on those other issues. They have brought them up. If we need to talk about it more, he'll need to get staff to address it.

MAYOR WOOD doesn't want any more sewer breaks. The fines cost us more than anything else. The fine for a sewer break could cost us everything you had listed. Are we still keeping track of any potential breakage and replacing those? It pays for the future if we go ahead and fix them.

MS. DALE responded our goal with our maintenance program is to prevent all spills. Unfortunately, sometimes spills do occur. We're trying to do a great assessment of our pipes and prioritize the ones that we believe have a higher likelihood of breaking or causing a spill in an area that's sensitive, like close to the beach.

Public input

JIMMY KNOTT, 127 Sherri Lane, sits on the Utilities Commission budget committee. In his opinion some of what has been presented tonight is the bare minimum. There is a lot that's been deferred and really needs to be done. The amount being presented to Council is optimistic and frugal. It should be more expansive in order for Council to address some issues and maintenance that's needed. There may be a need in the near future for a bond to address all of the needs within the budget for the Water Utilities Department.

Public input concluded

MAYOR WOOD accepts staff's recommendations.

CITY MANAGER WEISS clarified Council will still have to come back at some point at a public hearing to actually adopt the CIP budget. What we're looking for is whether you're comfortable with the projects that are in there. If so, you can accept our recommendation, and we'll prepare the final CIP for Council's adoption.

COUNCILMEMBER KERN just got this last Friday and has only gone through about the first 15 pages. He hopes to get all of his questions answered in the next week or so. He needs to have all of these things clear in his mind before he can vote for them.

COUNCILMEMBER SANCHEZ stated the Melrose Drive Extension design at \$2,300,000, would be a waste of dollars. It's not going to provide more than a minute, and it has a huge cost. It's the most ridiculous project that we've ever concocted. Originally, on our Circulation Element, Melrose was supposed to extend all the way to Camp Pendleton. Because of the projects that have happened in between the planning of this and wanting to plan for a thoroughfare such as this one, plus having Arrowood built, which prevents us from going through, this makes no sense. This is going to be a speedway through a residential neighborhood. It's going to be used mostly by outside cut-through traffic trying to get another way to Riverside and beyond. This project especially goes against our residents' quality of life. She would argue against it and ask not to go down this road. Now that we have dwindling funds, the \$2,300,000 and every amount of funds is important and critical. This amount should not be spent here.

DEPUTY MAYOR FELLER stated the same thing could be said for the right-in/right-out at Jeffries Ranch Road and for the interchange at Rancho del Oro when the Council threw away that \$1,000,000. He's for open roads – any road we can open he's for. He believes that it is a public benefit for not only Jeffries Ranch, but for people traveling through the City, whether they're skirting the eastern outskirts of our City or trying to find their way to something over on Oceanside Boulevard. He is rebutting what Councilmember Sanchez says. We're talking about widening College in the CIP, too. That is something that has to be reviewed. Those people's houses face the road, so we should do everything we can to free up every road that we have control of. Are you asking for a recommendation here?

CITY MANAGER WEISS responded that, unless you have any significant issues, they are looking for general direction. If Council is interested in not having Melrose, then we need to know that today so we can prepare the final CIP without that project. If there are projects that you would like to see in, we would like to know that.

DEPUTY MAYOR FELLER stated we're going to see the Circulation Element in June, so that may be the time to put in Rancho del Oro at Highway 78 interchange, too. He asked if staff just wants to hear Council's concerns, and you'll bring back this budget. Is that correct?

CITY MANAGER WEISS responded that's correct.

DEPUTY MAYOR FELLER asked if we need a motion.

CITY MANAGER WEISS responded Council doesn't need to vote, unless you have specific direction that you'd like to give staff.

MAYOR WOOD believed that staff's recommendations were clear, but he did not and does not support the Melrose Extension at this time because of the cost and economy. This isn't a motion and there are no recommendations.

3. **Public Communications on City Council Matters (off-agenda items)**

JOAN BRUBAKER, 1606 Hackamore Road, stated it seems to her in every

April 17, 2012

Council
Special Meeting

election she has been associated with, the political signs were not legal until 30 days before the day of the election. With the election coming on June 5th, it would be somewhere in the neighborhood of May 5th before signs should be in the City regarding propositions on the June 5th ballot. She's wondering as she's looking at the signs around the City whether this is a little bit early and may be a violation.

CITY ATTORNEY MULLEN stated the Code Section that Ms. Brubaker referenced relates to signs in the public right-of-way. If you have seen signs in the public right-of-way, you can report that, and Code Enforcement will respond. If they are on private property, then different regulations apply.

ADJOURNMENT

MAYOR WOOD adjourned this special meeting of the Oceanside City Council at 3:26 PM on April 17, 2012. [The next regular meeting is scheduled for 2:00 PM on Wednesday, April 18, 2012].

ACCEPTED BY COUNCIL:

Barbara Riegel Wayne
City Clerk, City of Oceanside



California

CITY OF OCEANSIDE

JOINT MINUTES OF THE CITY COUNCIL SMALL CRAFT HARBOR DISTRICT BOARD OF DIRECTORS COMMUNITY DEVELOPMENT COMMISSION OCEANSIDE PUBLIC FINANCE AUTHORITY

JANUARY 2, 2013

REGULAR MEETING 2:00 PM COUNCIL CHAMBERS

**2:00 PM - OCEANSIDE CITY COUNCIL (COUNCIL),
HARBOR DISTRICT BOARD OF DIRECTORS (HDB), AND
COMMUNITY DEVELOPMENT COMMISSION (CDC)
OCEANSIDE PUBLIC FINANCE AUTHORITY (OPFA)
- REGULAR BUSINESS**

Mayor
HDB President
CDC Chair
OPFA Chair
Jim Wood

Deputy Mayor
HDB Vice President
CDC Vice Chair
OPFA Vice Chair
Jack Feller

Councilmembers
HDB Directors
CDC Commissioners
OPFA Directors
Esther Sanchez
Jerome M. Kern
Gary Felien

City Clerk
HDB Secretary
CDC Secretary
OPFA Secretary
Zack Beck

Treasurer
Gary Ernst

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

City Attorney
HDB General Counsel
CDC General Counsel
OPFA Legal Counsel
John Mullen

For this regular and joint meeting, the Council sat as all 4 governing bodies [Council, HDB, CDC and OPFA] 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), Community Development Commission (CDC) and Oceanside Public Finance Authority (OPFA) was called to order by Mayor Wood at 2:02 PM, January 2, 2013.

2:00 PM - ROLL CALL

Present were Mayor Wood, Deputy Mayor Feller and Councilmembers Sanchez, Kern and Felien. Also present were City Clerk Beck, Assistant City Clerk Trobaugh, City

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

Manager Weiss and City Attorney Mullen.

City Attorney Mullen titled the following items to be heard in Closed Session:
Items 1, 2(A), 2(B), 3(A) and 3(B).

[Closed Session and recess were held from 2:04 PM to 4:02 PM]

CITY COUNCIL, HDB, AND CDC CLOSED SESSION ITEMS

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

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

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

Item discussed (MECO, OCEA and Western Council of Engineers); no reportable action

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

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (SECTION 54956.9)

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

Council by a 5-0 vote authorized the filing of a lawsuit against Tracy Sandoval and Ana Matosantos (Case No. 34-2012-00134586)

B) Significant exposure to litigation pursuant to Subdivision (b) of Section 54956.9: Two cases

In the first case involving a threat of litigation from Attorney Cory Briggs dated December 21, Council has agreed to docket an agenda item on January 16 to readopt the ordinance involving regional appointments.

In the second case involving a threat of litigation from Attorney Maria Severson dated December 21, there is no reportable action.

3. CONFERENCE WITH REAL ESTATE NEGOTIATOR

A) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: 76-acre Center City Golf Course (APN 151-011-11); Negotiating Parties: City of Oceanside and Goat Hill Partners, LLC; Negotiator for the City: Douglas Eddow, Real Estate Manager; Under Negotiations: Price and terms for the lease of real property

B) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: El Corazon consisting of approximately 450 acres bounded by El Camino Real to the west, Oceanside Boulevard to the south, Rancho del Oro Drive to the east, and Mesa Drive to the north (APNs 162-082-51, 06, 08 and 09); Negotiating Parties: City of Oceanside and International Swimming Hall of Fame; Negotiator for the City: Douglas Eddow, Real Estate Manager; Under Negotiations: Use of recreational real property

Items discussed; no reportable action

4:00 PM – ROLL CALL

MAYOR WOOD reconvened the meeting at 4:00 PM. Present were Mayor Wood, Deputy Mayor Feller and Councilmembers Sanchez, Kern and Felien. Also present were City Clerk Beck, Assistant City Clerk Trobaugh, City Manager Weiss and City Attorney Mullen.

CONSENT CALENDAR ITEMS [Items 4 and 5]

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.

COUNCILMEMBER SANCHEZ requested that Item 5 be pulled for discussion.

The following Consent Calendar items were submitted for approval:

4. City Council/Harbor/CDC/OPFA: 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)
5. **Removed from the Consent Calendar for discussion – Council**

COUNCILMEMBER SANCHEZ moved approval of the balance of the Consent Calendar [Item 4].

COUNCILMEMBER FELIEN seconded the motion.

Motion was approved 5-0.

Items removed from Consent Calendar for discussion

5. **City Council: Adoption of a resolution authorizing the filing of an application for Smart Growth Incentive Program Funds through the San Diego Association of Governments (SANDAG) for (1) the Mission Avenue Improvement Project and (2) the Mixed Use Public Parking Structure; and stating the City's assurance to complete the projects**

COUNCILMEMBER SANCHEZ stated this is a request to apply for funds from SANDAG for the Mission Avenue Improvement Project. She's been getting feedback from the public that they didn't understand that this is going to be a one-way street. She anticipates that once it starts to happen, more people are going to be complaining about it, wondering how it was passed and how we're paying for this. At the time this was approved, there were some statements made that we could always change this later and redo it to 2 one-way roads going east and west. While she appreciates that there can be a change later on, after trying this and finding it doesn't work for our community, that is a waste of public funds. While she would love to see improvements and even suggested a more bicycle-friendly street, we could have done a better job. She also had voiced concerns about the reverse angle parking. She will be voting against this, but she definitely has an interest in getting Smart Growth funds for our City. She wants to see an application for funds in terms of Coast Highway. Those are her objections and reasons.

COUNCILMEMBER FELIEN asked if SANDAG is approving a concept or a specific project that if we were to turn down the money would be gone. At what point are we committed to specificity that we've already approved? He attended a lot of the

workshops and like all workshops, they aren't always well attended. However, the world belongs to those who show up. Where are we in terms of having to stick to a specific plan and be able to get the SANDAG funds?

SHAN BABICK, Associate Planner, responded they are approving both. When we show the concept plan to SANDAG, they're going to hold it to that concept plan when we do the construction drawings. They want to see the concept plan, but they always want to see the construction drawings. If you do 60% construction drawings, then 80% and then 90%, they want to see each phase because they're approving the grant based on that concept plan. If you vary from the concept plan that was approved, it could affect the funding.

COUNCILMEMBER FELIEN stated, in terms of the priority of what's significant, he would think the decision on whether or not you're going to have a one-way street versus a two-way street would be pretty significant in their consideration. He can't imagine they'd be quibbling too much on what type of parking you have. How do they prioritize these things?

MR. BABICK responded one of the main priorities is how far along you are in the process and do you have the funding for the back-up. Even if another project is better designed but it's a year or two away, they will fund a project that is closer to construction drawings. That's one of the priorities they look at. In this case, they're really looking at what they call a complete street, which is to be used by all members of the community from cyclists to pedestrians and vehicles. We're adding a bicycle path and trying to make it more pedestrian-friendly. They look at how it relates to traffic and walkability.

CITY MANAGER WEISS stated the project has been approved, and all of the environmental studies have been done. It has been approved all the way, and we are at 60% design completion. With some caveats in regards to what the State Department of Finance allows and doesn't allow with these and other grant monies, we would expect to be under construction within calendar year 2013. It will be one-way westbound on Mission Avenue and eastbound on Seagaze. Those improvements are contemplated as part of this project.

COUNCILMEMBER FELIEN is open to any tweaking based on new information or concerns brought up, but he wouldn't want this body to take any action that would put the SANDAG funding that we've fought so hard to get at risk. He plans to vote yes.

COUNCILMEMBER KERN moved approval of [adoption of **Resolution No. 13-R0004-1**, "...authorizing the filing of an application for Smart Growth Incentive Grant Program Funds through the San Diego Association of Governments (SANDAG) for the Mission Avenue Improvement Project and accepting the terms of the grant agreement [**Document No. 13-D0006-1**]"; and **Resolution No. 13-R0005-1**, "...authorizing the filing of an application for Smart Growth Incentive Grant Program Funds through the San Diego Association of Governments (SANDAG) for the Mixed Use Public Parking Structure and accepting the terms of the grant agreement [**Document No. 13-D0006-1**]"; and stating the City's assurance to complete the projects.

DEPUTY MAYOR FELLER seconded the motion.

COUNCILMEMBER KERN took the bike ride through Long Beach, which is a very bicycle-friendly community, and one-way couplets are quite prevalent in that city because of bicycles. This is our first attempt to have couplet streets to accommodate bicycling. Complete streets not only accommodate bicycles, but with the wider sidewalks it accommodates a more pedestrian-friendly environment and sidewalk cafes. This was a lengthy public process with very well-attended public workshops. We had a public hearing that went on for quite a while when we decided on this. The only thing that was left up in the air that we probably could change was the reverse-angle parking.

If that didn't seem to work out, then we could go back and restripe the street to have regular diagonal parking. That was the only comment he's ever heard from anybody. People wonder how that reverse-angled parking is going to work. It is actually more friendly for bicycles because you're heading out. It's part of having a bicycle-friendly street because people are actually looking out when they pull out of their parking spot instead of backing out into the bicycle lanes.

COUNCILMEMBER SANCHEZ stated, as a Coastal Commissioner, she has heard from the bicycle community, and they are pushing for separated bike paths and hope to be the first City to be this bicycle-friendly. She told them we might be the first ones to do the separated bike paths.

MAYOR WOOD had concerns on a couple of issues as well. The reverse parking was a concern, and some people have told him they don't like it. The exhaust fumes might cause an issue for the outdoor cafes. The one-way street was an issue for North County Transit District (NCTD) with the busses. This will confuse a great deal of people, but that's where we went. He will support this. Later on we'll have feedback on some negatives.

Motion was approved 4-1, Sanchez – no.

GENERAL ITEMS

General Items are normally heard after any 5:00 p.m. Public Hearing Items. However, if time permits, some General Items may be heard prior to any 5:00 p.m. Public Hearing Items, following the Consent Calendar.

6. **City Council: Approval of a Recreational Disposition and Development Agreement with Sudberry Development, Inc., including an athletic fields lease agreement for the development of multiuse athletic fields; approval of a Disposition and Development Agreement for the commercial development and the balance of the recreational area development at El Corazon; and authorization for the City Manager to execute the agreements upon receipt of all supporting documents**

DOUG EDDOW, Real Estate Manager, stated staff is asking Council to approve agreements with Sudberry Development Company for the development of El Corazon. We've been working on two separate agreements to help ease financing for each of the projects.

The first agreement is a Recreational Disposition and Development Agreement (Recreational DDA) that handles the multi-use athletic fields that would be considered Phase I of this project.

The second agreement is a Disposition and Development Agreement (DDA) for the commercial areas and the balance of the recreational areas.

Some of the specific terms of the Recreational DDA are that it allows Sudberry to develop approximately 97 acres of the 212 recreational acres designated in the El Corazon Specific Plan. Of that approximate 97 acres, about 68 acres are for 20 multi-use athletic fields, in addition to some maintenance and open space areas for purposes of tournament staging, as well as the slope areas that we're going to have to create as part of the grading plan.

The other areas consist of about 21 acres of parking lot, which is a Class 2 base parking lot, or DG parking lot. It should hold between 2,200 – 2,400 vehicles for the multi-purpose field events.

The other area is approximately 8 acres and will be an open play area, 2 athletic fields, park area and pedestrian walking trail that borders the northern portion of the

fields.

The City has an obligation to grade these fields and is doing it pursuant to the El Corazon Reclamation Plan. The City would like 60 days to verify its grading costs to grade the site per that plan, as well as to construct other improvements. Once the City verifies that cost, Sudberry will have 100 days to conduct its due diligence, which primarily consists of finding financing for their portion of the costs to develop the site, as well as raising equity to fulfill that component.

In addition, Sudberry is required to submit a Development Plan for the improvements to be put on the graded pad. Any improvements to that would have to have a separate Development Plan. Sudberry is required to submit that within 90 days after the due diligence period. It will also require an environmental review and will go through the planning process.

Before the City grades any portion of that site, Sudberry is required to provide financial assurances that they will complete the construction of the field component of the property.

As part of the Recreational DDA, there is a lease that's going to be signed between the City and a subsidiary of Sudberry. That lease term is for 25 years, with 2 ten-year options to extend. However, before Sudberry can exercise those options, the City has the right to terminate the agreement at the start of every option period by providing evidence it has financing to develop the recreational components of El Corazon per the Specific Plan. Even though there is a right to have a 25-year lease, before they again make any further improvements or continue that lease, the City can come in with financial resources to build it out just the way the Specific Plan calls for.

The use allowed there is for athletic events and related community activities, such as Christmas tree sales, concerts in the park, etc. As part of the lease agreement, the Sudberry Group is required to enter into 2 use agreements. One of them is with the Soccer Club of Oceanside to utilize some of the fields on an ongoing basis, subject to tournament weekends. The other one is an agreement with Surf Cup, who is a major operator of a world class soccer tournament in San Diego. They hold that twice a year and it brings in people from around the world. It brings in about \$23,000,000 annually to the areas of San Diego.

As part of that use agreement, they're allowed to have 28 major tournaments. Major tournaments are defined as 10 or more fields in use at any given time. The reason we limited that to 28 is we wanted the Senior Center to be able to operate on 24 weekends to conduct activities such as weddings, parties, etc. As part of the deal with Surf Cup, the City required them to have at least 2 major events, which ties into what they're doing right now in San Diego. The hope is that they're going to have significantly more events, not just Surf Cup, but other field activity related tournaments.

Rent under the Lease Agreement is a percentage based on annual gross sales. It is 10% of annual gross sales in excess of \$1,400,000. There's a kicker at 15% once the annual gross income exceeds \$4,000,000. The City is hopeful that, after year 4, it can start seeing up to \$100,000 in rent revenue.

In addition to the benefits of having major tournaments at that site, we can get a significant uptick in our TOT (Transient Occupancy Tax), sales tax revenue and other related income.

The benefit of having this project is that the City does not have to maintain that site. It is 100% maintained by Sudberry, which not only includes the multi-use fields but also the 2 public play field areas, as well as the pedestrian trail. The City will always have the right to relocate this use to other areas of El Corazon if they find a developer willing to develop some other components of the Specific Plan.

The City is required to grade the site, and there's a condition in the agreement that says that the City's costs shall not exceed \$1,400,000 to grade the site. A portion of the \$1,400,000 is already allocated to grading El Corazon under the Reclamation Plan that's been set aside specifically for that use. The City would just have to supplement the additional funds to grade the site, as well as bring in some additional improvements.

Sudberry's costs to develop the fields on top of the graded pad are approximately \$3,318,000. That not only includes putting in the infrastructure for watering; it also includes buying equipment and the facilities to house tournaments on the site. Sudberry will have the private use of the property, but it has affiliations with Soccer Club of Oceanside. Hopefully that potentially makes other fields in Oceanside available. It also creates 5 fields that go to users of other Oceanside parks that are now maintained by a private entity.

We have a tentative schedule regarding the Recreational DDA and Lease Agreement. We hope the Agreement is approved tonight. Then by February 19, 2013, we would have verification of City grading costs. Less than 100 days after that, we hope Sudberry completes their due diligence and wants to move forward. We think by that time, we will have submitted a Development Plan to get the field-related developments approved. On June 1, 2013, we start construction of the City grading portion of the site. Through an almost 9-month period, the City will be constructing. Sudberry will then come in and finish their improvements with the hope that on July 1, 2014, we have the first major tournament. Hopefully it's a Surf Club Tournament similar to the one in San Diego.

There are 2 components to the Commercial Disposition and Development Agreement (DDA). One of them is the commercial component, which allows for development of retail, office, hotel and some vertical mixed-use residential. The other is the balance of the recreational, which can house the various other components of El Corazon's Specific Plan.

The preference on the commercial is to lease the property to the developer. Because of trying economic times and tough financing criteria, a tenant is not willing to enter into ground leases. Therefore, there's also an option to try to purchase a property if certain conditions are satisfied by Sudberry. That's primarily not finding financing available on favorable terms or finding tenants willing to go onto the site.

The recreational component will always be ground lease. That will never be sold and will always be retained in the ownership of the City.

Under the DDA, the Sudberry Group has an initial period of 7 years to develop the commercial component of the site. They have three 5-year options after that, but they have to demonstrate activity in order to get each of those 5-year options. The first 5-year option needs to show some type of entitlement, as well as starting construction on some of the commercial components. The second 5 years has to have 20% of the commercial project completed, and the third 5 years has to have another 20% completed on top of that.

The recreational component has a 12-year period, with two 5-year options, without demonstrating the need to show any increase or activity on the recreational side because the City has the right to go out and solicit a developer or develop the recreational site on its own. If they come up with a deal, whether it be for softball fields, baseball fields, swimming pools, etc., they have the right to move forward with the development; however, Sudberry has the right to match that deal, so it should get done one way or another if the City finds a developer for that particular portion of the recreational component.

As part of the deal, we allowed Sudberry to phase development. They can

acquire portions of the site by either lease or fee (purchase). It should be no less than 2 acres at a time. This allows flexibility for development, and Sudberry must create a map in order to create legal parcels before they can proceed to acquire less than the entirety of the commercial area.

The purchase price under the DDA is what we refer to as land residual value (LRV). The ground lease is 10% of the LRV. LRV is a formula that capitalizes rental revenue and then deducts developer costs such as construction, architectural, engineering, permits, fees, etc. Plus it also deducts a developer return on their costs. That was negotiated at 10.5%, which is a blended rate over the typical products that are occurring in today's market place. We decided to work on an LRV formula rather than fixing a price today, which could be too low or too high, depending on what happens 7 years from now and with the market the way it is today. LRV works both ways. It could be to our benefit or detriment, but it was a fair way to determine a purchase price 7 years down the road.

Another major pertinent term of the commercial DDA is that Sudberry is required to develop the fields, begin operation and start maintaining those fields before they can ever take any step toward commercial development. There is another developer on site, Stirling, and Stirling has to allocate its share of development with Sudberry. We came up with a formula as to how each one of those can develop a portion of the commercial areas. It does not increase the overall commercial development that was allowed for the El Corazon Specific Plan.

Before anything could happen commercially, before Sudberry can acquire the land either by lease or by fee, they have to demonstrate that they have the financial ability to construct the site. That way we aren't selling them a piece of land, and they turn around and flip the land. We're always going to see something develop there by this guarantee.

Public input

DIANE NYGAARD, 550 Nighthawk Way, represents Friends of El Corazon. We're a non-profit organization that was created about 10 years ago to help the City carry out the community's vision for El Corazon, which is a park in the heart of our City with something for everyone and reminiscent of the great parks that are in cities across the country. This is an exciting day that we're able to take this milestone step and move this project forward. We're pleased to see that the project is moving forward in a way that's generally consistent with the Specific Plan that we all worked so hard on a few years ago and that the public is going to get some real benefit from this. It's not just the soccer fields that can be used. There will be 2 general purpose fields for the community, and space will be freed up on other fields throughout Oceanside's parks. There will be a public trail that the community will have access to. We'll all feel some real immediate benefit as this project moves forward.

We're pleased to see that it's very clear that the recreational land will stay in City ownership. There is only one issue we want to call to everyone's attention. That is the fact that the commercial land, while there are some hoops associated with that, could go to private ownership. We remind the developer and Council that the community very much is for all of this land staying in public ownership.

GEORGE McNEIL, 2153 Anda Lucia Way, pointed out that this is a memorable and great day. He urged Council to vote for this because it's a good program. It's something we really need in Oceanside. Sudberry and Field of Dreams are quality folks. He's seen their product in other places, and it is excellent. We're going to get the best here. When we first started, there was a strong feeling that everything should stay in the hands of the City; however, economic times change, and you have to deal with the situation as it is. The goal is to get the commercial up as soon as possible. Some flexibility there is not a bad thing. He's 100% in support of this.

NADINE SCOTT, 550 Hoover Street, is generally supportive of the overall plan and developing the recreational content first. She is not in favor of selling the land. If you give a long enough ground lease, it's almost as easy to get financing as it is with a purchase agreement. This is the people's land; it was given to us; and she will never agree to it being sold. That's not appropriate.

One concern she has is that Sudberry will have private use of everything but two fields. Does that mean we're all going to have to pay for parking?

Public input concluded

MR. EDDOW responded parking will be charged during the tournaments, but there will be no fee for parking for use of the public areas – the 2 fields, the open space area and the walking path.

COUNCILMEMBER KERN wanted clarification regarding the athletic fields or almost mutually exclusive use of the Senior Center. When they use the athletic fields, does that mean people can't use the Senior Center?

MR. EDDOW responded the way it's set up is that there will be no major tournament for 24 of those weekends, which means there will be no traffic conflict. If they want to schedule something the other 28 weekends, they can. The traffic situation will be set up so that if you're going to the Senior Center on any of those given weekends, you'll be segregated and it won't conflict with the parking for the major tournament.

COUNCILMEMBER KERN moved approval [of a Recreational Disposition and Development Agreement (**Document No. 13-D0007-1**) with Sudberry Development, Inc., including an athletic fields lease agreement for the development of multiuse athletic fields; approval of a Disposition and Development Agreement (**Document No. 13-D0008-1**) for the commercial development and the balance of the recreational area development at El Corazon; and authorization for the City Manager to execute the agreements upon receipt of all supporting documents].

He was part of the second El Corazon Committee when we first started working on the Specific Plan, and the vision of what we wanted is here. As far as the commercial use and the ability to sell the land, we need to keep that in there for the flexibility of the financing for whoever decides to do it. There are some companies that will not go on leased land. There was a comment about long-term leases, but our agreements aren't going to run 49 or 99 years to these developers. Having this go forward at this time with this kind of flexibility would be the most appropriate way to go forward with this. He doesn't know who they have in mind, but he knows there are some retail entities out there that will not be on leased land no matter how long the lease is. If we get into some type of residential development, most people like fee-simple land. They want to be able to buy their own condo or house instead of having a long-term lease.

DEPUTY MAYOR FELLER seconded the motion.

COUNCILMEMBER FELIEN plans to vote yes for this and thinks it should be a 5-0 vote. This is truly an Oceanside success story where the community, staff and Council have come together. We all wish more activity could take place in Oceanside that could occur the way this project has occurred.

COUNCILMEMBER SANCHEZ stated in 1998 there was a vision of El Corazon, and that vision was challenged when the property was thrown in as part of the negotiations for our beach resort. A lot of the community fought back and put on a proposition; that is the reason we're even here today. The community came forward

and said they didn't want just a golf course there; they wanted to have what we talked about the decade before. There was this gift of land to decide what to do with it, and it was put out to the community. There was a true outreach to the community, with several meetings all over the City. The vision was very close to what is before us today.

She did have some concerns going forward. It was put to us and to the community that we shouldn't have to pay for this park. It would pay for itself in that the commercial and retail would be generating funds to provide the recreational opportunities. She has concerns that this mechanism continue to be what we're depending on in terms of making sure there are other recreational opportunities beyond the fields. She hopes there is still a commitment by the developer that all the other recreational dreams are also going to come true, not just soccer.

The other issue is that we all wanted to have the soccer fields in as quickly as possible, so we talked about building temporary fields. For the last few months of discussion they've been characterized as temporary fields and that, during the entire 25 years and with the extensions, they are always going to be looking like temporary fields. She sees that the developer is looking to put in \$3,300,000, and the City is willing to put in \$1,400,000. Why is it still going to look like temporary fields? She hopes they start to look really good. The kids do need fields right away, and we've all been pushing to get them built. However, she hopes they don't look like temporary fields for longer than a temporary time.

The lease payments talk about 10% of annual gross in excess of \$1,400,000, and 15% of annual gross in excess of \$4,000,000. Is there a minimum lease payment?

MR. EDDOW responded no. It's only a percentage rent payment.

COUNCILMEMBER SANCHEZ asked what the anticipated income is for this and how is that going to go back into El Corazon.

MR. EDDOW responded the anticipated revenue comes from a direct rental payment through the percentage rent. More than anything, we're focusing on the indirect benefit to the City through increased sales tax, as well as TOT, from the 28 major tournaments they're trying to hold there every year. We're looking, hopefully, in the million dollars range to supplement the City revenues.

COUNCILMEMBER SANCHEZ asked if realistically we're ever going to see lease payments.

MR. EDDOW responded we are going to see lease payments, but the higher amount of revenue to the City will come in the form of TOT and sales tax revenue from the tournaments that are being held there.

Regarding where the money goes, that's Council's policy decision, and it hasn't been made yet.

COUNCILMEMBER SANCHEZ asked how much and when do we anticipate lease payments.

MR. EDDOW responded we're anticipating up to \$100,000 of direct lease payments beginning in year 4. That's our hope. It could be less or more, depending on the percentage of revenue. The more tournaments they have, the higher the lease payments.

COUNCILMEMBER SANCHEZ stated in line with the public discussions that we've had, the revenues that are produced within El Corazon should somehow stay within El Corazon for building out the recreational part. She's going to push for that. We need to make sure that what the community said, happens. Whatever revenues are

generated above and beyond what costs the City has will go right back to El Corazon. There are any number of things that we will need for public recreation for our youth and our seniors.

With this use, is there going to be any impact to the Senior Center?

MR. EDDOW responded there could be potential traffic impacts on certain weekends if they elect to have activities on those same major tournament weekends. During the course of the week, there are typically only 5 fields being used, so there will be a minimal impact to the Senior Center. There is an existing berm at the west end of the Senior Center, and that will remain so there will be virtually no visual impact either way.

COUNCILMEMBER SANCHEZ asked how many parking spots there are at the Senior Center.

MR. EDDOW was not sure.

COUNCILMEMBER SANCHEZ asked if those parking spots will still be dedicated only to the Senior Center.

MR. EDDOW responded they are for Senior Center activities only. When there are any tournaments at the site, there will be traffic management to see that it stays that way.

Regarding the revenue staying with El Corazon, **CITY MANAGER WEISS** stated it's probably unlikely that we will see any significant revenues until year 4. Even then the revenues off the recreational component are going to be inadequate to pay for any further development of future recreational opportunities under the Specific Plan.

Under prior Council actions, you advanced General Fund monies to El Corazon with the commitment that at such time as El Corazon gets developed, those monies would be paid back. We still have that obligation at some point to pay those monies back. The bigger issue would be that once the commercial starts, there is probably a higher revenue stream that you could then rely on to look at furthering other recreational opportunities at El Corazon. It's unlikely that we will see any significant direct revenue from the fields themselves. It will be the indirect revenue of having those tournaments and filling up those hotel rooms that will be a bigger impact to the community, not necessarily directly to El Corazon.

COUNCILMEMBER SANCHEZ stated the staff report talks about a 25-year lease, with two 10-year extensions, and about how the City will have an opportunity, before those extensions and if the City is able to further the rest of the development of El Corazon per the Specific Plan, to opt in to do that. In staff's presentation, you talked about 7 years and then two 5-year extensions. What does each pertain to?

MR. EDDOW responded the 25-year period of time, plus 10-year options, is for the recreational area only, the fields. The 7-year is for the commercial development. They can be developed differently. We're not going to be able to come in and fund the commercial side because that was never the intent. It was to fund the recreational side. That's why that provision is in the recreational 25-year lease.

COUNCILMEMBER SANCHEZ asked what about in 15 years if there's a desire by this community to do a bond to make this happen. Could the community do that or are they stuck waiting the 25 years?

MR. EDDOW responded they could not do it before 25 years unless the group was in default.

COUNCILMEMBER SANCHEZ has had several groups contact her regarding use of fields. Even with this plan, it feels like we're going to continue to be in high demand for fields. She's talking about organizations other than Soccer Club of Oceanside. There are several other clubs that have a lot of kids from Oceanside that want to play. How are we going to be able to accommodate that with this lease.

MR. EDDOW responded it is the hope that when the Soccer Club of Oceanside uses the fields at El Corazon, some fields will be freed up in other areas of the City. Those are then scheduled through a typical scheduling process with the Parks and Recreation Department.

DEPUTY MAYOR FELLER stated this a pretty big day. He was one of the people who originally thought this should be a golf course a few years ago, but he's seen the light and thinks this is a great start to what we're trying to do in the center of Oceanside.

We have a gate that seals off the road right now. There might be some thought as to construction vehicles going through there, and you may need to rethink how we block the people out of there.

If we need to move these temporary fields, we have to pay for them. Is that correct? If they determine that more recreation is going to go in up there, the City needs to move those fields.

MR. EDDOW responded yes, we would have to pay for that cost if we wanted to utilize that area of El Corazon.

DEPUTY MAYOR FELLER agrees that there is a great need throughout the City. Martin Luther King has enough room at the eastern end of the park where you could end up putting a couple of football and baseball fields in to move soccer out of there. There are other things that can be done throughout the City. That's exciting for the other youth organizations that really need space.

Maybe we could have a grand opening for these fields on July 4, 2014, with fireworks. That would be a great way to kick that place off.

Motion was approved 5-0.

[Recess was held from 4:54 PM to 5:10 PM]

5:00 – ROLL CALL

Mayor Wood reconvened the meeting at 5:10 PM. All Councilmembers were present.

INVOCATION – Zack Beck

PLEDGE OF ALLEGIANCE – Soccer Club of Oceanside

PROCLAMATIONS AND PRESENTATIONS –

[Presentation – "Pet of the Month" presented by Elkie Wills, San Diego County Humane Society & SPCA]

Presentation – Mayor's Youth Sports Recognition and Appreciation Award
Presentations were made

CLOSED SESSION REPORT

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

CITY ATTORNEY MULLEN reported on the items discussed in Closed Session:
Items 1, 2(A), 2(B), 3(A) and 3(B).

GENERAL ITEMS – Continued

8. **City Council/OPFA: Authorization for the City Manager to execute a commitment letter to Compass Bank of Alabama for the sale and delivery of the 2013 Certificates of Participation (2003 Refunding), in an amount not exceed \$13 million and an interest rate not to exceed 2.5 percent**

MICHELE LUND, Treasury Manager, is requesting authorization for the City Manager to execute a commitment letter from Compass Bank of Alabama related to the sale and delivery of Certificates of Participation for the purpose of refunding the 2003 Series A Certificates of Participation.

The original bonds in 2003 were issued as a refunding of a 1993 issue for the San Luis Rey Flood Control Project, which were 2 bond issues issued in the late 1980's, and the Downtown Parking Project bond funds. At that time, \$25,000,000 was issued, and right now we have \$15,270,000 that remain outstanding. The bonds are subject to call on April 1, 2013. With the interest rates where they are right now, it is an exceptionally low environment, and we have the opportunity to refinance these bonds and obtain significant savings on the debt service payments.

We're looking at issuing private placement bonds. We put out a bid through Piper Jaffrey, which is one of the banking firms that is working on the deal, and we got bids from 4 banks. Compass Bank was the awarded bid. The indication on the bid summary was an interest rate of 1.6%, which would bring annual savings of \$592,000 a year, based on that 1.6%. The 1.6% rate is indexed off a 4-year Libor at plus 103 basis points. So, if we were to sign a commitment letter today, that would equate to a 1.68% interest rate.

The terms of the new deal would be that we would have a 10-year bond, which is the remaining portion of the original 20-year bond. It would be a non-callable bond. With the original bonds in 2003, there was a reserve fund as security for the bonds in case of default on payment. With private placement bonds, typically the banks don't require reserves. However, because of the nature of these bonds and any Certificates of Participation that would be issued in the future, we are required to pledge essential assets of the City as security. The main reason is because of filed bankruptcies by other cities like Stockton. They had Certificates of Participation with non-essential assets pledged, such as the flood control channel and the flood control projects on the downtown parking lots. Therefore, there isn't any recourse by the bond holders if payment is not made. Therefore we're pledging our Fire Stations 2-6 as security. Also, we're pledging 602 Civic Center Drive, which is the Code Enforcement buildings, as security. Those properties have been appraised, and we have met the appraised value that's deemed appropriate for what we're asking for in a loan.

By signing the commitment letter, the bank puts up the commitment letter saying they will lend us the money based on these conditions. Then we authorize that we will commit to issue the bonds based on those conditions. The rate is locked in at 1.68% if we were to sign the letter by the end of the week. That's where the indicative rate is right now. The staff report noted it was at 1.60%, and now we're looking at 1.68%, which is about \$588,000 annually in savings.

The source of funds for payment on the debt right now is 44% from the General Fund, 41% from the Water Operating fund and 15% from the CIP fund, which are the San Luis Rey Flood Control Channel Watercourse funds. The savings would be spread proportionately based on the current debt services that are to be made.

COUNCILMEMBER SANCHEZ moved to authorize the City Manager to

execute the commitment letter to Compass Bank of Alabama for the sale and delivery of the 2013 Certificates of Participation in an amount not to exceed \$13,000,000 and an interest rate not to exceed 2.5%.

DEPUTY MAYOR FELLER seconded the motion. This is good news for us.

COUNCILMEMBER KERN stated regarding 602 Civic Center Drive, there has been talk of selling, reuse or rebuilding. What happens if we at some point decide to sell that?

BRIAN FORBATH, bond counsel, responded there are provisions underneath the documents to substitute a different facility. If the City decides they want to tear down or redo the building and not want it to be subject to the lease, you have to go to the bank for their consent. The bank is reasonable, and if you were to put up an asset with a like amount of value, the odds are that they would accept that proposal and allow you to substitute that asset in. Then you could do what you need to do. You would need the bank's consent.

COUNCILMEMBER KERN understands. There is a loan against it, and like anything else you'd have to have permission to take it out of the loan agreement or substitute it. He didn't want it to be something where we would have to redo the whole agreement to change assets. We can swap the asset without redoing the agreement, correct?

MR. FORBATH responded that's correct.

COUNCILMEMBER FELIEN stated it's great to hear that we have an opportunity to save money. Why was Libor picked instead of a Fed Funds rate since Libor has been involved in some scandals recently in terms of its computation. Since the fed is committed to keeping interest rates down for the foreseeable future, what made you decide to go in that direction?

MS. LUND responded that was the index that was set forth by Compass Bank. That was their index of choice, and that was what they proposed on the term sheet.

KATEY COSTER, Piper Jaffrey, stated Libor is an index that is used quite frequently with any number of banks. We did go out to 8 separate banks to get bids, four of which determined that they did not want to bid. Three of the four that wanted to bid used a spread to Libor. She believes that despite some of the conjectures that are occurring with Libor at this time, it's still very widely accepted as the index of choice with the banks.

Motion was approved 5-0.

7. **City Council: Approval of plans and specifications for the grading of a portion of El Corazon pursuant to the El Corazon Reclamation Plan; and authorization for the City Engineer to call for bids**

DOUG EDDOW, Real Estate Manager, this item has to do with the grading of the site for the temporary or multi-use athletic fields. We need Council to approve that and authorize the City Engineer to go out for bids.

COUNCILMEMBER KERN moved approval [of plans and specifications for the grading of a portion of El Corazon pursuant to the El Corazon Reclamation Plan; and authorization for the City Engineer to call for bids].

COUNCILMEMBER SANCHEZ seconded the motion.

Motion was approved 5-0.

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

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

Advance written request to reserve time to speak: None

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

ROBERT SPENCER, 1202 North Pacific Street #314A, stated in the past there was discussion about outsourcing the running of the Harbor, which is very near and dear to him because he lives there. He believes if it ain't broke, don't fix it. Council is a great steward, and Mr. Quan is doing a great job managing the Harbor, we don't need an extra buffer. He is opposed to the idea, as are a lot of residents and business owners.

In November there was some drilling done along the Harbor, and the sign said "Desalination Project Testing". He knows Council said no to the intercity agency project, at least temporarily, on desalination. He doesn't understand why we would be drilling for testing if desalination wasn't a potential activity. He's concerned about that. He'd like to know the direction the Council is taking on that. Our Harbor is a jewel and desalination may not be a compatible use.

CITY MANAGER WEISS stated in regards to the Harbor outsourcing, we did, based on Council's direction, solicit proposals to do that. We have received those proposals and are in the process of evaluating them. We hope to bring them back to you in March or April. We can let Mr. Spencer know when that is scheduled.

The City does have a desalination project that we're looking at inland, but we're looking at putting wells and bringing water in that is not out into the ocean. We can give you a project description that goes through the entire process of what we're looking at doing.

BRIAN CREWE, 3808-55 Vista Campana South, stated last year the Senior Commission disappeared. We don't have any representation at all, and we have 40,000 senior residents in Oceanside and 300,000 in the County. There are no programs that we can see or have heard of discussing senior residents. It's our feeling that Council should consider bringing the Senior Commission back. We were volunteers and didn't cost the City one dime. We need to represent every senior who lives in the City.

Changes to the agenda

CITY CLERK BECK announced that Item 16 will not be heard this evening but has been re-noticed for 5:00 PM on Wednesday, January 16, 2013.

5:00 P.M. – PUBLIC HEARING ITEMS

Public hearing items are "time-certain" and are heard beginning at 5:00 p.m. Due to the time-certain requirement, other items may be taken out of order on the agenda to accommodate the 5:00 p.m. public hearing schedule.

16. **[City Council: Consideration of a General Plan Amendment and Zone Amendment and Notice of Availability for a Local Coastal Program Amendment to revise Municipal Code Chapter 14C (Inclusionary Housing) and portions of the City Zoning Ordinance pertinent to residential building height and parking standards, and establishing the amended text as part of the implementing document of the Local Coastal Program (GPA12-00001/ZA12-00001/LCPA12-0001) (This item will not be heard, but has been re-noticed for 5:00 p.m. on Wednesday, January 16, 2013)]**

17. **City Council: Consideration of Zone Amendment (ZA12-00004) amending Articles 4, 10, 11, 13, 14, and 41 of the 1992 Zoning Ordinance to streamline the land entitlement permit process for certain land uses and permits that are low risk and achieve a high level of compliance with conditions of approval and to have this delegated by staff or approved by the City Planner in order to expedite the processing time and requirements for future businesses and help foster economic development; and introduction of an ordinance to effect these changes – Applicant: City of Oceanside**

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

SCOTT NIGHTINGALE, Planner II, stated these amendments are intended to streamline the entitlement process. The subject zoning text amendments to the 1992 Zoning Ordinance incorporate revisions to identify non-controversial amendments within each Zoning District's Use Matrix Table and provide a relatively simplistic administrative review process for certain uses. Also, we're amending Article 4 to allow weddings, animal shows and training, and wineries within the Agriculture District with administrative use permit approval. It will also revise Article 41 to allow the City Planner to defer to the Planning Commission for review if a proposed use generates any controversial issues or has negative impacts. None of these proposed amendments apply to the Coastal Zone, so no Coastal Commission review is necessary.

The Zone Amendments will enable revisions to the articles mentioned, a streamlined process and a limited review process for non-controversial use types within each zoning district.

The streamlining process began due to an efficiency study prepared back in 2009 by the Palo Alto based Matrix Consulting Group. They did an analysis on the Development Services Department and identified a few land uses that were found to be non-controversial and somewhat timely, burdensome and costly for the applicants and staff for review. For example, many uses in the ordinance require little to no review and are typically non-controversial with no negative impacts, but they currently require a Conditional Use Permit and a 6-month review rather than an administrative process, which would be a 2-3 month process.

We're doing this streamlining in response to the Planning Department review and the Matrix study. We've identified uses that fit this category and have histories of non-controversy where we would require an administrative process and quicken the entitlement process. We would still require public notification. We'll notify everybody within 300 feet. If we find there is any controversy, the City Planner can bring an administrative project up to the Planning Commission level. If it gets appealed, we can bring it up to the Council level.

The Economic Development Commission Chair and the Planning Commission Chair met with the City Planner and Development Services Director and identified a relatively simplistic non-controversial uses that could be subject to a limited review process by our Planning Division.

The changes will entice more businesses to the City and will reduce processing time for businesses and staff. The uses that have been reduced from a CUP process to an administrative process will be implemented in a shorter review process time and will reduce costs by \$1,351. A CUP costs about \$4,500, which typically takes about 4-6 months for review. The uses identified in the staff report as being reverted to an administrative process would cost \$3,152 and have less processing time.

One of the benefits of the streamlining is a cleaner and easier to follow ordinance. It will also reduce the processing time and costs for both the applicant and the City, and establish non-controversial uses that require no questions and have little to no impact to neighborhoods.

Staff recommends that Council approve the streamlined Code changes and introduce the ordinance.

Public input

NADINE SCOTT, 550 Hoover Street, thanked staff for doing a good job of winnowing through the Zoning Code. She has 2 concerns that can be addressed later. One is insuring fees get paid well before they get the stamp of approval from our Planner because we have the fee deferral and we want to make sure there are no mix-ups there. The second thing is the eTRAKIT system is a disaster. Is there any way you can have a list of all of these types of administrative applications listed somewhere on the internet? eTRAKIT works sometimes and doesn't work sometimes. It depends on which Planner has entered the information. She assumes these would be in there and asked for clarification on that. Other than that, she supports this.

CHRIS LIBS, 321 Wilshire Road, Oceanside Equestrian Center and Beach City Dogs, thanked Council for considering the amendment to the Zoning to allow for dog events. This will bring a lot of revenue to the City with hotels, restaurants and shopping from people coming for dog events. She has installed a dock and a pool for dock diving. That draws a lot of attention and notoriety. She has the largest pool for dock diving in the United States on her ranch. We have dog agility and are hoping to incorporate service dogs for wounded warriors into the business too.

Public input concluded

GEORGE BUELL, Development Services Director, clarified we are not proposing to change the notification process at all. We don't take in an application unless the fees have been paid. We don't start work on it until we have the check in hand. It's part of the application process.

With respect to eTRAKIT, as much as the technology allows, it is working very well for us in many respects. Regarding the issue that Ms. Scott raised about being easily referenced and usable for the purposes she is describing, the technology does have the capability of doing that, and we can improve on that to make it easier to see which applications are in process, where they are in terms of the review and when they would be tentatively scheduled for public hearing.

MAYOR WOOD asked if staff had compared these rates and fees to other cities.

MR. BUELL responded the fees that are being proposed were subject to Council approval back in March of 2011. At that point, we shared information that these fees are generally in keeping with the surrounding communities.

COUNCILMEMBER SANCHEZ stated some of these have been specifically requested, especially those in the agricultural lands, which she appreciates. However, others perhaps reflect some of the loss that we've had in the Planning Department with respect to history and what has been controversial in our City. It was interesting to see that the attempt here was to list non-controversial plans because about half of the ones on the list, since she's been a Councilmember, have been highly controversial. In the Eastside neighborhood, many of these have been highly controversial, and a lot of people have gone to the meetings.

She's concerned that we not leave out the public. Section 4104 says something about the time period for someone from the public being able to go to the Planner and

express their concerns, and the Planner would then set it for a regular Planning Commission meeting in 10 days. She wants that to be 10 business days. Otherwise, there's no way people will be able to get enough information to know where to go. That notice should say who they need to contact, a good phone number and not one where nobody answers. She wants to make sure there is a process that allows the community to easily contact the City Planner or that office, and also that there isn't going to be some kind of falling off.

She appreciates the wineries, bed & breakfasts, weddings, animal training, etc. However, she's surprised at some of the things on here such as childcare, residential care, schools, etc. She would have liked to have had a workshop to go through this huge list. She'd hate to include this whole list and then later on start taking them off. She's concerned about the public's ability to have their say on projects coming to Oceanside, especially because this is going to impact residential.

She would hate to have an appeal and then not have staff be able to talk to that person. There may have been no reason for an appeal. Ten business days makes sense to her. That way people will have a chance to figure out what's going on in their neighborhood. Notification has been reduced from 1,500 feet to 300 feet, so people are not going to hear about this. They're going to find out last second. Without 10 business days, we're going to have some very angry people. Once a project is approved, there's no going back. She's very concerned about the over-inclusiveness of this list, but if we at least have those 10 business days, a lot of these things will end up being heard by the Planning Commission.

COUNCILMEMBER KERN moved approval of [consideration of Zone Amendment (ZA12-00004) amending Articles 4, 10, 11, 13, 14, and 41 of the 1992 Zoning Ordinance to streamline the land entitlement permit process for certain land uses and permits that are low risk and achieve a high level of compliance with conditions of approval and to have this delegated by staff or approved by the City Planner in order to expedite the processing time and requirements for future businesses and help foster economic development; and **introduction of an ordinance** to effect these changes – Applicant: City of Oceanside]. He will incorporate the 10 business days in there.

CITY ATTORNEY MULLEN stated for clarity of the record, the 10 working days would appear in Section 4104(d)(1) and (2). That's where the notice requirements are for these types of decisions. We could add that to the text of 4104 without reintroducing this.

COUNCILMEMBER KERN asked if working days and business days are the same.

CITY ATTORNEY MULLEN stated in Section 4104(c), it references the term working days for time for the administrative decision.

COUNCILMEMBER KERN stated we'll make this 10 working days then. In the agricultural zone this is going to be a big boon, Paradise Gardens especially. They do a lot of receptions, and this will be helpful. The wineries may be the savior of the agricultural district. With the use and cost of water, he can see more and more of them converting to wineries.

DEPUTY MAYOR FELLER seconded the motion. He asked if this affects the Planning Commission because they have 10 days to appeal. Are we changing the time to appeal with the Planning Commission?

CITY ATTORNEY MULLEN doesn't think there are any changes proposed for the time period to appeal Planning Commission decisions to Council.

DEPUTY MAYOR FELLER stated the Planning Commission has heard this and

the changes they recommended are already incorporated. Does this take effect immediately?

CITY ATTORNEY MULLEN responded 30 days after the second reading and adoption.

COUNCILMEMBER FELLER hopes we get a lot of these applications. That will mean the economy is turning around. He hopes we're trying to improve on all of the Planners being on the same page and the streamlining becomes a way to help the customers get these done in less time. He's happy to support this.

After titling of the Ordinance, the **motion was approved 5-0.**

[Recess was held from 5:42 PM to 6:10 PM]

18. **City Council: Consideration of an appeal of Planning Commission Resolution No. 2012-P49 approving Development Plan (D12-00015), Regular Coastal Permit (RC11-00002), and Tentative Parcel Map (P12-00002) for the demolition of three residential units, construction of a three-story duplex and establishment of two condominium residential units on a single lot at 1513 S. Pacific Street; and adoption of a resolution denying the appeal and upholding the Planning Commission decision approving the project – Burgess/Journigan Residences – Appellant/Applicant: Chris Burgess**

- A) Mayor opens public hearing – hearing was opened.
- B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Mayor Wood reported contact with staff and the developer; Deputy Mayor Feller reported contact with staff, developer, applicant and site visits; Councilmember Felien reported contact with staff, applicant and site visits; Councilmember Sanchez reported no contact; Councilmember Kern reported contact with the applicant, applicant representative and staff.
- C) City Clerk presents correspondence and/or petitions – none.
- D) Testimony, beginning with:

AMY FOUSEKIS, Principal Planner, stated this is an appeal submitted by the project proponent, Chris Burgess. The appellant cites 3 issues in his appeal letter. Two of the issues relate to the Planning Commission's Conditions of Approval, and the third item is a request for findings to be added to the staff report and/or a resolution regarding the project's revetment.

At this point, we're uncertain whether the applicant wishes to pull the item related to the stringline setback. She has a presentation prepared and can move forward with that, but she is not certain if the applicant wishes to continue. She asked for clarification.

GEORGE BUELL, Development Services Director, stated in late conversations with the applicant and the applicant's engineer, the applicant has opted to withdraw the portion of the appeal that relates to the specific location of the stringline. In recognition of information that was provided to staff, and subsequent to the preparation of the staff report before Council this evening, as well as information that has been coming to us as a result of dialog between the project engineer and the applicant, staff is dedicated to working with the applicant and the Coastal Commission in defining the precise stringline location as it extends across this property.

Because of this late information being presented to staff, we have committed to placing a memorandum in the project file that indicates that the exhibit that is in front of the Council at this point may not represent the precise location of the stringline. However, it is subject to additional conversation with the City's surveyor that is working on this project and with Coastal staff. With that understanding, the applicant has agreed to withdraw that portion of the appeal.

MAYOR WOOD asked if the applicant doesn't want to continue this whole item.

MR. BUELL responded no, it's just one point of the appeal and that is the location of the stringline. The items that are continuing in the appeal, as outlined by Ms. Fousekis, are whether or not it would be appropriate for development to extend beyond the stringline, and also the Planning Commission's condition for the removal of the rooftop trellis.

MS. FOUSEKIS stated moving forward with Item 2 of the appeal, the Planning Commission condition under consideration is Condition 9, which requires the removal of a rooftop trellis, which is proposed on top of the third floor of the proposed structure, reaching a height of 40.5 feet.

The last item is regarding revetment, and it has been determined that it's not an appealable item since it does not relate to any project development standard or conditions.

As an overview of the project, the Burgess/Journigan residences are located on the west side of South Pacific Street on the coastal bluff and within the South Oceanside neighborhood. The zoning for the site is residential/tourist, and existing development on the site includes 3 units, a triplex development with one and two stories. A computer graphic was used to show the existing development and the location of the site. The site is located approximately 90 feet south of Buccaneer Beach and is surrounded by residential/tourist zoned properties, with the exception of Buccaneer Park which is located across the street to the east.

Proposed improvements include the demolition of the existing 3 units and construction of a 3-story duplex. The proposed project was shown on computer graphics. The 3-story, 35' maximum height is allowed within the district, and the structure also provides some projections that are approximately 7' west of the existing single-family dwelling, with the balconies extending up to 11' west of the existing single-family dwelling. To the south are single-family bungalow types of development, and to the north is a newer 2-story single-family dwelling. The building elevations identify the extent of the development. It is a 3-story; however, the lower level has been committed to common use for the other two condominium units on the second and third floors. A utility room, stairwell and storage area are proposed on the fourth level. The trellis that is under consideration under this appeal extends from the edge of that utility room stairwell to the edge of the existing parapet.

The floor plans include approximately 2,350 square feet on each level, with 1,400 square feet of living space on the lower level. There would be two-car garages in a tandem configuration to serve the proposed development.

The Planning Commission's condition required the trellis' removal in compliance with the maximum permitted height provisions and our Zoning Ordinance. The proposed trellis is approximately 25' x 15' and is attached to the utility room on the uppermost level.

Building height is limited to 35' unless a Conditional Use Permit (CUP) is issued in accordance with Article 15 of our Zoning Ordinance. There are provisions in our Zoning Ordinance that allow for exceeding that maximum height for utility-type of structures or architectural appendices such as skylights, towers, church steeples, etc. The proposed structure does not serve a utility-type of purpose. The portion that does would be excluded and would fall under this provision, but the proposed trellis does not. It will serve to support the deck space that is proposed on the uppermost floor. Therefore, this provision does not apply. Based on that, the Planning Commission required its removal.

Appeal Item 3 is for the additional revetment findings. This has been determined to be a non-appealable item as this request does not relate to any project development standard or condition of project approval. Nevertheless, with regard to findings and conditions related to that revetment and compliance with our current Code, staff has included in the Planning Commission resolution project approval conditions that pertain to maintenance and references in the staff report to the Planning Commission that address issues and findings on revetment.

Staff recommends that the appeal of the Planning Commission resolutions 2012-P49 is denied based upon the conclusion that the conditions of approval that have been challenged by the applicant are necessary and appropriate in order for the project to conform with the Local Coastal Plan (LCP). The project, as conditioned by the Planning Commission, is consistent with the requirements of our Zoning Ordinance, the Land Use Policies of the General Plan and policies of the LCP. Staff's recommendation is that Council deny the appeal and affirm the conditional approval of Coastal Permit 11-02, Parcel Map 12-02, and Development Plan 12-15.

Appellant/Applicant

CHRIS BURGESS, 1513 South Pacific Street, has owned this property since 1965 and has been anxious to get this project going. We're into the 4th year of this process. He concurred with the statements made about the agreement with determining where the stringline location is going to be, so we're removing that portion only from the appeal.

One other section of the appeal that was not known to staff is we're removing the appeal portion regarding the rooftop trellis. There is still a portion of the appeal that we are very interested in and has an important aspect to the design of the building, and that relates to Section 1703(e) of the 1986 Zoning Ordinance. What is subject to interpretation is whether it substantially impairs the views. Apparently, it's staff's position that our project substantially impairs the views of the neighbors. We have letters from neighbors that were submitted to the Planning Commission. Those are letters from neighbors to the north and south; they have no problem with that portion; and it does not impair their views. They have no objections to this. Staff, in their report tonight, indicated that this particular section prohibits seaward extensions, but it does not. It allows it unless there is substantial impairment based on neighbors. We find no basis in that determination on staff's part.

We've come before Council tonight to ask that wherever that stringline is determined, we be allowed to build balconies beyond the stringline, even though staff does not want us to do that.

Computer graphics were used to show the views from the north and south and other structures that extend beyond the stringline. We're not going beyond what other structures have done; we're just going to the level of the structures. Based on their calculations, the decks going beyond the stringline would only be approximately 3 to 4 feet.

Public input

RENEE ELMEN, 1601 South Pacific Street #A2, just purchased a unit directly south of this property and has a great view of the beach, surf and ocean. This construction will block her view and reduce the value of her property. She wishes she would have known before that this was going to happen. Now it's too late to do anything, but she wanted to voice her concern.

ROBERT SPENCER, 1202 North Pacific Street #314A, hasn't visited this site, but he is a beach property owner and is concerned about this. He respects property owner's rights except when it comes to overall views along our coast. Many property

owners buy in expectation of having that view. Whenever you go up, you're going to block somebody else's view. Property owners have a vested interest, but the Planning Commission does not. They are City staff, the arbitrator, and he definitely respects their recommendation.

Public input concluded

Applicant

CASEY JOURNIGAN is one of the owners of the subject property. His father bought the house 45 years ago. We have tried to maintain a beach feel with the aesthetics. There are a lot of stucco boxes built straight up with no personality. We've tried to give our house some dimension. That's one of the reasons we cut the house back 3 feet. Taking the balconies out would change the entire look of the place. We've been at this 4 years, and the Code has always been that we are able to build beyond the stringline. We've taken that all the way through. Now recently it's coming up that we can't do certain things, even though we've done them by Code. It doesn't seem fair that we've put all of this time and money into it only to find out at the last minute that the Code isn't right or has been changed.

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

COUNCILMEMBER SANCHEZ stated the staff report has 3 basis for appeal, and what she understands from staff's presentation is that Item 1 has been resolved in that there's going to be some ongoing discussion with Coastal staff. Therefore, what is before us is Item 2. Item 3 is not before us because its not an appealable point. We're only focused on the trellis, correct?

MS. FOUSEKIS clarified that regarding Item 1, we have been in communication with Coastal staff. We will continue to work with Coastal staff on this to further clarify. We've received some direction from them. Regarding Item 3, from the applicant's presentation she understands that they are not objecting to our position on it. Item 2 is still under consideration. The only other issue that has been raised, which was the stringline issue, we understood would not be considered this evening. However, there were some issues that relate to the stringline that were brought up as part of the applicant's presentation that had to do with the balconies. To the extent that we're being asked to consider that item, our presentation was incomplete.

[Recess was held from 6:36 PM to 6:45 PM]

CITY MANAGER WEISS stated that given some of the ambiguities heard tonight and the lack of specific location of the stringline, he recommended continuing this item.

Following discussion on dates to bring this item back, **MR. BUELL** stated the City Engineer will need up to 30 days to resolve this issue. First internally and secondarily we want to make sure we have concurrence with Coastal staff. We're not comfortable committing to anything less than 30 days.

COUNCILMEMBER KERN asked if you come to a mutual agreement before that period of time, could it just happen or does it have to come back to Council?

CITY ATTORNEY MULLEN stated this is a staff request for a continuance. If we do it to a date certain, we don't need to renote the public hearing. If there's an agreement, it still needs to come back and be approved by Council. If there's no agreement, then we need to make a decision on the appeal.

CITY MANAGER WEISS stated the only other thing he would offer as an option is that we could schedule it for the January 30, 2013, meeting. If we haven't

resolved it, we could continue it a second time. That puts some pressure on us to try to get it resolved.

COUNCILMEMBER SANCHEZ moved to continue this item to the February 27, 2013, meeting date.

MAYOR WOOD seconded the motion.

DEPUTY MAYOR FELLER asked if there was no way to have a meeting certain before that.

CITY MANAGER WEISS responded Council's only meeting in February is the 27th. You have January 30th and then the next meeting is February 27th.

COUNCILMEMBER SANCHEZ thinks that once this is resolved and there is no appeal to the Coastal Commission, it cuts down a lot of time. She asked if February 27th was okay with the applicant. Right now there is no information regarding where the stringline is. Therefore, this issue cannot be resolved today. Staff is recommending a continuance.

MR. JOURNIGAN prefers not to wait until February 27th and requested that if staff gets it done sooner, it be put on the January 30th agenda.

COUNCILMEMBER SANCHEZ stated we're all in agreement in terms of a continuance; the only issue is how much time. Staff is requesting 30 days. Since today is the 2nd, the 30th would be close to the 30 days. Does staff believe they can come back on January 30th?

MR. BUELL responded there is a possibility that staff can be ready to go by January 30th.

CITY ATTORNEY MULLEN stated one of the things Council can do is continue it to January 30th and if, for whatever reason, it requires a further continuance, then you can do it on that date. Then you wouldn't have to renote the public hearing and you'd save the applicant the expense of doing that.

COUNCILMEMBER SANCHEZ stated Coastal staff, because of all the vacancies, are not going to be able to respond until after next week.

MR. BUELL has already initiated conversation with Coastal staff. They're aware of some of the issues, not the details of the issues. We have initiated a conversation and can remain hopeful that we could resolve this and be back by January 30th.

COUNCILMEMBER SANCHEZ amended her motion to continue this item to January 30, 2013, rather than February 27, 2013.

MAYOR WOOD as the **second concurred**.

DEPUTY MAYOR FELLER hopes we're very diligent about contact with them. The sooner we get this done, the better. It would be great to not have to worry about another month after this.

COUNCILMEMBER KERN asked if we're just looking for methodology, not for surveying a stringline.

MS. FOUSEKIS doesn't believe we're looking for the methodology for establishing the stringline. It's more a matter of what the intent was since the stringline is a line on an aerial photograph. Now that the Coastal Commission staff has the data that was missing from our files for a decade or more, it should be easier to make that

determination.

MAYOR WOOD stated the stringline issue has come up in the past and is a very hot issue for the Coastal Commission and staff. He doesn't want to step on toes at Coastal.

Motion was approved 5-0.

MAYOR AND/OR COUNCILMEMBER ITEMS

19. Request by Councilmember Felien to remove Mayor Jim Wood as City of Oceanside Primary SANDAG Board Member

COUNCILMEMBER FELIEN stated last year we had a Charter workshop with a list of suggestions for people to consider that would improve our City Charter. One of the items he put on there to see if there was any public support was whether or not the Mayor, by being a separately elected position, should automatically be assumed to be the SANDAG representative. Not one person spoke in favor of that item. That didn't represent anything against the current Mayor, but was just the public attitude towards whether we have a weak Mayor or strong Mayor form of government. With that in mind, we need to have a SANDAG representative that supports the majority view of the City when it comes to supporting infrastructure projects that improve the needs of our City.

The most critical and devastating disappointment in the last several years was the destruction of our Rancho del Oro interchange. That symbolizes the Mayor's attitude toward infrastructure and job-creating growth that results from having infrastructure. When that decision was made, we lost \$2,000,000 in federal funding to design the interchange, and \$50,000,000 to \$80,000,000 in SANDAG funding to complete that interchange. That decision broke a promise to the business community. Specifically, to the Ocean Ranch Business Park, located in the center of the City, whose viability was dependent upon having access to our freeways. The Rancho del Oro interchange was the critical link in that access. Unfortunately, this has contributed to Oceanside having the lowest jobs to housing ratio, if not the lowest amongst the lowest, in the County.

Other critical infrastructure projects included the Melrose Extension. Once again, that's a regional project that's important for the regional traffic flow that we all benefit from because some people from out of town drive on our City streets, just like Oceanside citizens drive on streets in other cities. This is something where we all need to work together to do our share to improve our regional road structure. Anyone who is stuck in traffic on El Camino Real and College Boulevard, understands the need for these types of critical infrastructure projects. He doesn't believe the Mayor shares those views.

We also saw recently when the Interstate 5 (I-5) expansion was revised and suddenly \$800,000,000 was freed up. The Mayor voted to send that money south while other North County representatives fought to look at projects here in North County. For example, driving Highway 76 out to Interstate 15 (I-15), they're expanding the bridge out there. Is anyone going to tell him that the 76 and I-15 connection has more traffic than the Highway 78 and I-5 connection, which is the only location in the State where traffic on an interchange is controlled by a traffic signal? We need someone at SANDAG fighting for these kind of important infrastructure improvements and trying to convey a message so that SANDAG understands the types of improvements we need down here.

We just had an election, and the voters returned to power a majority on this Council of 3 votes to support these types of projects. He believes it's fair and reasonable to ask that we have representatives on regional bodies that support the view of the majority and not the minority. Related to this is that the primary representative

also gets to participate in appointing other Councilmembers to subcommittees. We need a representative who's going to appoint members to subcommittees who believe in infrastructure, not who are opposed to it.

He believes the Mayor, in opposing some of these projects, is primarily pandering to no-growth nimbies. In this recession that goes on and on and with California losing jobs and businesses almost daily to other more competitive locations, we need a representative who shares those views. We're going to have to agree to disagree on this issue. He felt compelled to call on this vote so we could have a representative that's more in line with the majority.

Tangently related to this is the Mayor's overall appointment authority. To date, the Mayor has not brought forward his list of appointments on what he believes is a reasonable compromise based on the distribution of power and the recent election results on this body. He would encourage the Mayor to schedule an agenda item to bring forward his list of proposed appointments for the next meeting so we can resolve the remaining issues. While we are debating an ordinance that he's proposing dealing with regional appointments, the old ordinance is still in effect. So the Mayor has it within his authority to bring forward his list so we can see what his ideas of a compromise are and what reasonable negotiation is to resolve those other issues.

He **moved** to remove Mayor Wood as the primary SANDAG Board member.

DEPUTY MAYOR FELLER seconded the motion.

Public Input

ROBERT SPENCER, 1202 North Pacific Street #314A, asked that this be tabled. He would like to see if the two sides could get together with City Attorney Mullen, who is in a very difficult position. The City Attorney mentioned a couple of meetings ago that he felt this is a legal move within the Charter, but he didn't seem 100% certain. When you get into a court situation, litigation muddies the water. This is a very difficult position you're putting the City Attorney in. He has to render a position that is split among the Council. He would love to see the City Attorney find an outside objective person before you spend taxpayer dollars defending a potential lawsuit and keeping the community split. He would love to have an outside counsel that doesn't have ties here take a look at the Charter and the proposed resolution by Councilmember Felien, and render an objective opinion. The cost to the community could be tremendous. Besides dollars and cents, there would be acrimony, discord, name-calling, etc. We might be able to reach a more amicable situation if we had an objective third party, even if it's just a consultation where both parties do briefs and there is some objective advice.

IVAN FOX, 1947 Westview Road, Fallbrook, owns a home on South Myers. He recently purchased a home in Rancho del Oro so will once again become a resident of Oceanside, as he was in the past for many years. He supports the Council in the direction it's going. He's a civil engineer and understands traffic. He knows major corridors and how traffic moves. He would like to see an advocate, strong representation on SANDAG in order for us to get the funding we need. Oceanside is one of the best cities in San Diego. Unfortunately, it's not reflected in the prosperity as we see in other cities. When you look at our harbor, pier, transit center, airport, beaches and the central location of highways and interstates, we should far exceed Carlsbad and Encinitas in our property values and prosperity. That is not the case. We're probably one of the lowest valued cities, but we're one of the best cities.

With proper leadership and an advocate to go after those monies, we can do it. Supervisor Horne has inspired a lot of the cities with Prosperity on Purpose. We need to use that power to go against the City of San Diego to try to get some of that funding. It's a key element of progress that can be made here in North County to create circulation for roadways. Having a strong advocate on the SANDAG Board is very

important.

Being a good steward of the City, Councilmember Felien presented a good argument as to what has occurred. When you look at that interchange at Rancho del Oro, it was a foolish Council that eliminated that and put the medical center there so no future Council could complete that interchange. Now we can only do the south, but we at least need to do that. We've got too much traffic on College, and we're going to need it for El Corazon in order to get people up to Rancho del Oro. It's the only way the City's going to function properly or we're going to continue to have a tremendous amount of traffic on College. It's not a good situation and needs to be rectified. The direction Council is going is a good direction, and he supports it.

LINDA WALSHAW, 151 Robbie Lane, is Vice President of ACTION (Alliance of Citizens to Improve Oceanside Neighborhoods) and is speaking on behalf of some of their Board members. On November 6th, Oceanside voters overwhelmingly re-elected Mayor Wood by 54.16% of the vote. The office of Mayor ordinarily performs two functions that other Councilmembers do not: 1) the Mayor can make appointments to local and regional boards and commissions; and 2) the Mayor presides over Council meetings and ceremonial functions, such as issuing awards, etc.

On December 12th, the very day Mayor Wood was being sworn in for his third term of office, Councilmembers Kern, Feller and Felien voted in their new City Ordinance, stripping the Mayor of his powers of office and transferring those powers to themselves. Mr. Felien has made it clear that despite what voters determined, he intends to make the Mayor's office a ceremonial position and enforce the will of 3 men over the people of Oceanside, in spite of the election results to the contrary.

In a news article on December 28th, Councilmember Felien was quoted as saying the Mayor needs to understand he's part of the minority, not the majority. Councilmember Felien apparently needs to be reminded that it is the voters of Oceanside who are the majority, not these 3 Councilmembers. The voters made their choice on November 6th and will not stand idly by while their choice for leadership is ignored and governmental powers transferred to candidates they did not choose. This Council is proving they will do anything to grab power for builders and developers who have financially backed their campaigns to push through road and building agendas. It is the people of Jeffries Ranch, Melrose, Morro Hills and Rancho del Oro who do not want these projects, some of which have already been rejected by our Planning Department as being detrimental, rather than providing any benefit.

This Council has already wasted \$850,000 of the taxpayer's money by scrapping the engineering study that was unfavorable to the Melrose project, and still continues to shove this project down residents' throats. Unlike this Council majority, Mayor Wood has been and is listening to and representing the will of the people of Oceanside, whose lives and families will be affected by these projects. We urge all Oceanside voters to get involved, join ACTION, attend meetings and other community forums and stay informed. Write letters to the Editors, make phone calls, network with others, pass out flyers and gather signatures when needed. The options remaining now are expensive litigation against the City or an initiative to repeal the City Charter and return Oceanside to a general law city under the control of its voters, not 3 men on a Council. There is power in numbers. Don't sit by and let your vote be ignored. It costs nothing to get involved. Help Oceanside take back its City government.

NADINE SCOTT, 550 Hoover Street, stated Councilmember Felien's logic wouldn't stand up in a court of law or a philosopher's court. Just because someone wasn't opposed to something, does not logically, legally or factually mean they are for it. We can argue facts, figures, dollars and access, but it's all moot at this point. We know what Council is going to do. We know lawyers have been engaged, and this is a tremendous waste of City resources to do this. By the time you put a new member on SANDAG, if that can ever happen, the City of San Diego will cancel out any potential

possibility, with their 25 votes, that we'll ever get anything ever again. It's an exercise in frustration and is fruitless.

This is a power grab. Using Councilmember Felien's logic, the majority of people elected Jim Wood to be the Mayor and make the appointments and continue as our SANDAG representative. Using these mixed metaphors and logic about the majority on the Council as opposed to the majority of the voters is all false. We know it's a power grab for the pro-development members of the Council. She's hoping we get an actual, factual legal answer by an independent judge, as Mr. Spencer suggested. She respects the City Attorney, but he does work for the 3 majority Councilmembers and could easily be gotten rid of if he doesn't give them the answers they want.

Let's quit wasting time, move forward, end the charade and get rolling on the actual legal question.

JIM JENKINS, 1429 Calle Marbella, agrees with everything Ms. Washaw and Ms. Scott said.

Councilmember Felien seems like his position is strongly more on jobs than lives. Regarding the expansion of Highway 76 at Interstate 15, he lost a very good friend on that old Bonsall Bridge who was decapitated and lost her life at a very young age, so he's happy for what they're doing. He's sorry it affects jobs, but it saves lives. Lives are important.

He is concerned that when some individuals appear to not get their way, they can just go around and start changing policies, Charters, etc. The majority reminds him of a bunch of kids on the playground. If they don't get their way, they pick up their bat, ball and marbles and run away. What happened to teamwork and the team approach that we're supposed to use to work things out and come up with consistency and continuity within our group? Our citizen elected you for the positions you're in. Just because something doesn't go your way doesn't mean you get together and take powers away from other people. That's such a wrong-doing, and it's not what we're about. We're a community that needs leaders, and leadership is important. You're only as powerful as the people you surround yourself with. We in this community are here to help support you and to be a team, but if you're not going to listen to us and only listen to outside interests, what good are you? He's been in other cities where people have told him what a mess we have going on with our Council, and he's embarrassed. It's because of a lack of teamwork.

Is this legally the right thing? Are we allowed to change the Charter like that? We need to look into these things.

SAUNDRA WAECKER, 2275 Oceanview Road, is here to support the request by Councilmember Felien to remove Mayor Jim Wood as Oceanside's primary SANDAG Board Member. She has about 15 emails from a silent majority of people who never come to Council meetings, but watch them on television, and support our 3 conservative Councilmembers. We may not clap after everybody speaks, but we do support you; we are out here, and we did vote for you. One of her emails states they voted for Jim Wood and apologized for not doing their homework. She also has an editorial from today's Union Tribune that goes through Mayor Wood's history of what he has done to the City by not supporting us on SANDAG. She would like to support the 3 gentleman who have to take a lot of heat on the Council.

SUSE SHROYER, 276 North El Camino Real, stated here we still are. It took a whole year and 2 elections for you 3 Councilmembers to hear the wishes of the Oceanside residents, as well as \$93,000 of our taxpayer's money to get Proposition E defeated. You refuse to accept the outcome of this past election. Councilmember Kern put his name on the ballot to run for Mayor, and the people of Oceanside overwhelmingly voted you down. You lost. Mayor Wood is the choice of the people for

the next 4 years by a count of over 56%. Now you 3 are spreading untruths that he is a bad Mayor. You 3 Councilmembers are wrong.

The people of Oceanside have the majority. You 3 have also been voted in by the people of Oceanside, but to listen and hear our voices accordingly and as elected officials, not to use this platform to advance your personal positions by forcing your agendas down our collective throats in order to further your position in future elections. City government is a nonpartisan government, not a posturing place for future agendas. It does not give you the power or the right to ignore the people who put you in those seats. It then becomes an abuse of those elected positions. Mayor Wood has been elected again, and it is time for you 3 members to accept and respect what this office demands and deserves.

CHARLES McVAY, 200 North El Camino Real, is opposed to what Councilmembers Kern, Feller and Felien are doing. Your minds are made up and there is nothing he can say to change them. Therefore, he will attempt to inform the people watching so they can learn of your actions. He wants the people to remember when election time comes. He doesn't know how you can have the unmitigated gall to think that you would be better qualified to be on SANDAG, or any committee. You are trying to make the public believe that you are better qualified than our Mayor, who is the senior Mayor on SANDAG, which is very important in getting funds. With his experience and seniority, Mayor Wood is much more qualified than all three Council majority members put together.

What you are doing tonight was hatched up in back rooms as your back-up plan in case Councilmember Kern lost the Mayoral election, which he did by a whopping majority. You lost the election, and now you want to make new rules where you'll be the only winners. If you really care about the welfare of Oceanside, you would resign from office immediately. What you are doing is vindictive.

CHRIS WILSON, 770 Harbor Cliff Way, is concerned that this action seems premature. We just heard in the report from the City Attorney regarding the Closed Session actions that the ordinance to give the majority the power to appoint representatives needs to be readopted because of some procedural matters. You've decided to go down a road before it was totally built. Now, we've found out there's a section missing before that road is safe to be traveled down, but we're going to charge ahead and start down the road before we're sure if its completed. That strikes him as acting prematurely. One thing he has learned is that when things happen prematurely, nobody is satisfied. He encouraged Council to reconsider and delay this action until you're sure you have the power to do what you want to do.

DAVID TERRELL, 276 North El Camino Real, stated Jim Wood is the only one who was elected with more than 50%, which is something Mr. Felien wanted to get done with one of his Propositions. He wanted to make sure that everyone got elected with 50% because if you're not elected with 50%, according to Mr. Felien, you're not legitimate. So the only one up here who's legitimate is Mayor Wood.

Councilmember Felien was also very interested in public safety. Mayor Wood and Councilmember Sanchez have a lot of experience with public safety, so he can listen to them about it.

DIANE HANSON, 200 North El Camino Real, used to live off Rancho del Oro until she heard about the freeway onramp and decided she didn't want to live anywhere near that street. The traffic on Rancho del Oro is already bad. Putting up more traffic signals there has not helped the traffic flow. She voted for Mayor Wood and Councilmember Sanchez, and she would do it again. She feels they represent the citizens of Oceanside, and that's why we don't have a ramp at Rancho del Oro, which she is happy about it. Mayor Wood represents the citizens of Oceanside and votes as they request. He also represents us on SANDAG, and that should not be changed. If

any changes should be made to any board, it should be to get rid of Councilmembers Feller, Felien and Kern.

Public input concluded

COUNCILMEMBER SANCHEZ wanted to address some of the points made by Councilmember Felien. He started off by talking about the Rancho del Oro (RDO) interchange. We're talking about a SANDAG representative, and Councilmember Felien is talking about action that was done by a Council prior to this Council. The bottom line is that Mayor Wood, whether he was on SANDAG at the time or not, had nothing to do with a Council majority saying enough is enough. We took the RDO interchange off the Circulation Element. Before that happened, thousands of letters had been received by Federal Highways. The hope was to get money from Federal Highways, and they told us through Caltrans that there was no way they were going to be looking at supporting or providing funds for a highly controversial project. It was highly controversial because of all of the environmental issues; it's a wildlife corridor and a historic adobe with historic resources. There were several reasons why this was highly controversial and continues to be.

At the time, we were talking about over \$100,000,000,000. The fact that Carlsbad had already deleted the road on the other side meant the entire project was only going to be an Oceanside project, not a regional project. SANDAG does not fund non-regional projects. She's trying to explain to Councilmember Felien the history of this project and that it had nothing to do with Mayor Wood being on SANDAG. In fact, it was Mayor Johnson who led the charge to remove the connection with the RDO interchange. It was a completely different Council. The lights were also removed. Terry Johnson was Mayor and Jim Wood and Jack Feller and I, as a Council, took out the connection. She doesn't believe Mayor Wood was the SANDAG representative at the time. She thinks the combining of SANDAG with transportation happened a little after that.

Councilmember Felien also talked about a majority. We just had an election and the public has spoken. We had very different policies that we believe are in the best interests of the City. Mayor Wood and she are lifelong residents of Oceanside. Mayor Wood has been a lifelong public servant. He has walked and protected these streets. For 31 years he was a police officer and put his life on the line every day.

Public safety and roads and whether or not they work are very important to police officers. We know how critical roads are to making sure the response times are optimum. Mayor Wood became a Councilmember and then rapidly became the Mayor and has been the most popular Mayor in the history of the City. No one has ever gotten as many votes as Jim Wood has gotten as Mayor. This past election he received 30,844 votes, which is 54%.

Councilmember Sanchez ran for re-election and got 27% of the vote. People had the right to vote twice, so if you double that then she also received about 54% of the vote. Dana Corso came very close to beating Councilmember Feller. In 2 months she was able to get within 1,000 votes. Councilmember Feller spent probably 10:1 trying to beat Dana Corso. Dana Corso is someone who really supported the people, and she also does not believe in the Rancho del Oro interchange.

There is a motion on the dais to remove a very popular Mayor from SANDAG. It is unprecedented. What we're doing is losing our public relations with other cities. We're talking about regional government, which means other cities need to work with us and we need to work with them. She's been to different cities and spoken to different Councilmembers over the last few months, and all she hears are very discouraging remarks about what has been happening on the dais with these 3 Councilmembers. It has been embarrassing. We had a fair contest, and the people have spoken. There was a high voter turnout of 77%. We shouldn't try to change the rules in the middle of the

game because we didn't get what we wanted.

She and Mayor Wood are very passionate about people, and that's why he's been elected over and over again. He honestly cares. On the other hand we have Councilmember Felien, who is very up front about where he gets his direction and he only listens to his donors. Now that you're elected, you need to listen to your constituents because those are the people who count.

COUNCILMEMBER FELIEN requested a point of personal order. Councilmember Sanchez is lying about what she claims he said and she's supposedly quoting him, so does he have a right of personal order here to contest this?

MAYOR WOOD stated Councilmember Sanchez is getting her chance to speak, and Councilmember Felien will get his chance to speak. The quote she is attributing to Councilmember Felien was heard by the Mayor as well.

CITY ATTORNEY MULLEN stated it's up to the Chair to recognize the speaker.

MAYOR WOOD is not going to recognize Councilmember Felien right now. He'll get his chance.

COUNCILMEMBER SANCHEZ is against this and doesn't see what the point is. This isn't furthering the interests of the citizens of Oceanside. We have a completely different SANDAG representation that is going forward, and these are people who actually recognize climate change, which a majority of our Council does not; the importance of sustainability, which the majority of the Council does not; and it recognized our biggest challenge of sustainable green jobs. San Diego is the lead. We have the ability as a Council to be able to do that, and yet we continue to talk about things that are not green. We continue to talk about things that will never see the light of day. The RDO interchange is dead. It's never going to get any money. Any money going toward that is a complete waste.

We should instead focus on making Coast Highway work. That is where we have a consensus on the dais. There are so many more issues that we have consensus on, that there is no reason to focus on one or two highly controversial projects. We owe it to our constituents to work together. We need to put aside those ideas and work together. We've got 2 years until the next election. Let's make these 2 years count. Let's talk about positive projects that we can be proud of that would receive funding.

She gets sad when she sees other cities getting money for projects because they're doing Smart Growth, but Oceanside doesn't do Smart Growth projects. We're talking about urbanizing South Morro Hills with the Melrose Extension. We're talking about having to build all of this infrastructure that would basically bankrupt this City. That would definitely lower the quality of life for all of our residents. Who wants to pay for a sewage treatment plant out east and all of those improvements? Who wants to have a lower quality of life because we're already stretched? We don't have any services out there and yet here we are paying for a sewage study for South Morro Hills, where we should be talking about agri-tourism and maintaining our greenbelt. We should be focusing our growth where the services already are. That should be our challenge for this year and next, focusing on the positive things that will unite this Council. We already have challenges.

DEPUTY MAYOR FELLER stated RDO was removed in 2005 when Shari Mackin came aboard. Mayor Wood and Councilmembers Sanchez and Mackin removed that from the project and threw away about \$1,200,000.

It has always been the prerogative of the Council to remove members of the Board of SANDAG or NCTD (North County Transit District). It started when the mentor for all of this slow growth and Smart Growth removed Mayor Larry Bagley. Melba

Bishop, Don Rodee and Nancy York removed him when he was to be Chairman of SANDAG. In 2005, you weren't permitted to vote for yourself if you were to receive a stipend. Mayor Wood attended for the first 6 months after they removed Deputy Mayor Feller and the following year Councilmember Mackin attended SANDAG. In all of this time, in Mayor Wood's time on the SANDAG Board, we have not received one of the premier committee assignments – transportation or planning – for the City and he hasn't taken them himself. He was entitled to 2 primary positions for the City. There are 10 assignments available for the 5 regional cities: Del Mar, Solana Beach, Encinitas, Carlsbad and Oceanside. Oceanside is, comparatively, the size of all 4 of those cities put together. It is the 134th largest city in the country, and we need our say at SANDAG. It's not about power; it's about common sense.

We need those appointments on those working committees where transportation dollars are accumulated and spent. The SANDAG Board usually rubber-stamps what the SANDAG committees bring up to the meetings. We still don't have those appointments and hopefully, with a change, we can get some of those appointments. It's incumbent of us to try to get those appointments and not have the Mayor not going after them and putting us on lesser committees that don't have the opportunity to fight for those dollars. We need to go forward and we can't allow this to continue.

Things have changed with the rule makers in Sacramento regarding whether you can vote for yourself. That just happened in March, and we approved it in November. This is the time to go forward. Citizens of Oceanside deserve the seats on those premier committees and they should be taking advantage of it. We need the interchange at 78 and I-5. We need Rancho del Oro. Traffic isn't going to get any better. We really should be building that full interchange at Rancho del Oro and connecting to Marron Road through that habitat, but that will probably never happen either. It's incumbent of us to try.

COUNCILMEMBER SANCHEZ reminded Council that it was actually Mayor Wood and herself that placed the I-5 and 78 project on the Public Works Plan for the Coastal Commission to review. Mayor Wood helped in getting the Mayors involved and getting it before SANDAG, and helped her to get Gary Gallegos on to do this for the Buena Vista Lagoon. It was only him who was able to do this. No other Councilmembers would have been able to help her at all. He was instrumental in getting I-5 and 78 on that Plan for Caltrans, which is now going to the Coastal Commission. There seems to be a lack of information. Also, the connection was removed by a Council that had Terry Johnson as Mayor.

Mayor Wood is a Republican. It should not matter how we're registered to vote. We each get to decide our personal views on things. Mayor Wood is a moderate Republican in a city that is almost evenly divided between Democrats and Republicans. In this time, it really matters to have a leader who is able to work on all sides of the aisle. That is why Mayor Wood has been so successful, regionally and locally. Having extremism doesn't help our City.

This action is not going to get us anywhere. When you have someone on SANDAG who doesn't have Mayor Wood's seniority, they aren't going to listen to that person. This action, in terms of best interests of the City, is ill-advised and going to make things worse for our City at SANDAG.

MAYOR WOOD has given almost 45 years to the City as a police officer, detective, Councilmember and Mayor. He tries to be in the middle. We're supposed to be non-partisan at this level. He's not a Democrat, but he leans that way on a lot of issues. He has to go ask for money and important things in Sacramento and Washington D.C., which is ruled mostly by Democrats. When he goes there, he mostly sees Senators Feinstein and Boxer and Darryl Issa. If he goes there being one-sided, he's not going to get any money or results from the federal or State governments. If he's going to work with the big money brokers, he better be non-partisan and in the

middle or a very strong Democrat.

A lot of things have been said tonight. Removing him from SANDAG doesn't hurt him; he has plenty of other things to do. However, it really hurts the voters. That's why this is not right. For the last 125 years, we've been a general law city. Even the Attorney General said he has the right as the Mayor to appoint. SANDAG understood that too. The Council could probably remove him. If they remove him then they'll probably remove his Alternate I and II because he put them on. After the 30 days, they can pick people if he doesn't. If he brings up a name, he's sure they aren't going to pick that person. They'll be running that part of what the Mayor used to do, and that's not right.

He asked the City Attorney, who could not give him legal advice. Therefore, he asked for his own legal representation. This is not about him; it's about the issue. He requested the Council ask the Attorney General for an opinion because that wouldn't cost the taxpayers a dime, but the Council majority did not want to do that. He had to hire an attorney out of his own pocket because it's that important. His attorneys thought this was inappropriate and possibly illegal. The gentlemen said they want to remove him and change the ordinances.

Under our Charter, we refer everything back to the general law aspect of it. Most people voted him into office as the Mayor to do all of this, but now the Council majority wants to change the ordinance so they have control. They probably have the right, but we've gotten different opinions.

Every year at the beginning of the year, we choose the Council meeting dates for the entire year. They decided they wanted to rush this through and get him out of SANDAG as soon as possible. They don't even want him involved in the selection of subgroups. There are 5 of them in North County Coastal, and they're afraid he'll pick somebody they don't want. The problem is they tried to rush this and called for a special meeting, which they couldn't do. So they called it something else to make it a special meeting, and the only item on the agenda that night was their item regarding this issue. They condensed the 30-day time for the second vote 30 days after. He told them at that time he thought it was illegal and couldn't be done. The attorney firm he hired said they can't do it. Because of that, they're going to come back with a second vote on this on January 16th because of the fear of litigation. That tells him there's a problem, legally speaking. But they're going to have to revote again and start that for the 30 days. They had to remove him now because that 30 days would give him the chance to appoint people to the subcommittees.

There are other issues as well. They called for that meeting with 3 Councilmembers signing for it. His attorneys feel that's a blatant violation of the Brown Act, which is a criminal offense. Three people talking about that particular meeting and what it was about would be a Brown Act violation.

When he was running in 2002, one of the hot issues was Highway 78 and RDO. What he found out by talking to Carlsbad, the neighbors, Caltrans, Congressman Issa, etc., is that nobody was going to support this intersection. It wasn't only the cost, but Congressman Issa told him directly that they would not support anything with controversy attached to it. There are too many other projects that don't have controversy. The number one issue from Oceanside that he heard all the time was to finish Highway 76 out to I-15. This last year that was the number one priority for SANDAG. We had some controversy. It got delayed because of land we had to buy for mitigation land, and it took a while.

The next big issue was the I-5 widening all the way up to Oceanside. It started south and came north because the Buena Vista Lagoon had to have an Environmental Impact Report (EIR) done in order to widen that highway, and there is supposed to be a flyover at Highway 78 at I-5. That's a priority, and he's been pushing it. You heard

about the \$800,000,000 being taken away from us and moved somewhere else. The reason was that the EIR had not been done by Fish & Game yet. They hadn't touched it, and SANDAG won't send money to projects that aren't shovel-ready. So it moved to the next item down on the list, which was down south. He voted for that because it was the next item for approval. Ours was not ready so it couldn't be voted on. The only reason that's going to change is because Councilmember Sanchez is on the Coastal Commission. She jumped on board with the Mayor of Carlsbad and himself, who paid \$100,000 each to get that project going and do the EIR so we could move forward. SANDAG took \$800,000,000 out of their purse to do it for us. That was important to Oceanside and North County.

There are 18 cities sitting on SANDAG, and it's a compromise every time you vote. San Diego gets 25 power votes. Oceanside is the third largest city in this County, and we get 5. The County also gets 25. When you get those two together, you can't beat them. It has been a compromise on everything that's been done at SANDAG - every time. He's the senior Mayor from the North County area and deals everyday with other Mayors in the North County. The City of Vista was pushing Melrose through so they could build 1,000 houses, which would impact our City. They can't get an EIR approved for traffic mitigation because they have to have the road go through at Melrose. The neighborhood doesn't want it, and it would be used as a cut-through.

Those items won't get funded here or at SANDAG because that money in the 2030 and 2050 plan with SANDAG has been voted on by everybody at SANDAG. If you want to get more money, you're going to have to take it from somebody else in another city.

Regarding the vote aspects, the environmental world just sued SANDAG and won over mass transit, transportation and highways. That means SANDAG will probably have to give a lot of that money back to mass transit and away from highways. That will be a big impact on highways that we want that nobody else wants. The money might end up going to railroad and mass transit and not highways.

He feels there was a Brown Act violation here that we're going to look into and will cost the taxpayers money. He had wanted to do some free things that the Council majority wasn't interested in. He's also concerned about other issues, like the Gregory Canyon Landfill. They want to poison our water downstream. The most important commodity in Southern California is water. We're one of the rare cities that does desalination right now, and we get up to 20% of our water from underground sources. If they do Gregory Canyon, they'll pollute it. We've fought it for 15-20 years, and he's always said no to it. The Council majority said they support it.

No matter what is done tonight, he'll understand that it's all about voting. He won with a semi-landslide because people wanted to put him back in office. He's the only person in years that's ever had 50% or more of the votes. Proposition F was put on the ballot by the Council majority saying you don't get elected if you don't get 50%. He's the only person who's ever gotten 50% or more in any of the elections. If Proposition F had passed, they wouldn't be here today.

There are changes in policy, and he tries to be non-partisan because it helps the City. Some of the roadways you're here to talk about, you're not going to get with this latest lawsuit out of SANDAG. We'll have to see where it goes.

We moved from a general law City for 125 years to a Charter City. The reason, according to these 3 Councilmembers, was to save us money mainly with the labor unions. The California Supreme Court has addressed those issues so there is no longer an issue on Charter Cities. The Council majority had people from the building industry write it and the Council majority put it on without any input from staff or the public. It was voted on. Voters thought it was a good thing, but the majority is using it to do things like this. They circumvent the public's majority vote and say they'll go in the back

door and do it by changing the Charter City. He's heard quite a few people say they'd like to put something on the ballot to change us back to a general law city because they are abusing the Charter. It's a high possibility.

COUNCILMEMBER FELIEN stated it's easy for some of his colleagues to make speeches when they are untethered from the truth. To reorientate himself, he asked when the vote took place that turned down the EIR on the Rancho del Oro interchange.

CITY MANAGER WEISS doesn't have the specific time, but it's something he can look up.

COUNCILMEMBER FELIEN stated his recollection matches Deputy Mayor Feller's recollection that there was a vote in 2005 with a majority of Wood, Sanchez and Mackin. He doesn't understand the bizarre comment that Mayor Wood had nothing to do with destroying that project.

Regarding the supposed activities, he asked the City Attorney what the two methods are to call special meetings.

CITY ATTORNEY MULLEN responded that a special meeting can be called on 24 hours notice by the Mayor or, alternatively, by a majority of the Council.

COUNCILMEMBER FELIEN asked if that majority would be 3 members.

CITY ATTORNEY MULLEN responded yes.

COUNCILMEMBER FELIEN asked how three Councilmembers can be in violation of the law then by calling a special meeting.

CITY ATTORNEY MULLEN responded you can meet for purposes of scheduling the meeting. You are, of course, not allowed to discuss the substance of the action to be taken.

COUNCILMEMBER FELIEN stated obviously 3 Councilmembers have to get together to sign a document to approve a special meeting. He guarantees there is no substance to any claims of criminal activity.

There are 2 dynamics going on at the same time. One is to remove Mayor Wood as the primary representative at SANDAG, and the other is his ordinance to broaden the input for appointments to regional boards and commissions. The ordinance, which he proposed even before today's settlement, is not even in effect yet. He asked the City Attorney if Council has the power to remove regional board members as a general law city?

CITY ATTORNEY MULLEN responded there are different statutes for each different regional board or commission. Since you're dealing with SANDAG, he'll address the SANDAG statute, which is Public Utility Code Section 132351.1, which effectively provides that the Board shall be composed of one primary representative, selected by the governing body of each city, and a member of the San Diego County Board of Supervisors to serve until recalled by the governing body of the city. The definition of 'governing body' is provided in Subdivision (d) of that statute, and it effectively provides for cities like Oceanside, where the Mayor is part of the Council, that the governing body is the City Council.

COUNCILMEMBER FELIEN stated the point is that this issue of whether or not it's a good or bad idea or whether the vote succeeds or doesn't, has nothing whatsoever to do with the fact that we're a Charter City.

There is a convenient lapse of memory as well dealing with the Charter City in

that the primary purpose of the Charter and why we voted for it by a 10 point margin in the June, 2010, election was the fact that it allowed us to save millions of dollars in prevailing wage costs. That right as a Charter City to save the money on prevailing wage was decided by a landslide decision in front of the California Supreme Court. The case dealt with our next door neighbor, Vista. He's proud to have supported the Charter that has saved millions of dollars for our taxpayers.

We had an election, and democracy is an imperfect process. The five Councilmembers sit on the dais as a result of 2 election cycles. The Mayor and Councilmember Sanchez had a good cycle this time. He and Councilmember Kern are up here as a result of the 2010 election cycle. One has to factor in both elections when we derive the majorities that are up here. The voters, through this imperfect process, put a 3-2 majority on the dais as a result of the total election process, not just a selective review of part of the election process.

MAYOR WOOD wanted to say that he represents the citizens and not the voting members of the Council.

Motion approved 3-2, Wood and Sanchez – no.

MAYOR WOOD asked for clarification of the policy at SANDAG if he's removed. Does that take the Alternate and second Alternate off until there is a new vote, which is going to be 30 days after?

CITY ATTORNEY MULLEN responded that according to Mr. Kirk, who is general counsel for the SANDAG Board, it would be that the primary representative would remain vacant until an appointment is made by this Council. We'd have to confer with Mr. Kirk about the rolls of the alternates with regard to assuming duties of the primary.

INTRODUCTION AND ADOPTION OF ORDINANCES

The following items are ordinances for introduction or adoption by the City Council/HDB/CDC/OPFA. Ordinances are laws of the City of Oceanside and require introduction and adoption at two separate City Council meetings (urgency ordinances are an exception, and may be introduced and adopted at one meeting as an emergency measure). The City Council/HDB/CDC/OPFA has adopted a policy that it is sufficient to read the title of ordinances at the time of introduction and adoption, and that full reading of ordinances may be waived. After the City Attorney has read the titles, the City Council/HDB/CDC/OPFA may introduce or adopt the ordinances below in a single vote. There will be no discussion of the items unless requested by members of the City Council/HDB/CDC/OPFA or the public through submittal of a Request to Speak form prior to the commencement of this agenda item.

20. **City Council/Harbor: Adoption of an ordinance amending Chapter 28A of the Oceanside City Code to provide informal bidding procedures under the Uniform Public Construction Cost Accounting Act** (*introduced on 12/19/12, 4-0 vote, Kern absent*)

After titling of the ordinance, **DEPUTY MAYOR FELLER** moved approval of adoption of **Ordinance No. 13-OR0009-1**, "...amending Chapter 28A of the Oceanside City Code to provide informal bidding procedures under the Uniform Public Construction Cost Accounting Act".

MAYOR WOOD seconded the motion.

COUNCILMEMBER KERN is going to abstain on this since he wasn't here to hear everything about it previously.

Motion was approved 4-0, Kern abstaining.

CITY COUNCIL REPORTS

9. **Mayor Jim Wood** – no report due to time
10. **Deputy Mayor Jack Feller** – no report due to time
11. **Councilmember Gary Felien** – no report due to time
12. **Councilmember Jerome Kern** – no report due to time
13. **Councilmember Esther Sanchez** – no report due to time

ADJOURNMENT

After a moment of silence for Diane Nydegger, who passed away, **MAYOR WOOD** adjourned this joint meeting of the Oceanside City Council, Community Development Commission, Small Craft Harbor District Board of Directors and Oceanside Public Finance Authority at 8:23 PM on January 2, 2013. [The next regular meeting is scheduled for 2:00 PM on Wednesday, January 16, 2013].

APPROVED BY COUNCIL/CDC/HDB/OPFA:

Zack Beck
City Clerk, City of Oceanside