



CITY OF OCEANSIDE

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

April 18, 2012

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**
Barbara Riegel Wayne

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, April 18, 2012.

2:00 PM - ROLL CALL

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.

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

City Attorney Mullen titled the following items to be heard in Closed Session:
Items 2(A), 2(B) and 3. [Item 1 was not heard]

[Closed Session and recess were held from 2:03 P 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]

No closed session held

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

A) 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

Item discussed; no reportable action

B) Property: 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 Sudberry Properties, Inc.; Negotiator for the City: Douglas Eddow, Real Estate Manager; Under Negotiations: Price and terms of the disposition of real property

Item discussed; no reportable action

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

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (SECTION 54956.9)

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

Item discussed; no reportable action

4:00 PM – ROLL CALL

MAYOR WOOD reconvened the meeting at 4:02 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 4-6]

The items listed on the Consent Calendar may be enacted by a single vote. There will be no separate discussion of any Consent Calendar items unless requested by members of

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

The following Consent Calendar items were submitted for approval:

4. City Council/Harbor/CDC/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 December 14, 2011, 2:00 p.m. Regular Meeting, and the January 4, 2012, 2:00 p.m. Regular Meeting
5. 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)
6. City Council: Adoption of resolutions initiating the proceedings for renewal of the City's eleven Landscape Maintenance Assessment Districts for FY 2012-13, and setting a public hearing for May 16, 2012, at 5:00 p.m. for the Del Oro Hills, Douglas Park, Guajome Ridge, Mar Lado Highlands, Mission Meadows, Peacock Hills, Rancho Hermosa, Santa Fe Mesa, Sunburst Homes, Sunset Hills, and Vista Del Rio Landscape Maintenance Districts

Del Oro Hills

Resolution No. 12-R0224-1, "...directing the City Engineer to prepare a report on the fiscal year 2012-2013 renewal of the Del Oro Hills Landscape Maintenance District, Assessment District 1-1987"

Resolution No. 12-R0225-1, "...approving the City Engineer's 2012-2013 fiscal year report on the Del Oro Hills Landscape Maintenance District, Assessment District 1-1987"

Resolution No. 12-R0226-1, "...declaring its intention to levy and collect assessments for fiscal year 2012-2013 within the Del Oro Hills Landscape Maintenance District, Assessment District No. 1-1987 and setting a public hearing on the proposed assessments"

Douglas Park

Resolution No. 12-R0227-1 "...directing the City Engineer to prepare a report on the fiscal year 2012-2013 renewal of the Douglas Park Landscape Maintenance District, Assessment District 5-1981"

Resolution No. 12-R0228-1 "...approving the City Engineer's 2012-2013 fiscal year report on the Douglas Park Landscape Maintenance District, Assessment District 5-1981"

Resolution No. 12-R0229-1 "...declaring its intention to levy and collect assessments for fiscal year 2012-2013 within the Douglas Park Landscape Maintenance District, Assessment District No. 5-1981 and setting a public hearing on the proposed assessments"

Guajome Ridge

Resolution No. 12-R0230-1 "...directing the City Engineer to prepare a report on the fiscal year 2012-2013 renewal of the Guajome Ridge Landscape Maintenance District, Assessment District 1-1989"

Resolution No. 12-R0231-1 "...approving the City Engineer's 2012-2013 fiscal year report on the Guajome Ridge Landscape Maintenance District, Assessment District 1-1989"

Resolution No. 12-R0232-1 "...declaring its intention to levy and collect assessments

for fiscal year 2012-2013 within the Guajome Ridge Landscape Maintenance District, Assessment District No. 1-1989 and setting a public hearing on the proposed assessments”

Mar Lado Highlands

Resolution No. 12-R0233-1 “...directing the City Engineer to prepare a report on the fiscal year 2012-2013 renewal of the Mar Lado Highlands Landscape Maintenance District, Assessment District 1-1988”

Resolution No. 12-R0234-1 “...approving the City Engineer’s 2012-2013 fiscal year report on the Mar Lado Highlands Landscape Maintenance District, Assessment District 1-1988”

Resolution No. 12-R0235-1 “...declaring its intention to levy and collect assessments for fiscal year 2012-2013 within the Mar Lado Highlands Landscape Maintenance District, Assessment District No. 1-1988 and setting a public hearing on the proposed assessments”

Mission Meadows

Resolution No. 12-R0236-1 “...directing the City Engineer to prepare a report on the fiscal year 2012-2013 renewal of the Mission Meadows Landscape Maintenance District, Assessment District 2-1979”

Resolution No. 12-R0237-1 “...approving the City Engineer’s 2012-2013 fiscal year report on the Mission Meadows Landscape Maintenance District, Assessment District 2-1979”

Resolution No. 12-R0238-1 “...declaring its intention to levy and collect assessments for fiscal year 2012-2013 within the Mission Meadows Landscape Maintenance District, Assessment District No. 2-1979 and setting a public hearing on the proposed assessments”

Peacock Hills

Resolution No. 12-R0239-1 “...directing the City Engineer to prepare a report on the fiscal year 2012-2013 renewal of the Peacock Hills Landscape Maintenance District, Assessment District 1-1977”

Resolution No. 12-R0240-1 “...approving the City Engineer’s 2012-2013 fiscal year report on the Peacock Hills Landscape Maintenance District, Assessment District 1-1977”

Resolution No. 12-R0241-1 “...declaring its intention to levy and collect assessments for fiscal year 2012-2013 within the Peacock Hills Landscape Maintenance District, Assessment District No. 1-1977 and setting a public hearing on the proposed assessments”

Rancho Hermosa

Resolution No. 12-R0242-1 “...directing the City Engineer to prepare a report on the fiscal year 2012-2013 renewal of the Rancho Hermosa Landscape Maintenance District, Assessment District 3-1982”

Resolution No. 12-R0243-1 “...approving the City Engineer’s 2012-2013 fiscal year report on the Rancho Hermosa Landscape Maintenance District, Assessment District 1-1982”

Resolution No. 12-R0244-1 "...declaring its intention to levy and collect assessments for fiscal year 2012-2013 within the Rancho Hermosa Landscape Maintenance District, Assessment District No. 1-1982 and setting a public hearing on the proposed assessments"

Santa Fe Mesa

Resolution No. 12-R0245-1 "...directing the City Engineer to prepare a report on the fiscal year 2012-2013 renewal of the Santa Fe Mesa Landscape Maintenance District, Assessment District 2-1987"

Resolution No. 12-R0246-1 "...approving the City Engineer's 2012-2013 fiscal year report on the Santa Fe Mesa Landscape Maintenance District, Assessment District 2-1987"

Resolution No. 12-R0247-1 "...declaring its intention to levy and collect assessments for fiscal year 2012-2013 within the Santa Fe Mesa Landscape Maintenance District, Assessment District No. 2-1987 and setting a public hearing on the proposed assessments"

Sunburst Homes

Resolution No. 12-R0248-1 "...directing the City Engineer to prepare a report on the fiscal year 2012-2013 renewal of the Sunburst Homes Landscape Maintenance District, Assessment District 1-1980"

Resolution No. 12-R0249-1 "...approving the City Engineer's 2012-2013 fiscal year report on the Sunburst Homes Landscape Maintenance District, Assessment District 1-1980"

Resolution No. 12-R0250-1 "...declaring its intention to levy and collect assessments for fiscal year 2012-2013 within the Sunburst Homes Landscape Maintenance District, Assessment District No. 1-1980 and setting a public hearing on the proposed assessments"

Sunset Hills

Resolution No. 12-R0251-1 "...directing the City Engineer to prepare a report on the fiscal year 2012-2013 renewal of the Sunset Hills Landscape Maintenance District, Assessment District 2-1982"

Resolution No. 12-R0252-1 "...approving the City Engineer's 2012-2013 fiscal year report on the Sunset Hills Landscape Maintenance District, Assessment District 2-1982"

Resolution No. 12-R0253-1 "...declaring its intention to levy and collect assessments for fiscal year 2012-2013 within the Sunset Hills Landscape Maintenance District, Assessment District No. 2-1982 and setting a public hearing on the proposed assessments"

Vista Del Rio

Resolution No. 12-R0254-1 "...directing the City Engineer to prepare a report on the fiscal year 2012-2013 renewal of the Vista Del Rio Landscape Maintenance District, Assessment District 1-2001"

Resolution No. 12-R0255-1 "...approving the City Engineer's 2012-2013 fiscal year report on the Vista Del Rio Landscape Maintenance District, Assessment District 1-2001"

Resolution No. 12-R0256-1 "...declaring its intention to levy and collect assessments

for fiscal year 2012-2013 within the Vista Del Rio Landscape Maintenance District, Assessment District No. 1-2001 and setting a public hearing on the proposed assessments"

COUNCILMEMBER SANCHEZ moved approval of the Consent Calendar [Items 4-6].

COUNCILMEMBER KERN seconded the motion.

Motion was approved 5-0.

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.

7. **City Council/CDC: Adoption of a resolution forgiving one-fifth of the \$606,380 forgivable loan to the California Surf Museum for the renovation of the premises at 312 Pier View Way, reducing the balance by \$121,276, from \$363,828 to \$242,522**

CURTIS JACKSON, Property Agent, is requesting Council approval of a resolution to forgive 1/5 of the \$606,380 forgivable loan made to the California Surf Museum for renovations of 312 and 314 Pier View Way.

In 2008, the Community Development Commission entered into a 5-year lease agreement with the California Surf Museum and agreed to provide a 5-year forgivable loan to renovate the premises. As a condition of the lease and loan, California Surf Museum agreed to provide a variety of exhibitions and events, as well as meet other annual performance standards. During the first 2 years of the lease term, California Surf Museum satisfied its performance criteria. On December 8, 2010, and May 18, 2011, the CDC approved forgiveness of \$121,276 of the loan each time, leaving a balance of \$363,828 remaining to be forgiven.

Based on California Surf Museum's accomplishments over the past year, staff recommends that Council adopt the resolution to forgive another \$121,276. Forgiveness of the loan, pursuant to a pre-existing CDC agreement, is not prohibited by AB 1X26.

COUNCILMEMBER SANCHEZ moved approval of [**Resolution No. 12-R0257-3**, "...approving and authorizing forgiveness of one-fifth of the \$606,380 forgivable loan made by the Community Development Commission to the California Surf Museum to renovate the building at 312 Pier View Way and provide community activities for the benefit of the citizens of Oceanside"], reducing the balance by \$121,276, from \$363,828 to \$242,522.

COUNCILMEMBER KERN seconded the motion. Isn't this Redevelopment property? He's leery of what our authority is about making this decision.

CITY ATTORNEY MULLEN responded the loan is in the name of the CDC, so the CDC is the party that's forgiving the loan. That's the action before Council. The property was part of those transfers in March of 2011, so technically it's owned by the City.

KATHY BRANN, Redevelopment Manager, stated we did numerous transactions back in March where we transferred a number of the properties over to the City. Some were with Deeds of Trust and some were just Quit Claims. Right now, the way we see it, they're City-owned properties.

CITY ATTORNEY MULLEN stated that could be an issue in the subsequent wind-down of the Redevelopment Agency. The Auditor/Controller in the Department of

Finance could look at those transactions, but as of today, it's owned by the City.

DEPUTY MAYOR FELLER asked if there are 2 years left of payments and that is only on the tenant improvements. We're always going to own the building, right?

MS. BRANN responded yes.

Motion was approved 5-0.

8. **City Council: Authorization to negotiate a lease agreement with The Tin Fish as the food concession operator of the building premises and Pier Plaza area located at 302 N. The Strand, beneath the Oceanside Municipal Pier**

DOUG EDDOW, Real Property Manager, stated this item is to get approval to negotiate with Tin Fish for the space previously occupied by McDonald's at the base of the pier. In 1996, the City entered into a lease with McDonald's to operate a food service facility. In 2010, McDonald's terminated the agreement. Since that point in time, the place has been vacant. Staff decided they needed to issue an RFP (Request for Proposals) to find another food service provider. We went through two RFPs. The first one had to be cancelled because at one time they thought that area might be suitable for development of restrooms and that would be done through the Redevelopment Agency. Since the agency has gone away, the RFP was reissued, and we received 9 candidates. We had a process where we narrowed it down to 3 candidates, and Tin Fish was the unanimous choice of the panel selecting the proposal.

Tin Fish has operated numerous similar facilities across the country. They have one at the end of the Imperial Beach Pier, and we thought that was valuable for the City. We also like the fact that they're well financed and willing to provide a substantial amount of money to rehab the site. We are asking for authority to proceed to negotiate a lease agreement with them.

JOSEPH MELLUSO, Creator of Tin Fish, thanked Council for having them as an option for the City. They put a lot of effort, passion and love into their restaurants. He personally goes and opens every one of them. When they started in Imperial Beach, he wound up being acknowledged as Business Man of the Year. They became sponsors of the 4th of July fireworks and never said no to anyone who came in for a donation. They became part of the community and various community organizations. He served on the Marketing Advisory Committee for the Port of San Diego for two terms. He was also Vice President of the Chamber of Commerce in Imperial Beach for two terms. He listed other locations Tin Fish has. He gave the Clerk packages he's put together. They'd like to be open by 4th of July weekend. He's been working with the City to get that done.

COUNCILMEMBER KERN asked what we are looking at as far as timing.

MR. EDDOW responded if we get authorization to proceed, we need to negotiate a lease agreement. Hopefully that won't take very long. Once that happens, we'll have to get a building permit. The improvements are going to be done in stages because whatever they want to do in totality can't be done by July 4th. We're hoping to put them in there before the end of summer.

COUNCILMEMBER KERN asked if they phase it, will they have some type of limited operation for the summer? Coming from Imperial Beach, they must know how seasonal this is and he'd hate to have you miss the season.

MR. MELLUSO responded our intention is to improve the footprint of the structure to operate out of the kitchen. We also want to ask for a second Coastal permit to improve the planters so we have outdoor raised seating with very high quality glass and tenting over it to provide service during inclement weather. As soon as we have a lease, we're going to execute everything really fast. Our contractor believes he can be complete in 6 weeks. Everyone that is on our team knows the quality of work he likes.

We feel confident we can achieve that. We would first focus on the structure and building out the site, and then we would improve the plaza area at a later date.

COUNCILMEMBER KERN moved approval of [authorization to negotiate a lease agreement **[Document No. 12-D0258-1]** with The Tin Fish as the food concession operator of the building premises and Pier Plaza area located at 302 N. The Strand, beneath the Oceanside Municipal Pier].

COUNCILMEMBER SANCHEZ seconded the motion.

COUNCILMEMBER KERN asked if the Local Coastal Permit is within our Local Coastal Plan.

SHAN BABICK, Associate Planner, responded what they're doing initially wouldn't require a Coastal Permit. The tenting and so forth that they want to do would trigger a Coastal Permit. They can go in and do their initial work and get the Coastal Permit later.

DEPUTY MAYOR FELLER asked what percentage we're getting from the bait shop, etc.

MR. EDDOW responded they vary from 6-10% of their gross revenue.

DEPUTY MAYOR FELLER asked if that is based on time of year.

MR. EDDOW responded it's an annual gross revenue amount. We could structure it a little bit differently so we can help them out during the leaner winter months and get a little bit more during the summer months. It will average out to that amount.

Motion was approved 5-0.

CITY COUNCIL REPORTS

9. **Mayor Jim Wood**

MAYOR WOOD enjoyed his trip to Japan and will be going to Washington D.C. to see his first grandchild.

10. **Deputy Mayor Jack Feller**

DEPUTY MAYOR FELLER attended the luncheon at the Police Department. Next Saturday is the grand opening of Biloxi Blues at the Brooks Theater. We have the Relay for Life at MiraCosta and the Oceanside High School Pirate Golf Classic next weekend.

11. **Councilmember Gary Felien**

COUNCILMEMBER FELIEN attended the KOCT debate on Proposition F. Councilmember Sanchez was a no-show, and he looks forward to debating her eventually.

12. **Councilmember Jerome Kern**

COUNCILMEMBER KERN had his first grandchild two weeks ago. He will be attending the Oceanside High School Golf Classic.

13. **Councilmember Esther Sanchez**

COUNCILMEMBER SANCHEZ gave her opportunity to debate Councilmember

Felien on Proposition F to a private citizen because they need to be heard from as well.

CLOSED SESSION REPORT

14. Closed Session report by City Attorney

CITY ATTORNEY MULLEN reported on the items discussed in Closed Session: Items 2(A), 2(B) and 3. [Item 1 was not discussed]

MAYOR AND/OR COUNCILMEMBER ITEMS

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

MAYOR WOOD only has one. He put it in everybody's box. There are other ones in the future, but this one came forward because they didn't have a quorum. He **moved** to appoint William McDowell to the Rehabilitation Loan Review Committee as a regular, replacing Robert Schaffer, who moved out of the area.

COUNCILMEMBER KERN seconded the motion.

REHABILITATION LOAN REVIEW COMMITTEE
Appoint William McDowell as Regular
(Replacing Robert Schaffer)

Term Expires
May 24, 2015

Motion was approved 5-0.

[Recess was held from 4:29 PM to 5:00 PM]

5:00 – ROLL CALL

Mayor Wood reconvened the meeting at 5:00 PM. All Councilmembers were present.

INVOCATION – Pastor Jonathan Gleason

PLEDGE OF ALLEGIANCE – Lisa Obregon and Jeremy Shreve

PROCLAMATIONS AND PRESENTATIONS –

Proclamation – National Drowning Prevention Month
Proclamation – Purple Heart City
Presentation – Update on San Diego International Airport by Lloyd Hubbs
[Presentation – Mayor's Youth Sports Recognition and Appreciation Award]
Presentations were made

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

JOAN BRUBAKER, 1606 Hackamore Road, stated the position of City Clerk is being paid around \$150,000 per year and to replace that with a \$50,000 job and an assistant, with temporary help, is quite a shift. She asked voters to think about the fact that the City Clerk's office is responsible for some very important decisions to do with our elections. It's a responsible position and needs seasoned help, not something that is

temporary. Even though it would offer a great savings to help with the budget problem, she would hope that the choices made would exempt the City Clerk's office. To have poorly executed, inefficient, inaccurate work done by the office is going to present a problem. Since we're going to have more elections than we have in the past, it's going to be twice as important.

JIMMY KNOTT, 127 Sherri Lane, referenced the April 17th budget workshop and stated the public's right to vote on whether or not they desire a sales tax increase is not just a solitary issue that Councilmembers consider. The public deserves the right to instruct their representatives on this important item and not to have Councilmembers play political games. If we impose a sales tax, it would be mostly paid by our visitors, and we could save essential services and prevent the destruction or elimination of our fire, police, parks, pools, senior centers, etc.

A Councilmember used the term "efficiency". Unless we technologically upgrade our whole City dramatically, this efficiency is a dream word. We are at the highest and best utility of our personnel. We could designate a good portion of the sales tax to cover our PERS account and not risk bankruptcy or insolvency. Certain Councilmembers want to even politicize this because, if it wasn't covered, then they have a political game to play. Let the voters have a right to determine what they want to do, and don't play political games. We've had enough of that.

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 Local Coastal Program Amendment (LCPA11-00002) and Zone Amendment (ZA11-00004) to the City's Sign Ordinances including: repealing Article 33 Signs, of the 1986 Zoning Ordinance, modifying Article 33 of the 1992 Zoning Ordinance and establishing the amended text as part of the implementing document of the Local Coastal Program to: ensure regulation of signs in a constitutional manner, in accordance with case law that has developed since the approval of Article 33; update and/or clarify existing signage definitions, including but not limited to animated, billboard, digital display and electronic message signage; and distinguish applicable signage regulations on private and on City property, including the potential for approval of digital display (electronic message) signs and digital display (electronic message) billboards; and introduction of two one ordinances and adoption of a resolution to effect these amendments – Sign Ordinance Local Coastal Program Amendment and Zone Text Amendment/Citywide – Applicant: City of Oceanside (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, Felien and Kern reported contact with staff, public, and sign companies.
 - C) Secretary presents correspondence and/or petitions – correspondence from the California Institute of Technology and a packet from Kevin and Patricia Brown. Council was provided with copies.
 - D) Testimony, beginning with:

AMY FOUSEKIS, Principal Planner, stated this proposal involves amendments to the City Sign Ordinances and Local Coastal Program. Two ordinances are currently utilized to regulate sign design. The 1986 Sign Ordinance is being used on properties within the coastal areas, excluding downtown. The 1992 Zoning Ordinance is utilized for non-coastal areas and in the downtown area. Both of these ordinances have not been comprehensively updated since their adoption and they are in need of revision. Also, use of multiple sign ordinances has proven to be confusing and cumbersome in implementing them.

The Zoning Text Amendment, Local Coastal Amendment, was initiated in January to address existing sign issues. A workshop and a Planning Commission hearing were held in January and February, respectively. The process involved Planning Commissioners, staff, members of the public and expert legal counsel.

The primary goals in developing a revised Sign Ordinance are to ensure regulation of signage within the City in a constitutional manner; distinguish standards for regulating signs on private and City-controlled property; set parameters for technologically advanced sign solutions, including digital signage; and to update the ordinance format, definitions and regulations. As a secondary goal, we strived to reconcile the existing ordinances and utilize a single ordinance as the implementing tool Citywide.

A draft was prepared and presented to the Planning Commission during the workshop. We received input from both the public and the Planning Commission. We returned on February 13th, at which time the Planning Commission considered the draft and endorsed the new sign ordinance, which included revisions to address constitutionality issues, onsite digital signage, pedestrian-oriented digital signage within the right-of-way as part of the kiosk program, and a ban on feather signs.

The Planning Commission recommended a certain number of changes to be incorporated in the draft ordinance, including allowing commercial mascot signage on private property; adding a few parameters for on-site digital signage, including a 1,000 separation between digital signs; removal of the limits on the hours of operation; and reduction of the digital message dwell time from 8 seconds to 4 seconds.

The Planning Commission expressed concerns over aesthetic and traffic safety issues with regard to billboard signage and recommended that those provisions pertaining to billboards not be included as part of the amended ordinance. They did recommend that, should the Council decide to incorporate billboard signage on City-controlled property, they consider a trade or exchange of existing static signs at a 1:1 ratio with digital signs.

The draft ordinance before Council this evening does not include the 3 changes that she just mentioned. Staff's position is that, with respect to the commercial mascot signage, it has the potential of presenting an enforcement challenge as Planning Commission's recommendation was to limit it to private property. Second, we feel that commercial mascot signage has the potential of presenting safety and access issues. In most cases sign spinners and twirlers find themselves in the right-of-way on sidewalk areas. They also have the potential of impacting the City image.

Regarding inclusion of a 1,000-foot separation between digital signs on private property, staff feels that it presents an advantage to a limited number of businesses to the disadvantage of those that would not be able to come in and obtain a digital sign shortly after an adoption of an ordinance that would have allowed for that to happen. This first-come-first-served type of approach does not seem to address conceptual, land-use and site-specific impacts, and staff felt that by evaluating the distance requirements between signs as part of the comprehensive sign package, it would serve that purpose a lot better.

With regard to eliminating digital signage and hours of operation, staff finds that having the hours of operation for that type of signage limited between 11:30 p.m. and 6:30 a.m. would address night sky issue to some extent and would also address business operation concerns by business owners. Reduction of the 8 second dwell time to 4 seconds would not be consistent with the Federal Highway Administration recommendations or with expert's recommendations for use of a minimum dwell time.

As mentioned, the Planning Commission was concerned over safety and aesthetics. Staff's position is, if the Council approves a sign ordinance that would allow

for the replacement of existing static signs with digital signs, that would reduce the number of existing signs. Federal and State regulations, as well as technical expertise, could be employed to adequately address safety issues as part of the evaluation of digital signs on City property. They will be subject to CEQA (California Environmental Quality Act) compliance. Therefore, environmental concerns would be addressed as part of that process, and additional restrictions and conditions could be placed on sign design and aesthetic issues as part of the lease or license agreement through the City.

There would be financial benefits to the City as those signs would be located on City property. The proposed sign regulations insure regulation of signs in a constitutional manner by not favoring commercial over non-commercial speech, and by clarifying the extent of discretionary review, permit and approval. They distinguish regulatory from proprietary signage by separating the regulations into two articles: Article 33(a) being the one that addresses regulations on private property, and Article 33(b) being the one on City-controlled property. It clarifies the permitted sign types, definitions and regulations and allows for innovative sign design solutions through a comprehensive sign packet and the parameters that have been included as part of the new ordinance. On-site digital signs could be allowed on private property.

As part of the existing kiosk program, pedestrian-oriented digital signs can also be provided, subject to approval by the City Manager's designee and subject to compliance with CEQA requirements.

It establishes parameters for sign technology and promotes innovative sign design solutions on City-controlled property by potentially allowing digital display electronic boards and requiring a replacement of 2:1 ratio with existing static boards. It requires an RFP process, CEQA compliance, compliance with State regulations and City ordinance compliance, as well as subject to lease and contract agreements with the City.

Billboards on City controlled property would also be subject to site-specific sign design to address location, design and separation of digital signs. That would be based on roadway designs, speeds, traffic volumes, site distance and land-use contacts. Digital sign review and parameters would address issues of sequential messages, billboard proliferation and light solutions. It would not allow digital billboard sign over-concentration and as a result, visual blight. It could potentially permit controlled and well-designed commercial messages, though it would also include public service announcements.

Staff is recommending that Council introduce an ordinance approving amendments to Article 33 of the 1992 Ordinance, repeal Article 33 of the 1986 Ordinance, establish Articles 33(a) and 33(b) as the new Sign Ordinance citywide and adopt a resolution approving a Local Coastal Program establishing the two Articles as the zoning regulations within the Coastal Zone. A computer graphic was used to show the key points that the proposed Zoning Ordinance incorporates. Because this involves a Local Coastal Plan amendment, the Zoning Ordinance would have to return back for a second reading if it was to be approved tonight, and it would become effective 30 days after the second reading. The portion that would control signage within the Coastal Zone would be forwarded to the California Coastal Commission for approval and would be implemented after their approval.

Public input

DAVID NYDEGGER, President and CEO of the Oceanside Chamber of Commerce, stated this issue is near and dear to his heart. The three areas that the Chamber is particularly concerned with are the commercial mascot signage centers, feather signs and the light-emitting diode signs or LED signs. We surveyed our 650 members, and the results that came back regarding the commercial mascot signs were that 95% of our members wanted to keep them. With regard to the feather signs, 93% wanted to keep them. He urged Council to consider this carefully. They understand that the feather signs can be blight and might look ugly, but if you want to really find ugly,

find a vacant building with boards over the windows in a shop downtown with nothing but dirt and trash in front of the store. Let's keep our businesses open. The digital signs for the City are important. It provides a unique opportunity for the City and critical revenues, as well as the ability to assist law enforcement activities. We're in a digital age, and technology is increasing. We have to address it now.

JIMMY KNOTT, 127 Sherri Lane, thanked staff for listening to the public on this. Ms. Fousekis in particular took time to consider the professional, technological, public safety and scientifically valid studies and also examined other municipalities and how they integrated all of these issues. She worked closely with the consultants and staff and personally called interested parties at home to get clarification and input. Out of that came this proposal. There wasn't just one meeting, but numerous meetings. This proposal represents a balance. It doesn't provide everyone with everything they want, but it's a fair and equitable proposal. He urged Council to adopt it.

CARL HENGER, 3938 San Lorenzo Court, owns Liberty Tax Services, which has 3 offices in Oceanside and has been here for 9 years. 80% of our marketing is sign wavers. We interview every person that comes into our office, and over 90% of them say that the reason they first came to us is because they saw the sign wavers everyday as they drove by. It is a big part of our business. Last season we hired over 33 part-time sign wavers for the season. Most of those people are people who can't get a job. Some have been homeless and some have been struggling with foreclosures and are working part-time.

There are 2 arguments. One is safety. Liberty Tax Service has 4,000 offices in the United States, has been around for 14 years, and there has not been one reported accident caused by distraction from sign wavers. The other is blight. Yes, it's messy, but messy is associated with a developing, ever-changing, growing community. You can't restrict that kind of growth.

RUBEN ALMADER, 1215 Division Street, stated the Crown Heights and Eastside neighborhoods have been struggling with problems of crime and many other issues, and we've been awaiting a positive change for some time like crime reduction and revitalization. With gigantic billboards and advertising targeted for Oceanside, this would only add to the disparity we have. As it is, we've suffered waiting for a positive change. In this endeavor, the entire community of Oceanside would be suffering the negative effects. The negative effects outweigh any positive financial gains in comparison to the residents who will suffer the impact. We want people to enjoy our City in all aspects. We want to continue to live here and not have to move away. Don't put a giant advertising sign instead of a park or landscaping, which our city deserves. He asked Council to turn this item down. He understands there has been a lot of hard work done on studies, but as a resident he doesn't see how it would help beautify our City at all.

JOHN MARTIN, Gems n Loans, 3753 Mission Avenue, has 4 sign spinners and tracks every new customer. Over 90% of our new customers tell us they've seen the sign spinners and come in. It's part of our business and advertising, but our sign spinners are mostly veterans who come out of Brother Benno's. They are people who have been unemployed for extended periods of time and have nowhere to go. We have one who has been with us for 2½ years and is now our greeter and security person at our front door. We keep them under control, and they're an integral part of our business. He has a friend who owns Copperwood Barber Shop who went to the Planning Commission and stated clearly that without a sign spinner, she would be out of business because her business cannot be seen by driving by. Please leave the sign spinners alone.

DENNIS SCHWANDER, 5042 Nighthawk Way, likes mascots and sign spinners. He has actually gone into companies because of the sign spinners. The feather flags are fine, and he doesn't think they are blight. Regarding digital billboards, he read from an article about light pollution. Light pollution is any adverse effect of light caused by

society. It is an increasing problem for observatories everywhere. One of the reasons Palomar Mountain was selected as a sight for the 200 inch telescope was its dark skies that would allow observation of the faintest galaxies without interference of city lights. In 1934, rapid urbanization of Southern California has resulted in a significant increase in the amount of sky glow. If such light pollution continues to increase, it will seriously reduce the effectiveness of Palomar Observatory for many types of research. The increase of light pollution over time makes the night sky harder and harder to see, not only for astronomers working at Palomar, but for everyone all over Southern California. Cal Tech and the Palomar Observatory have worked and will continue to work with City, County and tribal governments to diminish the effects of local light pollution.

Oceanside has a Light Pollution Ordinance in Chapter 39 of the City Code. We've mentioned the Sign Ordinance a lot, but we haven't talked about the City Code regarding what we can and can't do with lights.

JEFF KNOWLES, Doctor's Express Urgent Care, 4171 Oceanside Boulevard, has a number of sign spinners who work for him part-time. A great majority of his sign spinners are college students. Some are married and ex-military and are the sole supporters for the family. He is opening Doctor's Express Urgent Care's throughout the County and has found the sign spinners have brought a significant amount of patients to us in Oceanside. A lot of the community didn't know that there was an urgent care available to them. He urged Council to think about the sign spinning. We've tried to make it pedestrian friendly, and we have nice signs. We make sure our staff knows to get out of people's way and not inhibit or obstruct traffic views or pedestrians. He asked Council to vote in favor of sign spinners.

REBECCA RAAB, 1245 Palomar Place, Vista, works as a sign spinner for Doctor's Express Urgent Care. The sign spinner job is the only job she's been able to find. Her husband is an ex-Marine who is going back to school, so her income is pretty much the only thing that pays their bills. She's not the only one. We carry out a very respectful program; we stay out of the public's way; and the signs are very clean. We wear vests to identify us and make sure cars and pedestrians can see us. She asked Council to vote to keep the sign spinners.

KEVIN BROWN, 2716 Norma Street, understands the City would like additional revenue and when ideas are presented to meet this goal they should be fully vetted. Some ideas will turn out good and others will not. The idea of leasing City-owned property for digital billboards is not one of the good ideas.

This ordinance as written puts the City at risk of litigation from competing outdoor advertising companies. This is why the proposed ordinance is a sweetheart deal for the existing billboard companies that already own signs in the City. They have an automatic advantage on a 2:1 swap deal. Therein lies the problem. The proposed ordinance could open the door for other billboard companies who have been cut out of this deal to mount constitutional challenges and sue Oceanside to allow additional billboards. Outdoor advertising companies, with their unlimited resources, have been suing cities across the Country in an effort to erect digital billboards. For cash-strapped cities such as Oceanside, fighting the billboard companies will be cost-prohibitive. Any potential revenue generated by leasing City-owned property will be lost in litigation costs. These well-funded billboard companies will win because they have the resources to outspend the City. Litigation involving large sign companies could actually cost the City additional money over and above any revenue derived from the leases.

The letter he submitted from attorney William Britton, an expert on sign law, has cited case law where this has occurred, and he has made the recommendation not to move forward with digital billboards on City-owned property, thus minimizing the legal and financial risk to the City with this ordinance. The wisest course of action for the City is to not allow digital billboards on City-owned property and to keep the existing ban on new billboards, thereby not opening the door to litigation and putting the City at risk legally and financially.

LISA BRUHN, 1222 Mariposa Road, Carlsbad, has been in sales and marketing for 23 years selling electronic equipment. By night she volunteers her time with the non-profit organization The International Dark Sky Association, founded by her father, who was an astronomer and based in Tucson, Arizona. She is President of the San Diego County section of that association, and we have representatives from Palomar Observatory, Mount Laguna Observatory, San Diego State University, Semper Energy/SDG&E, and the Lighting Design Organization. We work together to address light pollution issues throughout all of San Diego.

One of the biggest issues she has, aside from the dark skies issue, is the driver distraction issue. In a recent report, there were studies that show that 80% of crashes come from some form of driver distraction such as texting, eating, etc. Digital billboards are there for the sole purpose of distracting drivers to buy the product. At \$250,000, the purchasers of the digital billboards realize that it's a good investment. She urged Council to look at the safety issues as well as the dark skies and quality of life issues and not allow digital billboards within this community.

PATRICIA BROWN, 2716 Norma Street, stated people want to live in and visit Oceanside because we're blessed with scenic beauty. We have beautiful beaches, a great harbor and pier, and other great amenities. These are things other cities would kill to have and part of what is considered when people make everyday decisions about where to vacation, where to live and where to invest, based on what the communities look like. Attractive communities draw people. If your community isn't unique, you have no competitive advantage for tourism over any other destination. The more a community does to protect and enhance its beauty, the more reason there is to visit there. Billboards turn unique places into just any place. They look the same no matter where they are. In contrast, areas that are free of billboards are areas that people want to go to. She urged Council not to jeopardize the City's revenue sources from tourism and property taxes by allowing digital billboards on City property.

LISA HAMILTON, 323 South Ditmar Street, represents herself and the Oceanside Coastal Neighborhood Association (OCNA) tonight. The OCNA Board took the position of supporting Kevin Brown in opposing digital billboards. We discussed the light pollution issue, but beyond that we discussed the problem of digital billboards that are not associated with better quality places. They show up in the most strip-mall developed areas. She knows they bring revenue, but once they're there, they are there forever. They are 24 hours a day, unlike the light pollution that's generated by the high school football field lights or other playing field lights. We also supported the sign twirlers because we realize that is a job that is available to people who do not have other options. She doesn't have a problem with feather signs either as long as they're well maintained. If they're not in places where they obstruct driver's vision, she doesn't have a problem with them. She has a problem with the big digital billboards, not the small digital signs that are available to private businesses. Those are not distracting like the giant digital billboards. That is the position the Board of OCNA took.

CHARLYN DUVIC, 1329 Dubuque Street, is a member of the Eastside Association. She is opposed to digital billboards. We are developing into a tourist community. It's no longer a little suburb or a hidden community. People from the surrounding communities come to Oceanside for relaxation and to take advantage of the beautiful scenery and things that are not available elsewhere. The tourist industry has taken off here, and 17% of our industry is now from Europe. She asked Council to vote no on digital signs.

TANNER WEBB, 519 South Freeman Street, stated it seems this ordinance is causing more problems than it would be solving. He is a sign spinner and searched every day for a job, but he couldn't find one until this one. He relies on this, and it's how he pays his bills and keeps from being homeless. He has a chance to make something of himself, and he asked Council not to take that away.

MARIA RUSSELL, 1323 Lemon Street, President of the Eastside Neighborhood Association (ENA), stated the Eastside neighborhood does not need another liquor store, check-cashing place or the proposed digital billboards. As a community organization, ENA prides itself on raising the bar in our neighborhood. We've worked diligently toward the betterment of all residents. As a realtor, one of her concerns is the possible further depreciation of property values in her neighborhood due to digital billboards. She saw a report that talked about how billboards affect economic prosperity. The study was conducted in Philadelphia. It combined U.S. Census data, local home prices, zoning and other things. It came back with a finding that in 2010 there was a \$30,000 drop in value of property within 500 feet of a digital billboard. She doesn't understand the degradation of our landscape. She agrees with the study. Open studies will always possess intangible values that are above and beyond the calculation of monetary values. It's beautiful here, why would we want to litter our City with these signs? She supports the twirlers but not the digital billboards.

MIKE CROGHAN, 4522 Coronado Drive, stated if the digital sign boards go up on City property in Oceanside, then the City has taken a stand not to be friends with the people who live in those neighborhoods. This is an opportunity for the Council to be a good neighbor and say no to digital sign boards. If the City is in financial trouble, then do something like raising taxes. Don't interfere in people's neighborhoods. For those of you who still think that a digital sign board is a good idea, he suggested putting a 40 inch television screen outside their bedroom and living room windows and let them glow all night for a week. Then come back and vote on whether they think a digital sign board is good in a neighborhood.

JOAN BRUBAKER, 1606 Hackamore Road, stated this is the second time this item has come before this body. She appreciates that the City needs money, but don't incorporate this because it's going to proliferate and cause a real headache financially and legally. Let's keep the signage more or less like it is now. There may be some tweaking necessary as we go down the road. The only ones that are offensive to her are the inflatable giants on the side of the road. That distracts her attention, just like the digitals are going to do to a great number of people while they're driving their automobiles.

FRANCIS KAZERSKI, 276 North El Camino Real, stated his greatest concern about these digital signs is distracted driving. He has a friend whose son was driving distracted and got into a head-on crash. He's alive; however, 2 people were killed in that crash, and he has to live with the memory of those 2 people who died based on distracted driving. Everything has to have its own merits. Every sign has to be judged on its own merits.

SUZANNA RAY, 200 North El Camino Real, stated staff has worked very hard to make an all-in-one ordinance, but she suggested each item be considered as a separate action. By this bill/ordinance, you are required to accept or reject the whole package. She asked Council to reject this package and ask staff to come back with a separate action for each and every correction to our signage ordinance.

JOHN DUONG, 19320 Harborage Way, Torrance, represents Clear Channel Outdoor. Clear Channel Outdoor is one of the larger outdoor sign companies in the country. We're publicly traded and are in about 49 of the 50 largest markets in the country. Our digital assets are a growing demand from the private and the public sector. Because of our engagement with the FBI over the last 3 years on about 60 cases, we've helped capture 42 of those 60 most wanted in the country. Our systems are used for emergency services, emergency preparedness and emergency response, as well as Amber Alerts. All of these are on a primarily pro bono basis.

We've made other charitable contributions to non-profit groups in the community. We support the City's endeavor. One item that concerns us is Article 33(b), Section 118, which essentially requires a take-down requisite for participation in the RFP process. We'd like Council to reconsider that option because it would preclude some,

like his company and others who do not have signs in the community, from participating and perhaps minimize the City's potential to capture the most value out of the City assets. We submitted a formal letter to Council tonight, and he hopes Council will reconsider that, or at least allow an option for those who do not have signs to participate.

Regarding proliferation, perhaps the City can consider a cap on the number of signs in order to alleviate any concerns the community may have.

JAMES CARPENTIER is with International Sign Association (ISA), a company that represents a couple of hundred manufacturers and related industries in the State. He commended the Commission for recognizing signs as protected speech because that's really what it is first and foremost. That's throughout the Code, and it's critical. ISA supports the recommendations by the Chamber in particular. He represents the on-premise sign industry and not the off-premise industry.

We respectfully request that Council approve the ordinance as recommended by the Planning Commission, with the caveat that they consider some of the recommendations by the Chamber. Regarding the safety issue, digital signs have proven to be a distraction, as all signs are, otherwise you wouldn't see them. The distinction is that they are not dangerous. Danger is 4 seconds – texting is 4 seconds – digital signs are shown to be 2 seconds or less in study after study, which is the safety zone.

MARK KELEGIAN, Oceans 11 Casino, 121 Brooks Street, stated for the last several months we have been in favor of this sign ordinance. We believe that the on-site digital signs are good for business. We're one of the largest employers in the City, and we are in favor of this. The Planning Commission and the Planning Department staff differ on 3 points. One is the 1,000 foot limitation between on-site premise signs. He believes that to be appropriate and consistent with the Outdoor Advertising Act's limitation on the distances between billboards. He believes having that same limitation in place for on-site premise signs will create an orderly environment.

The other issue is the hours of operation. The limitation of 6:30 a.m. to 11:30 p.m. is somewhat capricious. He doesn't see the connection. There are many businesses in the City that are open well past 11:30 p.m., including the casino, hospitals and other emergency services. It's appropriate to allow the businesses to decide for themselves their hours of operation. These signs are very expensive, and we're all intent on giving them the longest life possible. He asked that the limitations on the hours be removed.

With respect to the dwell time, a survey conducted by the Planning Commission of various cities in the Southern California area shows clearly that there are many cities that are at 4 second dwell times and some are at 8 second dwell times. From a safety standpoint, arguments can be made on both sides. He would like to have it reduced to 4 seconds because of Interstate 5. We're up and down a lot because we have a lot of overpasses. An 8 second dwell time would be great if it was flat land. But since we go up and down a lot, we'll have an opportunity to get more messages out there in a shorter period of time.

TOM MISSIT, 1817 Lago Vista, has been a resident here for 45 years. He asked Council to approve the ordinance with some basic changes. He requested the removal of the take down in order to put up. He also requested that the City adopt the Caltrans regulations. They know what they're doing, and we should adopt their language. Three and a half years ago this Council asked for the public to come forward if they had any ideas on how to produce revenues for the City. He did that in 1997 with Signs of Support, which raised hundreds of thousands of dollars by putting signs on trucks. If the economy hadn't turned, we'd have been okay. This is a \$40,000,000 deal to the City over 25 years. The money will go up every year or so because of rate increases. He cannot see how anybody who is thinking about closing libraries and laying

off police officers can turn this deal down. There will be no signs on the beach or in the Eastside. The RFP process can be designed to hold the City harmless and indemnify them.

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

[Recess was held from 6:39 PM to 6:46 PM]

[Councilmember Kern returned to the meeting at 6:48 PM]

COUNCILMEMBER SANCHEZ attended the Planning Commission hearing and listened to the Planning Commissioners as they deliberated over this. They said they were not provided enough information, nor enough time, and they were very frustrated. She understands that this has been expedited at our request. The staff report packet includes Attachment No. 7, which is an analysis by an attorney named William Britton, who specializes in defending cities against lawsuits, especially by sign companies. That analysis was very persuasive in stating that our ordinance runs a very real risk of litigation and challenges based on the First Amendment. That is troubling her. Staff is recommending completely deleting our existing sign laws and then replacing them. This City went through a lot to clean itself up. We've come so far. We've cleaned up and banned a lot of things, including billboards.

We have a long-standing policy in the General Plan and our Land Use Element, which was adopted in 1986 and again in 1992, that consistently prohibited animated signs/billboards. It has consistently stated our goal, as a City, is the consistent, significant and long-term preservation and improvement of the environment, values, aesthetics, character and image of Oceanside as a safe, attractive, desirable and well-balanced community. The analysis makes a very strong point that these changes are inconsistent with our General Plan and Land Use Element. That concerns her.

We're running the real risk of litigation by very active sign companies. She recognizes the sign companies here tonight because she's done research on this, and she saw all of the court cases they are involved in all over this country, especially in Los Angeles. Los Angeles just paid \$2,100,000 to settle a 12-year-old billboard company lawsuit, added to the \$700,000 it cost the city to defend it. That comes to almost \$3,000,000. She also saw that right now Los Angeles has more than 20 lawsuits seeking to overturn the city's new ban since 2002. That's significant. Are we opening ourselves up to risks? We can't do that. It would risk our City's very limited resources.

If she were ever to think this was a revenue-producing activity, that's gone out the door. When she first looked at this, she did think of it as a potential for getting revenue for the City. In fact, she went to a presentation by the City of Sacramento. They did things differently and had a very public process. They had a committee that was formed and lasted 1 or 2 years. They did an RFP and said they were going to create an exception. They did not completely get rid of their existing law. They created an exception that was very narrowly tailored. They said they were going to take care of blight in Sacramento and produce revenue. They took down 17 signs to put up 4. They had \$183,000 signing bonuses per sign upon signing that contract. It was something like a 30-year contract. That's not what we have here. She's interested in trying to find ways to bring money to the City, but what we have here are some very real scenarios of being sued by one or several of these sign companies. They're here tonight to make sure they know what's going on.

She didn't start out looking at the legal analysis, even though she heard some of it up in Sacramento. Raising revenue is not a basis for defending a lawsuit successfully. That is not a legitimate governmental interest. The only interests the Supreme Court has recognized have been aesthetics and public safety, not making money. In fact, what this letter suggests, very persuasively, is that we will get into some trouble here.

She's had a chance to look at these cases and to listen to our consultant, who is

a prominent gentleman who can answer a lot of questions, but no one is going to guarantee us that we're not going to get sued. The only way that we can protect ourselves is, as staff put it, to leave it alone. Otherwise, as Mr. Britton says, this change undermines the goal of the General Plan's Land Use Element and would render suspect the City's narrow tailoring of its provisions regulating speech in its sign regulations. The proposed amendment would allow color changes in the form of differing messages appearing up to 10,800 times per day for one sign. There is no way that she wants to put our resources at risk.

As to the sign twirlers, she doesn't want to change anything. Having a job is a wonderful thing to have these days, and she doesn't want to do anything to jeopardize that. She doesn't know if there's a will on the Council to divide these two, the on-site and off-site. But she would make a motion that we bifurcate and that we vote no and turn down the off-site billboards. That is the wisest course in light of all of the advice we've gotten. Our own City Attorney has advised against this, as has our consultant. This is not a safe route to go. We've got too much potential for lawsuits. If we allow any new digital, that means the existing signs will probably sue us to allow them to go digital. They had a case against us in the 1990's that we lost. That's why we have 5 billboards. Also, if we allow digital anywhere, doesn't that open the possibilities of bringing a lawsuit through the back door? She'd like to see if there's a second on the notion of voting no on off-site signs.

COUNCILMEMBER FELIEN does not want to second at this time. He would hope that before anyone makes any motions, we can all hash this out. He is not opposed to where Councilmember Sanchez is trying to go; he's just not ready to debate a specific motion at this point. There are a lot of issues. He asked Councilmember Sanchez to hold off on a motion at this time.

COUNCILMEMBER SANCHEZ appreciates that. She's so concerned about getting in a position of being sued because we don't have millions of dollars to throw away.

COUNCILMEMBER KERN agrees we should bifurcate this. He sees this as 3 issues. We have the on-site signs, which most people seem to be against; the off-site signs, which are the big sticking point; and the feather signs and twirlers. He would like to just not deal with the twirlers and let them keep going. He doesn't like the feather signs, but doing business in town is tough so he would like to give them 90 days from today to work with staff, the Chamber of Commerce, and Code Enforcement to come up with rules. Council went through this once before with the A-frame signs downtown. We got rid of those free-standing A-frames and came up with rules. We can handle the feather signs if we come up with rules. He doesn't mind them when there are 1 or 2, and they are in good repair. The ones that annoy him are the ones that look like they've been up there for 3 months, and nobody has minded them. They look pretty ratty. He also doesn't like having 7 or 8 on a block.

This a tough time to do business, so his proposal would be to hold off any change in the feather sign ordinance for 90 days and get together with the business community and the Chamber of Commerce to come up with some rules for feather signs instead of just outright banning or allowing them. If we hold off on that, he thinks we can resolve it.

He does not mind digital on the on-site signs. Tri-City Hospital is going through a major remodel, and they're going to redo their sign. It would be an advantage to the community if Tri-City Hospital is allowed to go digital because their signage is messages to the community, such as shot clinics or even Amber Alerts, if they choose to do so. For the most part, they are a community asset, and they would give us community information. They aren't going to be advertising anything other than hospital-related issues. He is okay with allowing the digital for those uses.

He knows there is a fear that if we pass this there will be signs everywhere, but

there very few locations where these signs could be put up. For example, Ocean's 11 would not be advertising beer products. They would be advertising events at their particular venue, like a concert or a special in their restaurant. He has no problem with that and thinks the 4 seconds is fine. We are in a digital age, so we're updating them. Digital is coming. Eventually we will have digital signs because that will be the signage that you can get, and the other signage will probably go away. As time goes on, the new technology tends to take over and push the rest out.

Those are fairly simple issues for us to deal with: the on-site, the feather signs and the twirlers. The sticky one is the off-site signs. That is probably what gets most people riled up here because they try to compare us to Las Vegas or something else, which will never happen. There are very few limited spaces in town where you can actually put these signs. If you put them close to the freeway, not only do you have City ordinances, you have Caltrans to deal with. You have to adhere to Caltrans' standards. He thinks Caltrans standards say you have to go down to 9% power at night. In some of the stuff he's seen, they're actually less light-polluting than LEDs. When you get a white screen uplit with flood lights, it is much brighter than a channelized LED light. It's very directional, and it doesn't bounce up into the atmosphere. Technology has a way of dealing with that.

He's going to listen to his colleagues about the replacement: 2:1 or 1:1, capping that, etc. He's looking for input on that one. He thinks on 2 things we can come pretty close to agreement. The third one is what we need to work out.

COUNCILMEMBER FELEIN thinks Councilmembers Sanchez and Kern brought up valid points. The least difficult of these issues is the sign twirlers. He would support keeping them in place. In this time of recession and with the difficulty in finding jobs, any port in a storm. His son twirled signs for Liberty Tax Service. It is an entry-level job, and we need jobs in our community. It was said earlier that some may consider signs unsightly, but the most unsightly sign is seeing an empty storefront. One of the reasons he ran for office was to do anything he could to help our businesses and our community.

As it relates to the feather signs, Councilmember Kern had some excellent suggestions because once again, as many speakers brought up, aesthetics is an important concern in our community and how attractive we're going to be in order to attract tourists. He would be concerned about having unsightly signs that aren't well maintained and have been worn out. One option that was discussed was whether or not it's feasible for the feather signs to be displayed when the businesses are open and taken down when the businesses are closed. He would support some type of workshop or process to evaluate all of these issues and be as accommodating as possible to our business community.

The one that's come out of nowhere is the issue of the Palomar Observatory and the effect of light pollution. He's always been interested in the space program himself and follows those issues, so that struck a chord with him. He doesn't know if there's any expertise here that can tell us whether these digital signs create more light pollution than the traditional signs they would be replacing, and how would a digital sign in Oceanside, in terms of light pollution, compare to locations that are closer to Mount Palomar, such as Escondido or Temecula?

MS. FOUSEKIS can attempt to answer the question; however, it would not be site-specific to any one location. From what we have studied, we found out that the illumination of digital signs can vary widely. It would be up to an individual jurisdiction to limit that. We do have in place a Light Pollution Ordinance as part of our Municipal Code that establishes some standards, as well as prohibits billboards from being lit between midnight and sunrise. We feel fairly comfortable that between the regulations that we have in our Municipal Code, our Building Codes and the green Building Codes that have been put in place by the State, which we are enforcing right now, we should be able to address some of the illumination and lighting issues that may come up. We

also hope that as part of the evaluation of individual signs, we would be able to tap into expertise that would provide us with additional analysis, and we can do a comparison between what a potential sign illumination could be versus one that may already be constructed and from that gain a better understanding of what we're talking about before a sign could potentially be approved.

COUNCILMEMBER FELIEN stated one of the items dealing with the digital signs suggested that rather than reinvent the wheel, we adopt the Caltrans regulations that are already in place for the State. Would you have any concerns if we used that, or do you feel, based on the work by staff and the Planning Commission, that there were specific reasons to deviate from their regulations and have different timing and brightness?

MS. FOUSEKIS responded as some of our speakers have indicated, different cities have chosen to use different standards. Some cities have utilized the 6 second dwell time for digital signs and some have opted for the 8 seconds, which is what we are recommending. It would be consistent with the Federal Highway Administration and what is being recommended by experts who have done studies on driver distraction and safety. The Caltrans standards establish the minimums. If we were to go with those, then the Council may consider that to be the absolute minimum and allow for a different standard to be utilized, depending on traffic volumes, location, etc. As we pointed out in our presentation, the issue of safety is one that has not been conclusive. Different studies have come up with different outcomes. There is enough evidence that would require us to take a closer look on a case-by-case basis at specifics of a particular design and try to adjust that. Staff would still recommend the 8 seconds. We feel that would be appropriate here. The Caltrans standard of 4 seconds is the State minimum that has been established.

COUNCILMEMBER FELIEN stated we can't put aside the risk of litigation. That is a real issue and we have to structure our ordinance and our changes to accommodate that. As Councilmember Kern mentioned, trying to slice and dice this into the less or more risky positions makes sense. Councilmember Sanchez was going in that direction as well.

Dealing with on-site signs for businesses, if we simply did an ordinance that allowed them to convert to digital, would we be at any legal risk with that?

CITY ATTORNEY MULLEN responded there would still be risk, but it's a measure of how much risk there would be. If you were to prohibit, or continue the prohibition on billboards, but allowed digital on-site signage, he believes there is less of a risk. If you open up the ban on billboards to allow new billboards, there's probably more of a risk. He would refer to special counsel that the City retained to chime in on that.

RANDALL MORRISON, Special Counsel, stated there is only one billboard case decided by the US Supreme Court, and it's 100 pages long. There are 5 opinions. There's a block of 4 joined by 2 others that say if the City wants to ban billboards, it can. Billboards are different with their periodically changing message content. There are some other reasons that are also given. The element of periodically changing message content was correct in 1981, but with today's technology it's not true anymore. So now that one part of the reasons for saying the City can ban billboards is gone, are the other 3 reasons now still sufficient? That's the big issue that's looming out there right now.

The State law says that local governments can pass rules that are more restrictive than the State rules. Caltrans and State law call what we are calling digital billboards "message centers". Basically it means that if the time of changing the image is anywhere between 4 seconds and 2 minutes then they're going to call it a message center. Caltrans has distance separation rules for standard static billboards of 500 feet between 2 static boards. They also have a rule of 1,000 feet between message centers,

or digital billboards. What's the separation rule between a static billboard and a digital billboard? Caltrans' current interpretation in his opinion is 500 feet. The State Code is not clear in his view.

COUNCILMEMBER FELIEN stated going to the most difficult part, which is the off-site digital billboards, he will separate them into 3 parts for discussion. First are the ones we'd like to have on City-owned property so we can try to make some money. As it relates to that, if our risk of litigation is far greater than the income stream from having the billboards, it wouldn't make a lot of sense to go in that direction. That's the big wild card we have to try and get our arms around. Next would be signs that are already here that would want to be replaced. The third category is companies who currently don't have any signs in the City and would like to come in if we revise our ordinance.

In terms of the ratio of replacement of having a 2:1 reduction in existing signs to replace with a digital sign, as currently written it would exclude outside parties from coming in and putting in additional digital signs, is that correct?

CITY ATTORNEY MULLEN responded generally, yes. They would have to make arrangements with existing billboard companies, but as a general rule that's correct.

COUNCILMEMBER FELIEN stated we got a letter from Clear Channel Communications, who currently doesn't have a sign in Oceanside, expressing their concern on that process. That seems to be the first threat of litigation. In dealing with that, if we had the ordinance amended that had the 2:1 replacement ratio for existing signs, but we allowed companies that didn't have a sign to get one within existing zoning regulations, would that be acceptable or legally compliant to have one standard for people who have a sign already and a different standard for companies who don't have a sign?

MR. MORRISON can't recommend that because they're all in the same class. They're outdoor advertising people and the basic idea is that they have to all be treated identically. To have one set of rules for newcomers and a different set of rules for those already here is not a good idea.

CITY ATTORNEY MULLEN stated the legal rationale for the staff recommendation with regard to taking down 2 to put 1 up is that the Supreme Court's decision to allow cities to ban billboards is based upon several factors. Two of the most prominent are aesthetics and traffic safety. There is an argument that if you are achieving a net reduction in signage, then we're still serving those purposes. That's the legal justification, in a nutshell, for what staff has proposed.

COUNCILMEMBER FELIEN asked if we would accomplish that or put that goal at risk if we had a numerical cap that's somewhat above the existing count that would allow an outside company to come in so they cannot say they are being excluded.

CITY ATTORNEY MULLEN responded there may be less likelihood of an outside company suing if they come in and achieve a new billboard through an RFP process. So there may be less of a pool of potential plaintiffs out there. That's one way to look at it. However, if you're going to have a net increase, then it would be somewhat difficult to argue the traffic safety and aesthetic issues that support the current ban.

COUNCILMEMBER FELIEN asked if the City Attorney is comfortable, from a legal standpoint, if we maintain the 2:1 replacement rate, but because we would have RFPs for City-owned property, the outside companies have a reasonable chance to bid and participate. The City would be in a position to defend ourselves and say we weren't unreasonably excluding outside companies, and it wasn't a closed game only for companies that were already here.

CITY ATTORNEY MULLEN doesn't want to say we're comfortable. What we said in the staff report is if Council's interest is in preserving the ban on billboards, generally speaking, then the legally safest option is to reject the proposed amendment as it relates to off-site billboards. That's the most conservative legal position that we can provide. Since the court's decision is based principally upon traffic safety and aesthetics, doing any amendment to the ordinance that allows new billboards potentially exposes the City to litigation.

As we went through the staff report and City Attorney's analysis, there are cases on both sides of that issue. There's the *Utica* case that we cited, the Federal District Court case in Michigan, which basically said the City can't have two separate sets of rules – one for City property and one for the general public. That case is out there. It is not a binding precedent in our district, but it would be persuasive authority.

There is a separate case from the 9th Circuit involving the *Metrolights* decision, which does provide some support for the notion that the City can have an exception to its off-site advertising ban. In that case, it was for bus benches, where the City entered into various street furniture agreements, allowing off-site advertising on the street furniture that the private company provided, but it was only through an RFP and there was one company that was allowed to do it. Granted, the City had a general ban on off-site advertising there, but it was still upheld. We've noted how that case is somewhat distinguishable from the current situation. The point is that there's risk in moving forward. We're talking about degrees of risk, and he can't necessarily quantify which is better if you want to have a net increase of 3:4 as compared to 2:1. There are risks involved with both.

MR. MORRISON stated its very common that billboard companies are going to City Councils all over the country and saying please give us digital display rights and if you will, we'll take down x-number of old signs. That x-number is varying a lot from deal to deal, it's a matter of negotiation. He has seen examples of cities who have put right in the Code specific numbers for the take-down ratio. They vary a lot.

CITY ATTORNEY MULLEN stated one of the proposals that was initially in front of the Planning Commission was a proposal for a net increase of 4. That's what went to the Planning Commission originally. Based upon their discussion and dialogue, that recommendation changed to include a take-down of 2 for 1. The idea is that at least you continue to serve the interests of traffic safety and aesthetics by having a total net reduction of billboards within the City. If Council would like to return the proposal of a net increase of 4, that's something that you could give direction on today. We would have to rewrite the ordinance and bring that back for your consideration.

MR. MORRISON stated an exchange ratio of 2:1 is at the low end of the deals that have been made.

COUNCILMEMBER FELIEN stated his desire would be to move in to the digital age, and he doesn't have his feet in concrete as far as whether our count goes slightly up or slightly down. He wants the ordinance written in a way that minimizes our litigation risk. That's his primary concern. He'd like to get the mix where we're comfortable that we have a shot at making some money without spending it all on legal fees. That's not the best use of our tax resources.

DEPUTY MAYOR FELLER is in shock over \$40,000,000 on a 25-year lease on a sign. He hadn't heard that amount before. He had heard \$1,000,000 year.

As far as the safety issue, that doesn't sit right with him. We're asking people to drive down our coast and look at the beautiful views, and if anything is distracting it's the beautiful views. Billboards aren't particularly a safety issue for him. It all seems like it's related to driving and the distractions that take place. It can be eating in the car, texting or dealing with children in the backseat. Those are distractions. We can't be

everywhere to protect everybody from themselves. We are almost shaking in our boots over the threats of litigation.

We've all been guilty of sign twirling during election season. He doesn't think that's a problem. They can get distracting sometimes.

He might be interested in abatement as far as the future of feather signs. We could put a time limit on it going forward because there is a huge proliferation of those feather banners. If they're not brand new, they get pretty ugly. He's not crazy about that when they're not cared for.

He doesn't have a problem with mascots. Can we be held harmless for that type of activity on public right-of-ways?

CITY ATTORNEY MULLEN responded that to be held harmless, you'd have to have a permit that you issued to allow that type of activity, and it would apply to claims by the permittee, not anybody else.

DEPUTY MAYOR FELLER stated since they are out on the streets, we should watch those.

Our back-up material references International Municipal Lawyers Association, which includes William Britton, Randall Morrison and Robin Wolford. Three different people in three different parts of the country, and in Section 3 of their letter it says the biggest don'ts are: cap and replace or cap-in-trade provisions, capping the number of billboards and allowing replacement should be avoided. Further in the letter it says to avoid a situation where a local government receives money for the allowance of billboards on government property and thereby creates endless potential for future equal protection and First Amendment claims by competitors. He asked for an explanation, even though Mr. Britton is not here.

MR. MORRISON responded he and Mr. Britton were on the same panel in Miami and that has been his position for a long time. My position is very slightly different. If the policy is to allow the City to become a landlord to digital billboards, and at the same time is saying you can't do it on private land, that presents a real legal issue. We don't have a reported Appellate Court decision that addresses it directly. City Attorney Mullen has told you about the 2 cases that are very close. One of them is at the trial court level and one is the 9th Circuit, but it's not really a billboard case. Certainly there is a major legal issue there.

DEPUTY MAYOR FELLER stated you also said regarding the two most common scenarios, nearly every government that has stood its ground has not been forced to allow new billboards.

MR. MORRISON responded that's correct. He's done many of those cases.

DEPUTY MAYOR FELLER stated it would be great if they would all just go away. In the staff presentation it mentioned digital signage within the right-of-way in kiosk programs. Can you explain that please?

MS. FOUSEKIS responded the City ordinance right now has provisions for kiosk signs. You've probably seen them next to the Wyndham on the corner. That is a kiosk. One side has some advertising for downtown, and the other side is a directional map. What we're proposing is an amendment to that design that could potentially incorporate pedestrian-oriented digital signage that could promote events, provide other direction, etc., and it would bring the sign up to today's technology.

DEPUTY MAYOR FELLER asked if under that block you're only referring to the kiosk program.

MS. FOUSEKIS responded correct.

DEPUTY MAYOR FELLER is puzzled by what the financial benefit is to the City. He thinks part of this needs to be explored further. There's a need to understand what we're up against as far as litigation, but also what the benefit is to the City. Maybe that is something that could be put back on an ad hoc committee of the Planning Commission. He's open to suggestions. The financial benefit really has to outweigh everything that we've heard tonight. He really doesn't know how many signs are too many. In 2001, when all the dust settled, we ended up with 5 static billboards.

MAYOR WOOD stated this is a complicated issue and the public's input is important to us. As much as signs may be changing, he gets a lot of input through the internet from people who can't attend the meetings.

A while back we saw the financial issues coming. We asked people to come up with something outside of the box to bring money to the City. This is one of the items that came forward. When he heard about it he thought that he'd like to move into the 21st century regarding advertisements. When you put a billboard up it lasts a long time, but the digital system takes about 10 seconds to change it without having to rip it down and put up a new one. He's also driven the 405 freeway all the way to LAX and thought there are too many signs, and it's ugly. At least in Las Vegas some of the signs are entertaining, but the 405 is downright ugly.

He'd like to be able to go into the 21st century on this, but he'd also like to have some control. He doesn't want Oceanside to be like the 405 freeway through Long Beach. If they're coming our way, he'd like for the City to have some control over it, like how many and where.

His underlying concern was that this Council didn't want to increase fees or taxes and philosophically speaking he can understand their point. But we're cutting services. He reached the point where he didn't think we could cut anymore without impacts. He took a hit when he suggested a half cent sales tax because nobody wants to hear that in this economy. However, it was probably the easiest and most simple way to bring in \$8,000,000 for the City to get us out of these financial problems. It would have the least impact because some of the surrounding cities already have it, and if you shop there you're paying it anyway.

We had the Fire Department and other people come up with some suggestions on how to raise money. Recently some were accepted, but most were turned away. He thinks the people out there want one thing, and that's to provide services for them. That was their number one priority. Those services were being cut back on. This particular issue came forward from someone in the City, and it sounded like a good idea with the understanding that there's control. The City should be able to say how many and under what conditions or circumstances, on-site or off-site.

He thinks 4 seconds is appropriate because we can double the amount of information compared to 8 seconds. That would mean money to the City. He knew that might make some people in the City mad who don't want to have any signs, but times are changing. We asked people what kind of money we could make with 4 or 5 digital signs, and the money numbers were high, and got increasingly higher as the cost of those advertisements went up. We also saw that using digital is common practice everywhere. We didn't want animated signs, like the cartoons moving around; this is simply for letter format and for a statement. When he heard we would make money, he liked that we could maybe keep our libraries and senior center open and the police and fire services. We weren't getting that money anywhere else.

We were also told that Caltrans had a big input on where it could be and what kind of sign because they have the final say. There are governing bodies that were going to look at this besides the City.

Besides being a good idea to make money, they would have allowed the City to have statements on there, like Amber Alerts, special events in the City, or traffic conditions. He thinks the signs are a good idea if animated and being strictly statement signs. When he brought it up to various people, he heard the downsides as well. He had to weigh that tonight. He wanted to hear everybody first. He's read the letters and emails. We've had closed sessions regarding legal issues. He believes that those signs are coming, and we need to be on top of it with guidelines on how to do them. He doubts these companies will want to take on a city like Oceanside, who's looking at it first, and sue us. That could potentially block their ability to come to San Diego County by sending that message out to other cities. He could be wrong and our legal advisors are saying he might be wrong.

He looked at the potential for litigation and lawsuits. How many regular signs do we have in Oceanside?

MS. FOUSEKIS responded we have 4 along Highway 78 and 1 along Coast Highway on the north.

MAYOR WOOD stated so we're not looking at a lot more signs. As you can see, we've already limited them. If we do nothing, we'll still have signs there, but we won't be making any money on them. He knows there are issues regarding private land and people who want to have them. He got feedback from the City Manager and City Attorney that, under our guidelines, there are very few people who can put up a large sign on private property. You can't say no to them and also to the billboard signs. We have to be fair and understanding.

He understands the money would be by the City to pay for services. Some of the sign companies may already have agreements with Caltrans to put something on Interstate 5. He doesn't know who or if it's all of them. So, we're looking at very few signs in Oceanside to bring in money. One gentleman said \$40,000,000 over a period of time, and that's possible considering the rate hikes for advertisements.

It's not that the City is afraid of lawsuits; we get them every day. Just about anything we do, we get sued over. But he also agrees with Councilmember Sanchez that he'd like to be able to do something without the fear of a lawsuit. That means he can't open his mind up to potential moneymakers for the City during this economic downfall because he's afraid we might get sued. It's tough.

Regarding the feather signs and the twirlers, in this economy the last thing he wants to do is hurt businesses or the people who do the job and survive on the salary. He's not thinking about coming back to address them in 90 days; he's thinking about a year from now. That would be reasonable to bring it back and look at it. If there are violations, then let Code Enforcement handle it for the time being. Businesses also need to regulate their own employees out there. He hasn't seen one yet that he's been upset with.

He recommends that we go forward with the recommendations of staff on these signs, understanding that feather signs and twirlers are out for potentially a year to come back and be reviewed. If there are problems, we can bring it back sooner.

As for on-site, you own the sign. If we can't eliminate them, then he'd say yes. As for big signs off the freeway or in town, there are guidelines saying how and what they can do. That's going to limit a lot of people. Regarding signs off-site that the City can make money on, we should approve it with some guidelines. Four seconds doesn't seem like a lot, but we can double the amount of information on there in 4 seconds and potentially double the amount of money the City can make. There are guidelines in there for lighting and controls, etc.

Any of these can come back to Council for changes. He's unsure about the hours of operation of 6:30 a.m. to 11:00 p.m. Some of these businesses like Oceans

Eleven are open later, and that's when they bring the crowds in. If individual issues come up, we can address those at the time. Where the signs can be put is really limited through the City and Caltrans.

Regarding the Article 33(b) signs, there's a paragraph that needs to be replaced regarding the replacement of electronic signs. He's not ready to say take down 2 for putting up 1 digital sign. Some of the signs in town that we have on private property is the livelihood and income for those people that have them already on their property. It's like the cell towers. Everybody wanted them because they were getting \$3,000 per month to have them there, but we didn't limit those. Eventually the State had to regulate them. The signs that are out there now, we'd have to address the companies in the RFP. We need to have them sit down with staff and say if they are the company that wins the RFP and you've got signs in town, maybe you could look at removing some of them. If they're not, that's a different story.

He **moved** to accept staff's recommendation with the changes that the feather signs and twirlers come back within a year with guidelines and governance and have it be 4 seconds. The lighting could run all night with an understanding on how bright they may be. The issue of taking down 2 for putting up 1 can be addressed in an RFP. He doesn't know who the people are who have those signs there now or who will get picked in the RFP process, but once we know we can decide if they're going to take some down as a courtesy or leave them there, depending on the circumstances.

He understands the people who don't want this, but he's made a decision under our circumstances.

COUNCILMEMBER KERN seconded the motion, but he asked that we refer the feather signs back to staff and Code Enforcement to work with the Chamber of Commerce to create rules pertaining to the number of signs, duration and display and conditions of the signs.

MAYOR WOOD concurred and **modified his motion** to include what Councilmember Kern suggested.

CITY MANAGER WEISS indicated as Council adds regulations, we are going to have to then enforce those regulations. Part of the problem is going to be if someone needs to come down at night, we don't have Code officers working at night. The more regulations put in, the more enforcement we're going to need. At some point we're going to need to either eliminate enforcement of some activities or add enforcements officers. We can come up with rules and regulations, but he is concerned we're not going to be able to enforce them.

COUNCILMEMBER KERN knows this and that's why he wanted to work with the Chamber of Commerce, so you get the business community involved. Once it comes back to Council, you can let us know what it's going to cost us and what we can and can't do. Once we have that set of rules back, then we'll refer it back to staff and ask what's workable. Once it comes back to us, staff will fully vet this to see what we can do.

He'd also like to allow the sign twirlers to continue operation and not make any changes in that. We need a declaration that the sign twirlers are fine, and that we're going to come up with some rules about the feather signs.

MAYOR WOOD concurred and **further modified his motion** to allow the sign twirlers to continue operation and not make any changes in that, per Councilmember Kern's request.

COUNCILMEMBER FELIEN would be supportive of the motion with some clarification. You're eliminating the 2:1 replacement ratio, but you didn't want to replace it with a different ratio, just eliminate it entirely.

MAYOR WOOD responded no. What he said is if we have an RFP and it comes back, we'll say that for someone who doesn't already have signs in town. If someone wins in the RFP stage and has 5 signs in town, he'd like to address those on an individual basis. If they're something they own and want to remove, that's fine. If it's on private property and would affect somebody's livelihood, he'd be more inclined to find out about that. He didn't remove it. In the RFP process staff is to come back and let us know, whoever it might be.

COUNCILMEMBER FELIEN asked the attorneys if they are comfortable with that line of reasoning.

CITY ATTORNEY MULLEN responded we stated our concerns and issues, and nothing has changed. Before you vote, he would like to restate the motion so we have a really clear record with regard to what it is we're introducing tonight.

COUNCILMEMBER FELEIN asked in terms of the spacing between signs if we did anything different than the Caltrans regulations.

MR. MORRISON may have misspoken when he was talking about Caltrans' rules about separation. What he meant to say was that under State law, if you have 2 of these message centers, the separation rule is 1,000 feet. The separation rule between a static billboard and a digital billboard is 500 feet.

COUNCILMEMBER FELIEN will support the motion.

DEPUTY MAYOR FELLER asked if the 1,000 feet is in any direction.

MR. MORRISON responded yes, and it has to be on the same side of the road. It also can't be in violation of the Federal Highway Beautification Act.

DEPUTY MAYOR FELLER asked what if it's across the freeway.

MR. MORRISON responded this rule doesn't address that.

DEPUTY MAYOR FELLER stated there's a lawsuit right there.

MR. MORRISON believes that Caltrans has rules, maybe in their Administrative Regulations, that would give more detail about exactly how they measure it.

DEPUTY MAYOR FELLER asked how many sign companies there are.

MR. MORRISON responded there are 6 major billboard companies that operate pretty much on a national basis. After that, there are many hundreds of regional and local operators.

DEPUTY MAYOR FELLER stated feather signs are banned as it stands right now. The only time that it comes to us is when there's a complaint. The proposed ordinance says commercial mascot signage is prohibited. Is that correct?

MS. FOUSEKIS responded commercial mascot refers to the sign twirlers.

MR. MORRISON stated there was a comment earlier that during election season candidates use sign twirlers. That's one of the reasons for defining it as commercial mascots, because it's only commercial messages that are addressed in that definition. Sign twirlers or sidewalk walkers that are promoting political or religious kinds of things would not be in the definition of commercial mascot.

DEPUTY MAYOR FELLER clarified that commercial mascot covers the Liberty Tax Service kinds of mascots, as well as somebody like Doctor's Express.

MR. MORRISON responded the typical commercial mascot is somebody that's out there in some sort of a uniform or costume and doing something to attract the attention of passersby. Very often they're trying to get you to come in and buy a pizza or get your ache fixed, etc. That's the idea.

DEPUTY MAYOR FELLER wanted to make sure it's clear that we want the option that permits on-site commercial mascot signage.

MR. MORRISON responded if you want to allow that as a policy matter, you can.

DEPUTY MAYOR FELLER still hasn't heard a number with respect to the signs. That has to be very much clarified as far as what you're referring to before we vote on this.

We did have \$500,000 a year we could have had from Robertson's and \$1,000,000 from an asphalt company that wanted to site here. We haven't been completely to blame for turning down money.

CITY ATTORNEY MULLEN understands the Mayor's motion, which was seconded by Councilmember Kern, is to approve the introduction of the ordinance as it's been recommended by staff, with the following changes: 1) sign twirlers or commercial mascots on private property would not be a prohibited sign; 2) with regard to on-site digital signs, your motion is to approve those as staff has recommended with the exception that they would be permitted between the hours of midnight and 6:30 a.m.; 3) with regard to off-premises digital billboards, your motion is to approve the staff recommendation with the change that the 2:1 replacement ratio would be deleted.

He did not hear anything about dwell time, the number of seconds that the messages could be included. If he understands the motion, it is to allow whatever Caltrans permits, which he presently understands to be 4 seconds and not the 8 seconds as recommended by staff. That captures all of them except for the feather signs. They are currently banned. If you approve the staff recommendation, they remain banned.

CITY MANAGER WEISS referred Council to page 3 of your staff report under the Planning Commission recommended changes. From what he's hearing on the feather signs, if you look at prohibited signs, we would delete commercial mascots and he would recommend deleting feather signage from the prohibited signage list with the understanding that we're going to work with the Chamber of Commerce and the business community and come back with recommendations within 90 days. If the issue is to allow them for the time being, then what you should probably do is delete them as prohibited signs for the time being.

CITY ATTORNEY MULLEN stated that would then need to be included within the motion.

MAYOR WOOD would be willing to modify his motion to delete feather signs as prohibited for the time being.

COUNCILMEMBER FELIEN clarified in terms of the mascots, you mentioned that you were talking about private property but they are mostly on public sidewalks. Is there an issue there that he's missing?

CITY ATTORNEY MULLEN stated his understanding is that right now they are prohibited, but the ones that conduct that activity are generally on private property. They may extend into public property.

MS. FOUSEKIS stated they are typically found on the sidewalk area, which is the right-of-way.

CITY MANAGER WEISS thinks if you just delete commercial mascot signage from the prohibited signage list, then they can go wherever they want.

CITY ATTORNEY MULLEN stated, to be clear, it would still need to be in proximity to the actual business. He doesn't think Council's intent is to allow them to go all over the City, in the medians and anywhere within the City to advertise a business.

CITY MANAGER WEISS stated the urgent care ones are miles from the business.

CITY ATTORNEY MULLEN stated they are anywhere within the City at this point. He asked Mr. Morrison if he had any recommendations at this point.

MR. MORRISON responded just be clear about what you want your rules to be. If you're going to say you'll allow the sign twirlers anywhere, that's now a kind of off-site commercial advertising.

COUNCILMEMBER FELIEN asked if we could put the location of sign twirlers as part of our 90-day review in terms of any distance restrictions that we want to consider.

CITY MANAGER WEISS stated off-site advertising is off-site advertising. It doesn't matter if it's next to the business or a mile away.

MAYOR WOOD stated its coming back to us in 90 days.

CITY MANAGER WEISS responded not this part.

ASSISTANT CITY CLERK TROBAUGH clarified her understanding was that the Mayor wanted 1 year rather than 90 days.

COUNCILMEMBER KERN stated it's to come back with recommendations in 90 days.

MAYOR WOOD was willing to go with the change. He realizes people want this and we do too, but we've run into these complicated issues of legalities and how far away from your business, etc. We just want you to go out there and do your thing for at least a little while until we look into it and approve it.

CITY ATTORNEY MULLEN stated one of the things you could do is just approve the staff recommendation and then we could look at alternatives to permit them, rather than try and create it on the dais right now. Then it's simply an enforcement issue. We're not out there, as he understands it, citing any sign twirlers. He hasn't seen any citations come across his desk. You could approve the staff recommendation as its stated and then we could look into how other cites regulate sign twirlers and bring something back to Council in 90 days.

MAYOR WOOD as the maker of the motion and **COUNCILMEMBER KERN** as the second stated it works for them.

MAYOR WOOD wanted to make sure the 2:1 was covered.

CITY ATTORNEY MULLEN responded yes.

COUNCILMEMBER KERN stated we're all up here trying to help businesses. We're going out of our way to try to get it so you can advertise your business here. When it comes to feather signs, we're going to try to make it so they work. It's an ordinance change. If it's a year from now and there are a lot of problems, the Council may come back and ban them because the business community is not working with the

City to make the ordinance work. That's why he wants to reach out to the Chamber of Commerce so it's a partnership between the businesses and the City. That goes the same for the mascots. If it becomes a problem, more than likely it will come back to this body and there will be some severe restrictions on them.

DEPUTY MAYOR FELLER is still not clear on the number of signs.

CITY MANAGER WEISS responded what he has on the billboards is that we are going to provide for the placement of digital signs at select locations within the City right-of-way, subject to an RFP process. There is no number.

MAYOR WOOD thought there was a recommendation for 5.

CITY ATTORNEY MULLEN responded the draft that went to the Planning Commission initially limited it to 4. You could go with that, or you could have us come back with a number before the time you approve an RFP.

DEPUTY MAYOR FELLER asked if that's 4 or 5 additional.

CITY MANAGER WEISS responded correct. It was 4 additional at one point.

ASSISTANT CITY CLERK TROBAUGH asked for clarification. Now the change is that we are introducing the ordinance as staff has recommended. We're not mentioning the commercial mascot or the feather signs. That's something we're doing outside. However, we're keeping in the hours of operation and the dwell time?

CITY ATTORNEY MULLEN stated his understanding of the motion is that you're reducing dwell time to what Caltrans allows, and for hours of operation for on-premises digital signs, you're eliminating the limitation that staff has recommended.

MAYOR WOOD responded yes.

ASSISTANT CITY CLERK TROBAUGH stated then we're removing the 2:1 and using an RFP process.

CITY ATTORNEY MULLEN stated we're not eliminating using an RFP process. The motion is to eliminate the 2:1 portion.

COUNCILMEMBER SANCHEZ understands that we are leaving in the ban on commercial mascots and having staff come back with some way to address that. She isn't going to support that. She also isn't going to support an open-ended change to our ordinance. Once it's changed, we're subject to constitutional attack. She's concerned about what we're doing today. There are 2 people that we want to specifically give signs to, and it concerns her that we're bending over backwards to provide them with signs. We have a very good ordinance now that was adopted, appealed and settled for 5 signs. We've been sued. We know that. We cannot use the notion of getting money to be able to defend ourselves in a lawsuit. If we do what we're doing here tonight, we will lose the only two reasons that we can have a ban on billboards: aesthetics and public safety. We are now talking about numbers, so there goes aesthetics and public safety, especially if you're going to allow them to be digital. We're doing a huge disservice to our community. Whoever passed the ban back in the 1990's would be rolling over at this. There was a lot of work done to get us beyond where we were as a City and get us in a better position with a more beautiful city. She can't support this.

DEPUTY MAYOR FELLER is troubled with the number of signs. If we're talking about increasing it by 3 or 4, that's one thing, but we're much more susceptible to lawsuits if it's 1. He's not worried about the safety, but if we're going to 15 more signs then somewhere down the road we'll have a problem with aesthetics. We have a problem if we add even 1 more. He'd like to have a dollar amount. We've heard a number tonight that is a lot of money. But is that what every sign is going to give us?

MAYOR WOOD stated we don't know because we don't know who will be picked from the RFP. That'll be in the contract we work out. Councilmember Feller is concerned about a number so he **amended his motion** to say 4.

COUNCILMEMBER KERN as the **second concurred**.

COUNCILMEMBER FELIEN, as he understands the motion as we adjusted it, we're keeping in the prohibitions of feather signs and mascots, but we're going to say that we're not going to enforce it. He'd rather flip it over the other way saying we're going to permit the feather signs and mascots until we decide what we're going to formalize. Officially you're going to have these kids on the street and we're saying they're breaking the law, but don't worry no one is going to give you a ticket. That's doesn't seem like the kind of environment we want people to be in. He doesn't think that affects the substance of the motion and what we're trying to accomplish.

CITY ATTORNEY MULLEN stated that's a policy call for the Council to make. The present law is that those types of signs are prohibited. The staff recommendation does not change that.

DEPUTY MAYOR FELLER wants to reserve the right, if we are going forward, to somehow have a way out of this. We can refuse to accept any of the proposals, is that correct?

CITY ATTORNEY MULLEN responded absolutely.

DEPUTY MAYOR FELLER asked if we're going down that way, do we have to separate the motion.

CITY ATTORNEY MULLEN responded no. The Code right now prohibits new billboards. If you vote in favor of this motion, that will be changed, but that doesn't mean any new billboards will come up because only new billboards would be allowed on City Property. The Code section, as drafted by staff, would require an RFP and CEQA review. Any decision to install a billboard would come back to the Council at a public hearing and you would have the ability to vote to approve or not approve.

After introduction of the ordinance, the **motion was approved 4-1**; Sanchez – 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 Oceanside Public Finance Authority at 8:25 PM on April 18, 2012, to a Mayor/Council workshop at 2:00 PM on Wednesday, April 25, 2012].

ACCEPTED BY COUNCIL/HDB/CDC/OPFA:

Barbara Riegel Wayne
City Clerk, City of Oceanside



California

CITY OF OCEANSIDE

MAYOR AND COUNCIL WORKSHOP

APRIL 25, 2012

ADJOURNED MEETING 2:00 PM COUNCIL CHAMBERS

**2:00 PM - OCEANSIDE CITY COUNCIL
- WORKSHOP**

Mayor
Jim Wood

Deputy Mayor
Jack Feller

Councilmembers
Jerry Kern
Esther Sanchez
Gary Felien

City Clerk
Barbara Riegel Wayne

Treasurer
Gary Ernst

City Manager
Peter Weiss

City Attorney
John Mullen

The adjourned meeting of the Oceanside City Council was called to order at 2:01 PM, Wednesday, April 25, 2012.

2:00 PM - ROLL CALL

Present were Deputy Mayor Feller and Councilmembers Sanchez, Kern and Felien. Mayor Wood was on the East Coast. Also present were City Manager Weiss, City Attorney Mullen and Assistant City Clerk Trobaugh. Fire Chief Darryl Hebert led the Pledge of Allegiance.

WORKSHOP ITEMS:

1. **Review of Tri-Data Study Final Report regarding Fire Service and Resource Deployment Analysis**

PETER WEISS, City Manager, stated this item is to receive the Fire Service and Resource Deployment Analysis that Council commissioned staff to prepare. It was done by Tri-Data out of Arlington, Virginia. Steve Bresler is here to lead us through the majority of the report, along with John Montanero. At this point there is no action for Council to take. You are receiving the report only. Staff and Tri-Data will be available to answer questions or provide clarification.

STEVEN BRESLER, Senior Program Manager for Tri-Data, stated clearly the study has a lot of technical information, so we tried to focus on the key areas of the study for our presentation.

The study began back in the fall. As part of the study we collected data from the Fire Department and the County Dispatch Center. We reviewed information regarding fire losses and EMS histories and met with various staff members of the Fire Department, along with the other agencies in North County Fire (Carlsbad, Vista and

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MEETING BY CITY COUNCIL**

North County Fire Protection District) as part of the overall study. The study was not just one dimensional in the sense that it just analyzed data. It also took into consideration the unique aspects of the system here in Oceanside.

The scope of the study begins with the scope of work and what the questions are asked for us to look at. This was an efficiency study. The underlying premise of the study is whether there are potential savings within the Fire Department by delivering services in a different way. As part of that, we reviewed the management organization of the Fire Department; it's staffing, including allocations and scheduling; alternative staffing models; and peak load staffing. We reviewed the services, calls for services, fire stations location, response times, shared service opportunities within the North County Fire agencies, special services like hazmat, technical rescue, wild land and EMS response, including potential contract services. These were presented to us in questions by the City in terms of what they wanted us to look at during the study.

It was clear to us that Oceanside Fire is an excellent organization. It provides a very high level of service, and its members are well trained. If there were not budget problems, you could tweak some things within the Fire agency and make some improvements, but Fire can continue to deliver services as it is right now. Over the past few years there have been budget reductions within the administrative part of the organization, not in operations. As it stands right now, there are really no more cuts to be made in the administration of the organization. To the extent that already there are important things like planning, emergency management and some other things that are not being addressed, it's still at a level that we think the City would have in mind for delivery of its emergency services. There are no more reductions that could be made in management and administration. If you need to make some changes, it would have to come from direct services.

JOHN MONTANERO, Senior Consultant for Tri-Data, stated that's particularly true in terms of your ability to make future decision by improving how data is collected and recalled. That needs improvement. In order to do that, you need a staff person who is capable of focusing on working with the City to make those changes.

MR. BRESLER stated the Fire Department as it stands right now uses what is called a constant staffing model. They have a certain number of captains, engineers and firefighters assigned to operations. When there is a vacancy to be filled each day because of vacation, sick leave or other leave, someone is called back on overtime. Some departments use a staffing factor. They have a factor applied to their staffing so that they have a few extra persons on each shift to account for those leaves. Oceanside does not because the salary and benefits in Oceanside is about 1.64%, whereas paying overtime at time and a half actually costs less than it does to hire more firefighters.

On the face of it, it is an efficient system, but we found a problem. The more firefighters, captains and engineers work overtime, the more it appears as though sick leave is being used. We found this with many studies. It stands to reason that individuals can only work so much. If they're being called back a lot because of vacancies or other reasons, they'll only do it for so many shifts. At some point they have to call in sick to try to rest up for the next shift. So, on its face the system is efficient, but it is also leading to excessive sick leave. More importantly, the sick leave increases with rank. Firefighters were using less than engineers and captains. This makes sense because captains will have more seniority and more time off. As they are off, there are more overtime opportunities because they're the only ones that are called back to fill those positions.

Within the Memorandum of Understanding (MOU) is a prescription that there must be a minimum of 32 personnel on duty. This is arbitrarily establishing the level of service for the City. Our recommendation is that it should not be in the agreement because it establishes a level of service. A more appropriate thing to do within a labor agreement, if it is mutually agreed to, is to establish a level of staffing that you may

have on a particular unit type – engine, ladder, rescue – such that from a firefighter’s standpoint you’re addressing the issue of safety and health, but not arbitrarily establishing the level of service that the City decides to have.

The majority of calls are medical in nature, not fires. In analyzing the data, we found that the City has a much lower average per capita fire loss, regionally and nationally; likewise on fire-related injuries and fatalities. To the Fire Department’s credit, they attribute this to the fact that they do have a good system. The firefighters are well trained and aggressive. It’s their belief that part of the reason for the low number of fires and fatalities and injuries is related to their operations. To that point, we would not disagree.

The average response time citywide is close to meeting the 4-minute travel time goal, which is a national standard. In the study you will notice that we look at average-wise and we also look at it using national standards, which suggest a 4-minute travel time 90% of the time. There are some areas of the City that are not as well developed. A few calls can arbitrarily affect the 90% response time. In terms of overall response time, the City is doing fairly well.

The boundary drop system that’s used in North County is excellent. It makes sure that the closest unit responds, regardless of jurisdiction. The problem becomes when one jurisdiction begins to assess whether or not it wants to continue providing services the way that it is now. Within North County, the fact that Oceanside is even considering changing the model and the way it provides EMS response, creates consternation among the other agencies. If one jurisdiction decides that it can no longer afford a particular fire station, these are the kinds of things that can impact the boundary drop system. In other studies that we’ve looked at, they too have dealt with the same issues. In a boundary drop system, eliminating a station or unit puts a greater burden on your neighbors.

MR. MONTANERO stated this boundary drop system is the underlying pin of much bigger issue, which is regionalization. The truth is, Fire Departments are designed to handle the majority of their day-to-day emergency requests. When you have large ones, like wild lands or a high rise fires, you don’t have enough resources and you can’t afford to maintain them on a day-to-day basis. Therefore, we believe regionalization should be a priority and should be looked at. One of the problems you run into is each fire department believes they do the best job. This requires compromise.

MR. BRESLER stated in terms of the fire stations, we found that the City is being covered adequately with its current 8 fire stations. We do recommend that Fire Station 8, which has temporary quarters there on the border with Vista and handles far too many calls for the City of Vista, should be relocated to a site that the City has in mind at Old Grove and College Boulevard.

In terms of EMS, the advanced life support system, with 2 Firefighter/Paramedics, it is a very expensive system. If you can afford it, it would be the model that many communities would choose to have; however, the City is not recouping the full cost of providing that service. In terms of the options that we’ve developed for the City to consider, how it delivers EMS is first and foremost among the various options. When we looked at the current system, and it is a system in terms of delivering both fire suppression services and emergency medical services, it is that the fire personnel on the City’s paramedic units, to a degree, are needed to supplement fire units when they do respond to a structural fire. The reason is because in Oceanside fire units are staffed by 3 personnel, not 4 as many communities do. On a typical structure fire response, a component of those fire personnel that typically handle medical calls are also used and needed for fire suppression. In the models that you will see, we’ve taken into consideration how the City could change some things around to also provide for those personnel that are needed for fire suppression.

In terms of fire suppression, we did find that while we disagree with the fact that the 32 minimum staffing is in the agreement, the City could not say that they have far too many firefighters on duty. The disagreement would be that the number shouldn't be in the contract at all.

In terms of cost-saving options, this presentation is not a full list of things the Fire Department could do if it were asked to change how it delivers services. These were the options that we developed based on those things that stood out to us about the current system, and how it could be changed in terms of the demand that the Fire Department has: its staffing, its rank structure and some other capabilities that are available. The City could adopt one of these or none of these. We did not make a recommendation because we understand that the Council has a very important role to play. Determining the level of service is a policy question that is balanced between the ability to pay for a certain level of service and the acceptable risk that the City and its residents are willing to accept. If you are not faced with any financial situations, you can continue as you are now. If the situation changes, you may decide you like the way it's being done.

MR. MONTANERO stated fire departments, traditionally, have been designed based on standards mostly associated with the National Fire Protection Association. While those standards are there, they're not law. Safety standards are law. On the other side of it is the ability to pay. That means someone has to make a decision about risk. Risk means trying something to see how it works and then adjusting if it doesn't work. That's not normal thinking in terms of public safety. This brings that issue to light.

MR. BRESLER stated fire services, unlike other City agencies, are standards driven. It comes out of the history of fires in our country going back to the 1800's. Insurance companies got involved and established some standards, not because they were interested in saving lives, but they were interested in the bottom line. Fire services are driven by standards, many of which are developed based on historical perspectives and input from various professional groups. Our approach is to look at the actual data and situation so that the cities have choices. As mentioned, other city agencies may be data driven, but fire agencies throughout the United States are not particularly data driven. One of the things the City should do in terms of its emergency services is become a data driven organization, so it's providing the services at the right level at the right times to meet its needs.

The first option is to eliminate ALS (Advanced Life Support) transports. The City currently has 4 contract ALS and BLS (Basic Life Support) transport services. There are a number of contractors available to do that. The City should increase staffing on two ladder quints that it currently has, from 3 to 4; contract EMS billing, which is currently done by the City; and eliminate the nurse trainer position. If the City contracted EMS transport, there would be fewer Firefighter/Paramedics, thus not requiring a full-time nurse trainer, and the training for these persons could be contracted out. The estimated savings for this, which is the savings we derived from the study and is found in the appendix of the report, is \$1,500,000.

The second option eliminates ALS transport and contracts out the service. The City should add 2 quick response squads. A number of cities are finding it efficient that instead of responding an engine or ladder truck on medical calls, they do it with 2-person units: they could add two quick response squads, not just to handle medical calls but also to augment the fire response and increase the staffing by one, on one of the quints. This was the only option of all of them that we determined had no cost-savings.

As a hybrid of the previous option, you could eliminate the ALS transport units, contract the service, add two quick response squads, but keep the same level on the quints. The estimated savings was \$400,000.

There is an option to eliminate two of the City paramedic transport units and contract for the additional capacity that you need for BLS and ALS transport service and add one firefighter/EMT to one of the City's two quints. This also provided a savings of approximately \$400,000.

The next option is a hybrid. Eliminate two ALS transports and contract the BLS transport service. The rationale is that while the City currently dispatches an ALS transport unit with every medical call, the reality is that a high percentage of the calls are not in need of ALS, but are BLS calls such as sprained ankles, etc., that do not require a high level of response. A contract ambulance service could provide those. This also includes contracting ambulance billing. The savings is approximately \$1,300,000.

The next option was to eliminate two ALS transport units and, instead of contracting for the additional capacity from a private transport agency, add 1.5 units operated by non-safety City personnel, BLS staffed by non-safety personnel, contracting EMS billing and adding a fourth person to one of the quints to provide some additional fire suppression staffing in place of the two ALS transport units. The estimated savings is \$1,000,000.

The last option, and the one we think has significant opportunities, is to begin to peak load EMS transports by staffing two units 24/7 and four units during daylight hours. As you go through the report, you'll notice there is a bell curve in terms of demand for the City. Like all other cities, EMS demand goes with the typical cyclical workday. EMS demand begins to increase about 8:00 a.m. and starts to peak from about 11:00 a.m. to about 4:00 p.m. and drops down again in the evening.

In the current constant staffing model, the Fire Department, instead of calling back those extra persons to staff four transport units during non-peak hours at night, could possibly staff two or three units. It can be done to get some experience on how well it works. One of the things that the Chief mentioned, and it's a fair point, is that there could be some reduction in revenue because you may be requiring some surrounding agencies to handle a call that you would not respond to. The benefit for this particular model is that it, other than addressing the 32 minimum staffing in the contract, does not require any other changes in terms of new position descriptions, changes in training, complex contracts with a private agency, etc. We found in this particular option there was an estimated savings of \$550,000, predicated on overtime reduction from 7:00 p.m. to 7:00 a.m.

MR. MONTANERO stated peak load staffing is pretty foreign to municipal fire protection service or EMS service. It is the mainstay of private service because it can be made cost-effective to fund itself.

MR. BRESLER had previously mentioned the management structure that is currently in Fire being exceedingly lean to the extent that some important functions are being addressed, but not to the extent we think is required of an agency as important as Fire and EMS. One of the recommendations is to rehire a Management Analyst to the Fire Department, capitalizing on some additional studies that need to be done in terms of sick leave and taking the necessary steps to decrease its use. We also talk about saving 10% or 20% over five years, which is about \$500,000 in savings.

We recommend not having an excessive number of vacancies when retirements occur or if someone leaves the service. If you have a lot of vacant positions, it increases the overtime opportunities. As people work more overtime, they're more likely to use sick leave, and it becomes a constant cycle.

We recommend deleting the MOU language of establishing service levels,; things like a minimum staffing of 32 or putting in the contract the number of stations you're

going to have. It is management's prerogative to establish the level of service. From a firefighter's standpoint, we agree that there should be language that says if we have an engine that is in service and ready to respond to an emergency, it should have three persons or whatever staffing level the City believes is appropriate.

As a last resort option, we looked at the opportunity to merge stations. We found that Stations 1 and 2 in the downtown could, as a last resort, potentially be merged into a new facility. It would increase response times to calls from North Oceanside, where a significant number of calls occur. It would also require a local agreement with Carlsbad and some modifications that would include adding a squad or 2-person unit to handle some of the calls that would have previously been handled by Station 1 or Station 2. This is a last resort option if the City found itself in a situation where it had to make deductions. It is not a recommendation that we would ask the City to implement.

We recommend that you change the cost formula for Oceanside to participate in Northcom. Several years back, the City went to the regional dispatching system, and it is an excellent system. You are fortunate to have the system you have, but the City's portion of the cost is about \$800,000 per year. This is based on population. Other smaller communities are paying much less, and we think that the formula needs to be addressed.

The City should begin discussions among the four North County fire agencies to consolidate training divisions. One of the things you will see in the study is that we talk a lot about regional opportunities. Clearly they are there. There has been previous work done by another consulting company in the last year and a half that looked at regionalization in North County. They hit on all of the major points and the reasons why it can be done and the difficulties in doing it, primarily political. However, the opportunities are there. First and foremost is the opportunity to look at training. Another is to consider returning to using firefighter/EMT positions. A number of years ago, the Fire Department, with the City's blessing, made the decision to go to all Firefighter/Paramedic staffing. When it did, it made the decision, along with Carlsbad and Vista, that there would not need to be a priority medical system within those three jurisdictions because every fire unit and medic unit had paramedics. We think that there are opportunities to bring back the position of firefighter/EMT. It has a slightly lower salary grade, improves diversity hiring and implements priority medical dispatching, which will have a benefit in terms of the demand on the number of units that are responding to BLS medical calls.

MR. MONTANERO stated let's assume for a minute you meet and confer, and you decide that you should take responsibility for the level of service. You can do that. The issue is you would still need to meet and confer over the impacts. That would be a responsibility. Regarding Northcom, it's important to note that they really provide the City an excellent level of service, especially with boundary drops, and should be supported. The problem we have with the current fee system is it does not consider stand-by time. It's got to be there no matter how many calls somebody makes. Therefore, an all or one, where you make this many calls so this is how much it's going to cost you, in our mind is not equitable.

MR. BRESLER stated within Northcom, one of the intriguing things we found and is discussed in the report is that they have a system called Live MUM (Move Up Module). It is a data driven system that takes into consideration actual historical call histories in terms of time of day and location, and makes recommendations so that within North County, fire units can be reallocated based on where the next calls are likely to occur. Comments that we got from folks in Northcom is that they've never had a situation where Live MUM made a recommendation to move an engine, for example, from Carlsbad to Vista and when that engine vacated the station, a call actually occurred back at the empty station. They have the same capacity to do that on the EMS side, but it's not being used because 3 of the 4 jurisdictions in North County all have 2

paramedics on their transport units, so it was felt that it was not very necessary. We think it's something that can be considered and implemented as an efficiency measure.

MR. MONTAREO stated if you believe in regionalizing, Northcom is the core of that. It can help you facilitate it and make it happen more cost-effectively.

Public input

NORMAN KELLEY, 900 North Cleveland, is concerned with outsourcing staff. He doesn't see anything specific in the report about it, but that idea is woven through the presentation as he understands it. He's not opposed to outsourcing as a way to save money, but in this particular case it would be a major concern for the citizens to consider that in the case of dealing with paramedics. It's his understanding that, uniquely, each of our firefighters is also a paramedic. For every Fire Department employee you eliminate in order to outsource to a lower cost, you will simultaneously lose one firefighter. That outsourced paramedic does not answer fire calls. A reduction in staff has a direct relationship to the promptness of answering a 911 call.

For the upcoming year, the City has a budget shortfall of a little more than 1%. Yet the strategy being discussed here, as he understands it, would put much more of a burden on the Fire Department than other departments. Keep in mind, since 1992 the staffing at the Fire Department has been essentially flat while the population has increased 48%, and service calls have more than doubled during that time. Altogether, targeting the Fire Department for a huge cut seems an exceptionally poor strategy to him.

Finally, he'll concede as a resident of a mobile home park, he sees more than his share of paramedics. We are a tiny community of old people, and our lives depend on the promptness and skills of our Fire Department. From the perspective of the user, they measure up in every possible way the way it operates today. He urged Council not to meddle with success.

NADINE SCOTT, 550 Hoover Street, stated these guys who did the study don't look like they've ever been firefighters or paramedics. They're pencil pushers, so they're looking for cost savings. Their report was spot on when they said we have excellent service. Every other study we've ever had, as well as theirs, hints that we're severely understaffed. They didn't give much weight to the boundary issue because the other cities expect certain personnel in our city to be part of that agreement. Once you start getting rid of ALS and going to BLS, you're essentially trading advanced life-saving paramedics for a taxi service or a dog catcher.

She has a severe heart defect so she needs the paramedics there in 4 minutes. If they don't get there, her one little lawsuit will be a lot more than the \$1,500,000 in savings. You're talking about the risk to the community versus a few bucks. It's beyond belief. Council hasn't made any decisions, but the recommendations are just nuts.

She did like the recommendation for a Management Analyst. These guys claim they didn't have enough data to do a full and thorough review, and they're right. We don't have the data. For them to waste taxpayers money of \$70,000+ is atrocious in a time when our budget is so tight. She asked Council what her life is worth. She's a 100% supporter of our paramedics and of the staffing because we're understaffed. She is against closing any fire stations; in fact we need more.

The last thing they didn't consider is PERS. If we start getting rid of our Firefighter/Paramedics, who's going to pay into PERS and cover those obligations? The taxpayers. So you'll be even further in debt once you start getting rid of our union PERS-paying Firefighter/Paramedics.

With one lawsuit, you've lost every penny of savings. She would have no

compunction about suing the City if she doesn't get the service that her taxes are paying for.

JIMMY KNOTT, 127 Sherri Lane, finds it interesting that no public surveys were done that the consultants mentioned to find the acceptability of elimination of staffing levels, response time, number of stations or mergers. This is the public's government, not the consultant's government. No data on effects of the recommendations upon the public was evaluated; just budget. The public needs information to make decisions like whether or not there should be a bond measure, tax increase or some other option that could be done and that other communities and cities have done. There is no consideration of potential police/paramedics, who are normally first on the scene. There was no evaluation for anticipation of services and needs by the public in a sense of partnering. An HMO, PPO or even Tri-City Hospital could supplement those costs because they benefit from the service. Many communities are partnering with different medical institutions for the costs.

Co-sponsorship could be explored with advertisements on the vehicles. There was no consideration of any evaluation done on advanced technologies for better local applications for reducing costs. The County has done this. There has been no information shared on the majority or minority of calls where it was a necessary or unnecessary emergency and caused the transport of a person with minor injuries when the transport was needed elsewhere. There is no potential of regionalization of the whole fire department system for the whole County and the effects of costs for that. They said if there were no budget issues, there would be no problems. This is impetus for a bond issue for the public. Let it be their decision.

DENNIS SCHWANDER, 5042 Nighthawk Way, is a retired Fire Captain from Orange County Joint Powers Regional Fire Authority for 34 years. He is in favor of regionalization. We take care of 23 cities and all of the county areas for the County of Orange. It has worked very well for numerous years. We also contract for BLS transport except for 3 of those cities. It is just the BLS transport. We have paramedics on every engine company, and we also have 2-person paramedic units on paramedic squads. He is in support of the Oceanside Fire Department. They are highly qualified to protect our City.

Keep in mind that we want to develop this City. We have a high rise down by the Harbor where we want to have high occupancy and a mid-rise near the Harbor in our development. Any fire over the third floor requires 100 firefighters on scene immediately. He knows we can't get that in Oceanside, but we'll need to use all of our regional resources to get those people on scene. The Paramount Fire in Escondido a few years ago took every fire station and firefighter from Escondido, plus most of the firefighters in North County.

On an ALS type of medical aid call, a 2-person ambulance cannot handle what needs to be done on an acute cardiac call. It takes approximately 5 people to handle that response adequately to make sure that patient is treated on scene and receives appropriate care on the transport to the hospital.

With all that said, he believes regionalization for the County is the way to go. In the long-term, a regionalized fire service is probably the answer, but due to politics and budgets we may not be able to do that. We cannot afford to reduce our staffing level. Regarding reducing staff between the hours of 7:00 p.m. to 7:00 a.m., the high loss of life fires occur in those hours because that's when people are sleeping in their homes and not out at work.

JIM JENKINS, 1429 Calle Marbella, is a member of ACTION (Alliance of Citizens to Improve Oceanside Neighborhoods), which represents 42 various neighborhoods. When he hears these reports and recommendations, it's always good to hear different sides, but it seems a lot like a bean-counter situation that industries go through. It's

really about risk versus gains. Numbers and actions from other counties and cities will show that. It's important that we see the types of numbers and your projections in regards to the recommendations.

We also need to know what kind of data we have to back this up compared to other cities that are comparable to us. It's important for us to see what we have and what we have to work with in order to see the big picture.

These people work in extremely hazardous conditions. Having previously worked in hazardous materials himself, he found that when they had situations where they reduced sick leave to a lot of their staff, their workers compensation numbers went up. Our injury/loss ratios and experience modification rates also went up because we were pushing people to work under more stressful conditions and illness conditions. There are repercussions. It's important to look at injury/loss ratios and experience modification rates under workers compensation or disability.

If we use our fire station in South Oceanside to help out Carlsbad, won't we have the same problem we have with Fire Station 8 helping out Vista too much?

He asked what studies have been done to review these situations.

SUSE SHROYER, 276 North El Camino Real, asked Council to remember that what is right isn't always popular and what is popular isn't always right. You have been elected by the people of Oceanside, not only to govern our City, but also to keep its people safe and public service doors open. You are not to use your seat as a springboard to further your own political ambitions. That is what's happening with certain members of this Council. You are making it political and are determined to hold on to your political promises at the people's expense. To propose a half-cent sales tax would mean certain death to your political ambitions, but that is what would get our City out of its financial hole. Everyone would contribute their fair share and take pride in solving their City's financial problems. Vista is not threatening to close or cut services due to the economic crash that everyone has experienced. Vista's City Council governs for the people, and by the people, not what is good for someone's political ambitions. Examine your own true motives and let your conscience be your guide, not your greed.

DEPUTY MAYOR FELLER asked Mr. Bresler and Mr. Montanero to describe their backgrounds.

MR. BRESLER began his fire service career in 1970 in Baltimore. He spent 32 years in the fire service, both as a fire responder and EMT. He was not a paramedic. He served in every capacity from firefighter through fire chief and has been consulting since 2003. He's done in excess of 50 studies similar to this one.

MR. MONTANERO started in the fire service in 1961. He has served in every capacity except paramedic. He was a fire chief for 22 years and started doing studies in 1994.

DEPUTY MAYOR FELLER stated then you're not just bean counters.

MR. BRESLER stated there appears to be a misconception that in any of the recommendations that we had in terms of cost-savings, that there would be a contracting of some portion of transport that would somehow eliminate Firefighter/Paramedics from first-responder units. Every option that we developed, every engine or quint that the City operates, would still continue to have the Firefighter/Paramedic. Thus a response time of 4 minutes would be available from any of the engines or quints dispatched by Oceanside.

One gentleman had a good comment about public input. Unfortunately, as in every study, there is a scope of work that we're asked to do. Sometimes we are asked

to conduct public input sessions to get the public's feedback about their perceptions and discuss things like response times, what it means and doesn't mean, what staffing levels mean and what standards we apply. We were not asked to do that with this particular study, but he's sure it will be part of the process in terms of making decisions going forward.

MR. MONTANERO stated in terms of public versus private EMS/ALS/BLS service, they all receive the same levels of service. If a Firefighter/Paramedic didn't believe they were the best, they wouldn't be worth the City's employ. That doesn't mean the opposite side, which he's not selling, are dog catchers either.

DEPUTY MAYOR FELLER stated we've heard a couple of times a mention of 4-minute response times. In one of our back-ups the total response time is not 4 minutes.

FIRE CHIEF HEBERT stated that was strictly travel time. There's turnout time and then there's dispatch time added on to that. Our response times average anywhere from 5 to 8 minutes.

DEPUTY MAYOR FELLER asked if Chief Hebert is aware of Vista closing a fire station.

FIRE CHIEF HEBERT responded no. He heard the opposite, that there is no talk of closing any further units or fire stations.

DEPUTY MAYOR FELLER asked if all of our firefighters are paramedics.

FIRE CHIEF HEBERT responded all of those that have the rank of firefighter are paramedics. Some people use the generic term of firefighter when they're talking about Engineers and Captains and the different ranks, but all of our firefighters are licensed paramedics.

DEPUTY MAYOR FELLER asked if the Captains don't fight fires.

FIRE CHIEF HEBERT responded no, the Captains do fight fire, but some of those Captains are not licensed paramedics.

DEPUTY MAYOR FELLER asked if it's only the people who are not Engineers or Fire Captains that would be paramedics.

FIRE CHIEF HEBERT responded yes. There are current members in our organization, like Engineers, who maintain their certification or license as a paramedic, but they are not dutied to act and don't get compensated to act as a paramedic within our organization.

DEPUTY MAYOR FELLER asked if they get compensated to be Engineers.

FIRE CHIEF HEBERT responded it's a rank. When they get promoted to Engineer, the Engineers do make more than the Firefighter/Paramedics. There's no specialty pay to be an Engineer.

COUNCILMEMBER KERN stated this is just the start of the process. We have a report and information so we'll probably go forward. One of the things that we're precluded from doing right now on any of these recommendations is to implement them because we have that minimum staffing requirement. Until we negotiate with our unions, we can't really implement all of this. Regionalization and all of those things are precluded because of that minimum staffing. It's a terrible labor contract that the previous Council majority put us into, and we're going to have to get out of that in order to proceed to do regionalization. He agrees that regionalization is the answer to provide service at a more economical cost.

He asked if there were other versions or drafts of this report.

MR. BRESLER responded there was a draft report that we received comments back on. This is the final report.

COUNCILMEMBER KERN would like to see a copy of the draft report and the comments that got us to the final draft.

Is there a State training requirement to meet standards of firefighter positions?

FIRE CHIEF HEBERT responded yes. There are Firefighter I and Firefighter II certificates.

COUNCILMEMBER KERN asked what the financial viability is of the City to maintain and operate its own training facility. If we're going toward regionalization, can't we regionalize training? If we can, we should take some of these incremental steps that can be taken without worrying about negotiating the MOU. Is that a possibility?

FIRE CHIEF HEBERT responded absolutely. He has met with the Fire Chiefs of Carlsbad, Vista and North County on numerous occasions and talked about different aspects of our organizations that we could possibly consolidate. It does take time, and there are a lot of layers to deal with when you're talking about those types of consolidations. There are a lot of things to consider.

One of the issues is that he doesn't 100% agree that we could eliminate our training facility and go to Carlsbad. There is distance, out-of-service, response times and time of travel to consider. Oceanside enjoys not just constant staffing, but constant service. Our motto is we don't go out of service to train. We are in service and available for calls. Other agencies in other jurisdictions that don't have the call volume that we have can afford to take one or two units out of service to train. They might go to the regional training center in San Marcos or come to our training facility. For us, it would be a little more difficult because it would put our units out of position.

We do not participate in a lot of the regional training because we do it in-house. People come into our facility with us so that we can keep our units in our City and available for those calls. Those are things we could work out with the MUM system. Once those agreements are in place and we can have other units cover our City, those are all viable options that we're looking into.

COUNCILMEMBER KERN stated right now we're at 75% of our budget year as of March 31st, but the Fire Department is at 110% of your overtime budget. What do you predict is a full year's overtime overrun going to be? That's a big concern. How much of that 110% over budget is contributed to the minimum staffing?

FIRE CHIEF HEBERT responded it's very difficult when you look at the minimum staffing. We have some vacancies currently from some expected and unexpected retirements. Filling those positions is a very lengthy process. Recruitments have to take place and promotional exams, all within City, State and federal guidelines. Those are time consuming. That's most of the reason we are over in our overtime costs. Also, over the last few years the overtime budget has been reduced significantly. Some of that is due to FLSA and some of it is due to having nowhere else to go but into that money. At the end of the year, based on salary savings on those vacancies, that money transfers over and makes up for some of that cost.

COUNCILMEMBER KERN is concerned that we're keeping positions open so we can pull the money to pay overtime.

FIRE CHIEF HEBERT stated no. We don't hold vacancies to do that. We want to fill those vacancies as soon as we possibly can. The minute we have a retirement occur in the organization, he will fill out a requisition and send it through the process. We have to hold an exam and it takes 30 days just to notice that there is going to be an exam process. It takes approximately another 30 days to prepare and facilitate that exam process. Then there are the interviews, filling the position and the background check.

COUNCILMEMBER KERN is wondering if you're being realistic in your overtime budget, since you've been over budget every year for the last 5 years. We need a realistic view of what your projected overtime will be during the budget process, instead of getting toward the end of the year and being over. Being at 110% at 75% of the year, that's a concern. Especially in these times when every penny we spend is important. If we give something to one department, we're taking it from another department because we have no reserve left.

How much does the average firefighter in Oceanside make?

FIRE CHIEF HEBERT thinks their base pay is anywhere from \$60,000 to \$80,000, and then there's overtime on top of that.

COUNCILMEMBER KERN stated if we go back a couple of years when it was \$107,000, and their base pay is \$60,000, then they're making \$40,000 a year in overtime. Is that correct?

FIRE CHIEF HEBERT responded no. He doesn't think every firefighter is making \$40,000 in overtime, but there are some that make probably more than that in overtime. Those same individuals are working more time, putting themselves at risk and taking more time away from their families. We're doing the best job we can to reduce that overtime. He agrees with the speaker about the sick leave issues. But under the constant staffing model, it is cheaper to operate that way. He was here when we operated the other way and we had extra bodies on the floor, and we did go over budget. It's a difficult balance. He's concerned about the overtime as well.

COUNCILMEMBER KERN stated the way we calculate overtime or allow for overtime based on that factor is his concern.

FIRE CHIEF HEBERT isn't deeply involved in the negotiation process, but he's aware of it. He doesn't disagree with the direction the City is taking in that area.

COUNCILMEMBER KERN stated the bottom line is that we can only do what we can afford to do. If money was no object, we'd probably have fire stations on every corner. But money is an object, so we're going to have to figure out a way to do it more efficiently and effectively. This was more of an effectiveness and efficiency study than previous ones that we had from companies like City Gate. The City Gate study wanted to build more fire stations and be the most effective force versus the more efficient force. We need someplace in between those two by working with the Fire Chief and City Manager's office. We want to give the taxpayers the service they are paying for, but also the service that we can afford.

What he'd like to see come out of this presentation is that the Council conduct a series of workshops to address the Tri-Data study and information regarding the efficiencies and cost-savings. He'd like to start that within 90 days, but doesn't know if that's possible. It's all predicated on the new MOU with the Fire Association. Once we have a clear understanding of what the new contract is, then we can see how many of these efficiencies we can incorporate. Some of them seem like they're fairly simple fixes, or at least first steps. The long-term one is to go to full regionalization. He can't understand why we have 4 Fire Chiefs in North County, or 4 of any kind of Chief. We've all grown together. If we talk about San Diego and North County, Oceanside is probably

the equivalent of one Council district in San Diego. We could probably be more of a regional service and provide effective service. We aren't going to close any fire stations because we need them for response times. But where we put ambulances, BLS and ALS services can be worked out as we go forward.

This is a good starting point for us. The public is really aware that this mandatory staffing has got to go. It should be management's prerogative to set the level of service that the public wants. That is one of the starting points, but we can't talk about it until we get through our negotiations.

COUNCILMEMBER FELIEN stated it's good news that the introductory summary is very complimentary to our Fire Department and our staff. That matched his own interaction with staff at all levels and having seen emergencies first hand in his own neighborhood. We did this study to try and find efficiencies and ways to save money, so there's a certain irony in reading the first recommendation to hire a new person in management staff.

He asked if Tri-data's belief is that our management in the Fire Department has been stretched to the limit, and we have the opportunity to have 2 civilian positions: the Fire Marshall position that's being converted to a civilian position and the Analyst position that they recommend. Is that correct?

MR. BRESLER responded that is correct.

COUNCILMEMBER FELIEN has no objection to that. He's relying on the expertise of individuals who have experience he does not have. Management is never the most popular segment of our City, but as was pointed out, we need to have good data and numbers. If that's what we need to do, then so be it.

MR. MONTANERO stated one of the important things in a Fire Department is management. When you look at it, it's a very decentralized organization that should be data driven. When you look at how decentralized it is, the behavior of your personnel, their productivity and how they face issues with the City are all interrelated to how they are managed on a day-to-day basis throughout the City. The core issue is the data and why we recommended that. It's really important.

COUNCILMEMBER FELIEN stated dealing with the issue of public safety and the care we're going to get when we most need it is a sensitive issue within the City, and rightly so. As Councilmembers, we want to do our best to address those concerns within the financial constraints that we face.

One recommendation to consider is going from public sector to private sector transport for either the ALS or BLS. In terms of the first scenario with a recommended savings of \$1,500,000, is that just primarily based on the pension differential between the government workers versus the private sector workers that would be taking those places? In terms of calculating that \$1,500,000, is that assuming that we would be having two paramedics from a subcontractor versus from the existing fire staff?

MR. BRESLER responded it is based on the elimination of Firefighter/Paramedics that are currently on the transports, their salary plus benefits. We also added back the estimated cost for providing the contract service. In the back of the report are things like replacement of the transport units, training costs and a laundry list of savings for each of those, but primarily it is for the eventual elimination of the Firefighter/Paramedic positions.

COUNCILMEMBER FELIEN asked what that assumes they are replaced with. Are they being replaced with paramedics hired by the private companies or with EMT's? Is the cost savings government versus private, or a difference in skill levels that is being recommended?

MR. BRESLER believes they are being replaced with private paramedics.

COUNCILMEMBER FELIEN stated then in this particular scenario, we are comparing apples to apples: government employees with one level of qualification versus private sector employees with the same level of qualification, other than cross-training as firefighters.

MR. MONTANERO responded this would actually be a public/private partnership. The County Health Officer wants 2 paramedics on scene: one would possibly come from the fire engine, and the other from the private sector ambulance transport. The difference is the Fire Department wouldn't be transporting and be out of service.

COUNCILMEMBER FELIEN stated in looking at some of the data and dealing with this primary issue, the overwhelming majority of calls, from what he can tell, were medical-related calls. Only a very small percentage were actual fire structure calls. Based on that, has there been any study done of the medical calls on how many of the emergencies needed two paramedics versus how many needed a paramedic and EMT versus how many could have just been handled with two EMT's? Focusing on heart issues, which combination works best there?

MR. BRESLER responded we did not drill down to that level to figure out how many calls required what kind of responders, primarily because every call gets that level of response.

MR. MONTANERO stated even though you provide your own paramedics in the City, they're permitted by the County Health Officer, and that Officer specifies it must be two. That's not up for argument. The two have to come from somewhere, either a municipal unit, a private unit or a combination of the two.

FIRE CHIEF HEBERT stated having been a paramedic for 14 years, being on scene with another paramedic is critical. That's why the County requires two paramedics on the scene, especially for those types of ALS calls that are critical. There are single role medics that do act by themselves and have the ability to push all of those drugs. But in the 14 years that he was doing it as a medic, when he had a partner that he could bounce things off of, especially for those calls where you are holding somebody's life in your hands, it is a major difference.

Their study said that our system is the Cadillac system and they're right. It's a good system, and it's what the Fire Chief feels the public deserves, if we can afford it.

COUNCILMEMBER FELIEN stated his inclination would be to keep the two-paramedic model. He would like to go that direction and is open to the idea of finding savings in the private sector if that can be done within the context of meeting our overall mission.

The public finds it frustrating that on a medical call the fire truck comes, too. If we went to having private transport, would the fire truck still be coming in response to every emergency, in addition to the transport?

MR. BRESLER responded under the current protocols, yes. The current protocol from the 911 dispatch center is to send a fire unit on every call. We just did a major study for Portland, which made the decision about 20 years ago that it would send a fire unit on every medical call, irrespective of how minor. With population growth and demand increases, they got to the place where they were no longer able to sustain that model. Yet, they never went back and looked at it to say there are calls where we know that the fire unit does not need to respond because it's a minor medical call. If you do not change the protocol, it will remain as-is. We suggest you look at

calls where a fire unit may not need to respond.

COUNCILMEMBER FELIEN asked the Fire Chief, based on his experience and the department as a whole, is that a reasonable road we can go down? When a call comes in, can dispatch determine whether or not a fire engine is required? One of the speakers mentioned that in addition to the two paramedics, there are times you need additional people to lift people, carry people or move things around. Is there room to improve here or is it better to have them all go out and worry about it once you arrive at the scene?

FIRE CHIEF HEBERT responded there is certainly room to improve. He pointed out that there are current calls that we respond to where only an engine company will respond, and that's because of the geographical locations of our eight fire stations. That's why our response times are what they are. Those are your front line ALS units. There are paramedics on those engines that respond. We only have 4 ambulances, and they are doing the transport and responding to other incidents as well.

There is a capability of Northcom to do tier dispatching. We are currently looking at that. Part of the meeting with other jurisdictions found in further regionalizing our system, we'd be going possibly to a JPA transport system. We could better locate our resources throughout the region and operate on a tiered system, where we're dispatching certain units to BLS calls and others to ALS calls.

COUNCILMEMBER FELIEN asked at what point in a call is it determined that the emergency being responded to requires BLS versus ALS.

FIRE CHIEF HEBERT responded primarily there are protocols throughout the County that require an advanced level of care. There are certain medications needed for heart conditions and chest pains. The dispatch center currently has what they call medical EMD (emergency medical dispatching). They have a booklet and when a certain type of call comes in, like chest pains, they will automatically place that in ALS and send those appropriate units to it.

COUNCILMEMBER FELIEN clarified then it's made at the time of dispatch based on the caller saying what they need a response to.

FIRE CHIEF HEBERT responded yes. They're not perfect either. Many times our units will arrive on scene, and there will be a greater level care or a lesser level of care needed.

MR. MONTANERO stated it's important to mention that you in a way have a three paramedic system right now. You have two on the medic units and one on the engine. An EMT is capable, if properly trained, to assist a paramedic.

COUNCILMEMBER FELIEN stated a key issue for us as a City is whether we're better off hiring people to fill positions or paying overtime, based on the benefit ratio. What you touched upon here is saving \$1,500,000 by paying overtime versus the \$1,680,000 of the benefit structure. It makes sense that if someone is being called in to do overtime again and again, they're going to get worn out. When you're talking about the sick time usage, you're talking about people getting exhausted and saying they can't do their job safely, or are you talking about people being frustrated and saying they're not going in today?

MR. BRESLER responded we did not get into the reasons why people called in. That information would not be available to us. The reasons people give when they call in, in some cases, would be protected. We primarily used the data provided by the Fire Department for the number of hours by rank and by year.

FIRE CHIEF HEBERT stated it's very difficult to determine if there is sick leave

abuse occurring in our organization or if it's just cyclical. He wanted to correct what someone said about as you go up in rank, you use more sick days. The Fire Chief hasn't used a sick day in almost 3 years.

It is difficult to capture what is going on with our sick leave. There's a baby boom occurring in our organization where a lot of people are taking FLMA and sick leave. There have been deaths. We have taken some employees to task over sick leave, with the help of Human Resources and the City Attorney's Office. We're doing everything we can to try and control our sick leave.

Regarding the overtime question that came up, our budget has been reduced quite a bit in the overtime ranks, and there are factors other than the vacancies that occur. There's injured on duty (IOD) that we have no control over that we have to backfill for those individuals. That is a chunk of the overtime expense as well.

COUNCILMEMBER FELIEN understands the motive to use the method we have to save as much money as possible. It seems we should shift a little the other way based on these numbers, and at least have positions to cover some of the overtime because we are incurring it. Based on the analysis that was done, is what we're saving between the spread of the \$1,500,000 versus the \$1,680,000 in terms of not hiring people being used up by the overage in the sick time?

MR. MONTANERO responded there are two arguments in favor of using the \$1,680,000 over the \$1,500,000. One is you have the potential to increase productivity. The other is to reduce the potential personnel working too many 24-hour shifts in a row becoming tired and a liability risk.

FIRE CHIEF HEBERT stated that is an area that we are looking at. Right now we have a clause where they can work a maximum of 96 hours. We're thinking about reducing those hours. Another factor on the overtime is that we do send units on master mutual aid. When large wildland fires occur, our units do go out. That is reimbursable. We do have monies that are coming back in, usually at the end of the year or after the budget cycle, and we can roll it back to count toward that loss. Those are also factors to consider.

COUNCILMEMBER FELIEN stated whatever direction we decide to go, he'd like to get comfortable with that and have some real analysis that we're going in the right direction. He gets feedback from the public on this, and with his health background it's of particular interest to him. He would like to drill into this area and make sure we're having the right balance.

MR. MONTANERO stated in Council's deliberations, it's important to remember that you have to go back to the level of service you want to provide. That's your cost. How you achieve that becomes the issue, including overtime, straight time by hiring additional employees, or in some cases by reducing the level of service. That needs to be a conscious decision. You need to look at the whole picture, start from the beginning and back up.

COUNCILMEMBER FELIEN stated it's mentioned on page 22 of the study about the sick time and the reasons attributed to Captains and Engineers being more senior employees and taking more vacation. How does the vacation tie into sick time overage?

MR. BRESLER responded when we looked at your captains, who tend to be more senior employees, with engineers and firefighters being less senior, we found that as people became more senior, the captains were actually using the higher number of average sick shifts per year. Because they're granted more annual leave than a firefighter, it means they're going to be off more shifts per year, which creates more overtime opportunities for other captains. As they work more overtime shift

opportunities, the likelihood is that they're going to get up against the threshold of being tired or needing a day off. That was the correlation. We're not saying that's exactly the cause, but it's something that stuck out to us when we looked at the numbers.

COUNCILMEMBER FELIEN asked in terms of the vacant positions we currently have in the budget, what are the plans for having them filled? We're obviously in the middle of a negotiation with the Fire Union, and one of the issues under negotiation is the current retirement system versus a two-tiered system. He is on the side of the person paying the bill. If we get some reduction in the retirement expense, he'd like them hired after the new contract rather than before. What's the timeline to fill these positions?

FIRE CHIEF HEBERT responded we currently have four vacancies. There is a recruitment process and requisitions that have been approved by the City Manager. He's working with Personnel on filling two of those. As promotions occur, the vacancies occur down on the bottom at the lowest ranked Firefighter/Paramedic, which is the least expensive rank. He will then discuss it with the City Manager. He, too, wants to wait until after the contract because he's not sure what's going to happen. We will start the recruitment and hiring process and will hopefully have those vacancies filled by the end of the year.

CITY MANAGER WEISS stated any vacancies that are going to be filled in the Fire Department would still be under the current retirement system, at least until January of 2014, because that would be the soonest that you could actually make a change to the public safety retirement system for the two tiers.

COUNCILMEMBER FELIEN stated that's a moot issue then as far as these vacancies go.

One issue that was touched on in the beginning is that the report was very complimentary to our Fire Department. On page 24, however, it says that communities outside the City don't consider us a reliable partner. It says that as it stands, Oceanside is not viewed as a particularly good regional partner that other cities are comfortable dealing with, particularly on such a sensitive matter as public safety. That's disconcerting since he would agree that we need to look for regionalization where we can find it. Since this was written into the report, was this criticism dealing with the politics coming from the Council or from the unions or anything specifically dealing with the interaction of the department itself?

MR. BRESLER responded from multiple sources the comment was that the political environment in Oceanside was often tenuous. We did not meet with Mayors or Councilmembers, but the senior leadership in the other departments that we spoke with said that their Councils and district boards were generally reluctant to work with Oceanside because they felt like the political environment was not always receptive. That was not from only one source.

MR. MONTANERO stated the detail of why was not the study here, but it was an issue of perception. Given the need for regionalization in the fire service and that it should be pursued, it was mentioned because it's something that should be proactively addressed. To what degree it needs to be addressed, we're not sure. It would be good to have community meetings between Councilmembers to discuss the issue. Is it perception or is it real? What's getting in our way, and how do we deal with it?

COUNCILMEMBER FELIEN brings that up because it's something for everyone at the dais, the public and the Fire Department staff to look at. It's coming from peers outside of the City who have nothing to gain one way or the other. We need to take this as a serious concern and work on this issue as a community. We do need to have regional partners.

When we deal with or respond to incidents outside of our jurisdiction, or other cities come into our jurisdiction, do they hand us a bill based on the number of incidents, or is it assumed it's going to be roughly a 50/50 split. If people feel it's not a 50/50 split, do they start complaining? How closely is that followed and monitored?

MR. BRESLER responded we looked at the number of mutual aid calls, where we're providing service out and getting it in, and we found there was not a wide variance. You're getting about as good as you're giving. Where you have boundary drop systems or automatic aid, it is a critical issue, and we did not find that to be so here.

COUNCILMEMBER FELIEN brought that up because of the comments on Fire Station 8 that our long-term goal should be to move it toward the center of the City. He assumes if we do that, we're going to get fewer responses going into Vista and they're going to have a few more coming in to our community. He asked what plans, if any, are on the horizon to get a fire station at College and Old Grove Road.

CITY MANAGER WEISS responded we already own the property and have plans completed to actually build the station. We had submitted for one of the stimulus program grants several years ago. We heard there may be a second round of those grants. At this point, it's just a matter of identifying the money to build that station.

Going back to the expense ratio and the current contract we have, **COUNCILMEMBER FELEIN** stated those people are aware that he's been critical of some of the provisions. In terms of vacation and sick time, if we increase vacation or allowable sick time, or decrease them, does that directly impact the \$1,680,000 ratio, based on how it's being calculated, or is that based on retirement and health expenses?

MR. BRESLER presumes that it includes benefits such as vacation because the figures were provided to us by Human Resources. Most communities would include leave time in that factor.

COUNCILMEMBER FELIEN would think it should be a goal as soon as possible that we get to where our benefits don't exceed the overtime, that we have a 1.5 ratio so we're not in this position of trying to avoid hiring people and having people work excessive hours. That's a decision we need to make as a community. He'd like to have it on the record that it's a goal he'd like to pursue.

COUNCILMEMBER SANCHEZ stated we are talking about an essential and critical care service. Our residents and taxpayers do expect, at a minimum, that the City will provide an acceptable level of service with respect to public safety. That's the bottom line. We can't say we won't answer every 10th call. We have to respond.

Some of the things that were suggested in terms of changing the level of service, the number of stations and response time goals, are actually Council goals. About 4 or 5 years ago we talked about going to maybe a 6 minute response time, because we were getting up to 12 minutes. There were some very unfortunate incidences that occurred with respect to our response times. As we were leaning toward a 6 minute response time, one of the Councilmembers made a motion to have a 5 minute response time. We all supported that with a 5-0 vote. It's not just a Fire Department internal decision-making. There are actually Council policies and direction that have resulted in an excellent level of service that we are providing our constituents.

She appreciates the starting comments that our Fire Department is a quality organization with well-trained personnel and an excellent level of service. Except for our budget situation, you would recommend our Fire Department continue on as-is with minor tweaks. The study describes our organization as lean and stated that reductions in administrative positions over the past several years, which have affected management and planning, have resulted in no more savings possible.

The study talked about constant or minimum staffing and said the model is efficient. If we did not have a constant staffing model and instead hired additional officers, would we have a cost savings?

MR. BRESLER responded that's a level of financial analysis that only your finance people could do.

COUNCILMEMBER SANCHEZ asked if that was not something the study looked at. If we did not have constant staffing, it did not look to see whether or not we would still be having a cost savings?

MR. BRESLER responded no, because you have to get into the theoretical of what the difference is between any reductions that you had in areas like sick leave, and what the difference is in terms of hiring additional staff members. We got into that when we looked at the data, but was not a major focus of the study.

COUNCILMEMBER SANCHEZ thinks that is the exact issue that some of our Councilmembers seem to want to push, getting rid of constant staffing because somehow that's going to save us money.

MR. MONTANERO stated that was mentioned because it was clear to us that the Council's policy responsibility is to set a level of service. Therefore, that limits your ability to carry out your policy responsibility, and that is why we mentioned it in the study.

COUNCILMEMBER SANCHEZ asked if the study is saying there are no more savings possible. If we're going to have to save money, our citizens will have to accept a lower level of service.

MR. MONTANERO responded that's not necessarily true. That's a data-driven issue. One of the responsibilities of Councilmembers is to have a system, which means looking at acceptable risk where you try something and if it doesn't work out then you have to change it, as opposed to everything staying the same all the time as it has been in the past.

COUNCILMEMBER SANCHEZ stated there was a time in history where we did contract out for ambulance services, and it was a disaster. Did you study those reports and that analysis and why we ended up going back?

MR. MONTANERO responded no. It was not a question that was posed to us.

COUNCILMEMBER SANCHEZ heard Mr. Montanero say it has to do with the data. The study did make the statement that constant staffing is efficient, so efficiency means some level of cost-savings, is that correct? For example, not paying out PERS or the extra things you'd have to pay out if you had additional personnel.

MR. BRESLER responded efficiency is merely determining whether what you're paying for something is more or less than another way of doing it. It's a measurement of resources expended for the services received.

MR. MONTANERO stated something efficient could cost more or cost less. It depends on the issue.

COUNCILMEMBER SANCHEZ stated it was mentioned that there were some issues with overtime. Is overtime anything after 40 hours in a week? Is it a regular thing that firefighters get overtime after reaching 40 hours in a work week?

MR. BRESLER responded that is not correct. Under Fair Labor Standards, there

is a sliding scale of 212 hours, or a different number of hours, based on the shifts that firefighters work, based on their schedule. The 40 hours in a week does not apply to emergency service responders.

COUNCILMEMBER SANCHEZ asked the Fire Chief if it's after 56 hours when you can accrue overtime. Is it true that the hours between 40 and 56 are waived by firefighters for overtime?

FIRE CHIEF HEBERT responded yes. The work weeks for our Firefighters are 56 hour based. Any time after that accrues overtime.

COUNCILMEMBER SANCHEZ asked if, in order to get to overtime they're waiting an extra 16 hours, two extra days, and do they have to waive something in order to not be able to ask for overtime after 40 hours.

FIRE CHIEF HEBERT doesn't know if they have to waive anything. They work 24-hour shifts, so it's complicated. There are 211 hours within an 8-day period that they have to work under FLSA.

MR. MONTANERO stated the Fair Labor Standards Act (FLSA) was set up and is very specific. When you exceed those specific hours, then overtime is required. The 56 hour work week comes from the FLSA where they set the number of hours in a certain period. That's how the work week is determined. Once you exceed that, you pay overtime.

COUNCILMEMBER SANCHEZ clarified that the City is not paying overtime after 40 hours in a week. Is that correct?

FIRE CHIEF HEBERT responded yes.

COUNCILMEMBER SANCHEZ asked if firefighters or fire employees get any more sick leave or vacation time than any other employee in the City.

FIRE CHIEF HEBERT responded not that he's aware of. He doesn't think there is any difference in accrual rates with the MOU's.

COUNCILMEMBER SANCHEZ stated that was her understanding too, that we don't treat our firefighters any differently from any other employees. They get the same amount of sick leave and vacation time as any other employee.

There were some statements about our overtime at this point. The Chief had started to explain that the overtime budget has actually been decreasing over time and that we've also had some unplanned vacancies. Is that correct? That at this point in the year you're about 10% over what you had initially budgeted for overtime?

FIRE CHIEF HEBERT isn't sure if it's 10%, but we are over. There were some vacancies and we had some outstanding recovery costs, based on strike team deployment.

COUNCILMEMBER SANCHEZ asked, in terms of wildfires in the State and our duty to respond to the State's requests for calls to other parts of the State, do we still maintain that State apparatus in Oceanside?

FIRE CHIEF HEBERT responded yes.

COUNCILMEMBER SANCHEZ asked what the contract is that we have with the State with respect to that.

FIRE CHIEF HEBERT responded it is the Office of Emergency Services. We are

reimbursed to maintain it, and it's usually the first unit that's out if there is any kind of major incident that occurs without the State. We're required to have four personnel respond on that unit, but it is reimbursable.

COUNCILMEMBER SANCHEZ asked if, when you respond to State calls for service for a wildfire in Los Angeles or somewhere else, are you responding with respect to the level of service that the State mandates, or are you adding more level of service to that fire apparatus.

FIRE CHIEF HEBERT responded we're not adding any additional levels. There is a requirement to have a certain amount of personnel on that particular unit. There are other units that respond outside the City that have lesser requirements, but we do sometimes add additional personnel that are reimbursable, whether it be a training position or just an increase in staff levels because of the risk associated with those incidents.

COUNCILMEMBER SANCHEZ asked if we get 100% reimbursement for those calls for the State.

FIRE CHIEF HEBERT responded it depends on whether it's a State, federal or local activated incident. Usually, within the County, it's not reimbursable. Those are the agreements we have. For example, the River Bed Fire, we had all of those units come into our City. Those are things that we work back and forth. Most State fires are fully reimbursable. They are delayed. It takes time, and there are a lot of Fire Chiefs who are questioning whether or not to respond. We're not one of those because we have been reimbursed up to this point.

COUNCILMEMBER SANCHEZ stated that was highly unusual. Didn't we have something like 30 fires in a couple of months in the river?

FIRE CHIEF HEBERT responded yes. That was in 2006-07 or maybe 2007-08.

COUNCILMEMBER SANCHEZ stated we were able to insure that none of the homes that were close by in the Capistrano area were at risk because of our Fire Department, is that right?

FIRE CHIEF HEBERT responded correct. Tri-Data actually talked about the risks associated with our wildland/urban interface here in Oceanside. That is not often found in a beach community, but it is a fact here in Oceanside.

COUNCILMEMBER SANCHEZ stated, going back to the study, the analysis indicated the City has much lower than average per capita fire loss, injuries and fatalities. The Fire Department attributes this to its current deployment system and aggressive firefighting. With respect to this notion of the lower than average per capita fire loss, going forward this is a variable is it not? We do have older housing stock and an aging population. Did the study factor in the aging housing stock and population?

MR. BRESLER responded we did not in terms of their historical numbers. We comment that the aging population does increase demand on the EMS side, and the City needs to consider those. In terms of the loss history, this was based on just historical data over the last 5 years.

COUNCILMEMBER SANCHEZ asked then you didn't see how many homes we have from the 40's, 50's and 60's.

MR. BRESLER responded no, we did not. In looking at Oceanside and talking to the people from Planning, there's not going to be a significant change. Older housing stock could contribute to an increase in the number of fires, but it's more related to the population in general. EMS is generally attributed to population growth.

COUNCILMEMBER SANCHEZ has often heard that since 1992 our staffing level has basically stayed the same. We had about 120,000 population then and now we have about 176,000. Were you able to look at the staffing levels between 1992 and the present, as well as the efficiencies?

MR. BRESLER responded we did not go back that far. What we did look at again was the incident history in terms of losses. There are graphics in the back-up that show that. Nationally, what we know is the number of fires and structure fires have been decreasing over the past 20 years. It has not really changed. What has changed is the increase in medical calls. That is your significant risk going forward in terms of meeting additional medical demand. Oceanside is almost a built-out community. There are some areas where some development can occur, but they're going to be built with new codes, so your fire risk is not going to change appreciably.

COUNCILMEMBER SANCHEZ asked if it was taken into consideration when doing the report, the population requirements that SANDAG or the State put on the City in terms of planning for the number coming to the County?

MR. BRESLER responded the scope of work was pretty finite in terms of what we looked at.

COUNCILMEMBER SANCHEZ stated your answers keep being the same. A yes or no would help here. With respect to the number of permits that we've been sitting on for a number of years, including mid-size buildings, did you take into consideration the fire needs for those, which we don't have but are starting to get?

MR. BRESLER responded yes.

COUNCILMEMBER SANCHEZ asked how many additional housing units did you take into consideration in coming up with your analysis.

MR. BRESLER stated we did not look at the number of new permits.

MR. MONTANERO stated the issue is the anticipated population based on growth. Population being the driver of service calls. Fire prevention and building codes have a huge impact on the magnitude of loss. Your codes are pretty up to date. Therefore, future development of high-rise, mid-rise and low-rise, will have more of an impact on EMS than it ever will on fire.

FIRE CHIEF HEBERT also gave credit for our great statistics in fire loss to the weight of our response.

COUNCILMEMBER SANCHEZ stated the study says the boundary drop system benefits the City and should be maintained. She remembers the Fire Chief came forward and talked about regionalization and regionalizing dispatch with Rancho Santa Fe and boundary drops. That was a proactive thing, and she was proud that our Fire Department was going that way. She asked how long we've been looking at regionalization.

FIRE CHIEF HEBERT responded we had a meeting in Escondido in 2002 where we talked about the consolidation and regionalization of the region. We have pared it down since then because we realized that there are a lot of cities that enjoy local control. There is still a very active group, with labor and management, looking at those issues.

COUNCILMEMBER SANCHEZ stated you've been talking since 2002, and having meetings. What is the biggest stumbling block for going forward on regionalization starting 10 years ago? Is it because cities are reluctant to do that?

FIRE CHIEF HEBERT responded there are some cities that are reluctant to do it. It's very time-consuming, and the economy didn't help, with the loss of staff that has occurred throughout our organization and other organizations. We have less staff to put toward examining those types of options. There have been a lot of positive things in regionalizing. Training divisions are not consolidating, but are acting on the same emergency operation manuals. A whole bunch of things have taken place because of those efforts and they're still moving forward.

COUNCILMEMBER SANCHEZ remembers when we decided to do regionalization of dispatch. It was a difficult decision to make because we had a system of doing dispatch through the Police Department. At the time we were hoping for a cost-savings and more efficiency in terms of response times. Did we get those?

FIRE CHIEF HEBERT responded absolutely. We are there. Northcom is an incredible center and is about to embark on being a command center, which would make it even greater. There is no doubt that it does cost more, but for the level of service we receive from Northcom, he would encourage us to remain there. It is difficult being only one member in a JPA (Joint Powers Authority) with one voice. We have talked about the way they configure the cost of dispatching. We're examining other areas, but we're only one voice. We're doing everything we can.

Regarding the recommendations in the study, **COUNCILMEMBER SANCHEZ** stated existing fire stations are necessary, and that goes to level of service. She's heard from the dais a couple of times that we do need to keep 8 stations working and open. Station 8 is too close to Vista. How much would a fire station at Old Grove and College Boulevard be? Wasn't that \$4,000,000 or \$5,000,000?

CITY MANAGER WEISS stated that's the range we were looking at.

COUNCILMEMBER SANCHEZ stated if we were to look at savings by browning-out a station that means that station would be closed or non-operational for whatever day or time. Do we know of any community in Oceanside that would volunteer to accept a lower level of service, like low response times? Have we ever received calls from people in communities volunteering to accept a lower level of service and longer response times?

FIRE CHIEF HEBERT responded no, he's never received a call like that.

COUNCILMEMBER SANCHEZ hasn't either. She clarified that the goal of this study was to find ways to save money. Is that correct?

MR. BRESLER responded yes.

COUNCILMEMBER SANCHEZ believes one of the recommendations was to sell off our infrastructure and ambulance apparatus. Would this amount to a one-time cost savings?

MR. BRESLER responded yes.

COUNCILMEMBER SANCHEZ has been really frustrated with the monopoly we have right now with the Humane Society. The City had its own animal control service for many years and then we partnered with the Humane Society, and they are holding us hostage at this point because they are the only one in town. How many ambulance services are there if we were to contract out?

MR. BRESLER is not sure. He thinks there are two major ones operating, and possibly a third.

COUNCILMEMBER SANCHEZ heard there were two. This is a big concern. We may get some savings, but then we'll be held over a barrel, like we are now with the Humane Society, where we can't respond to barking dogs and our police officers are responding to those. She is concerned that we would look like we're saving money in the beginning, and then end up losing more money in the end or after a couple of years.

The other thing about the monopoly, not only with animal control, is controlling our destiny. There are things that we end up wanting to change about the way we do animal control, for example, trying to place some of the animals rather than euthanization. She imagines the same thing applies with firefighting and responses to public safety calls, that any one difference could make the response time longer, and she hopes she isn't the one calling in with an emergency and there might be a delay of ten or twelve minutes.

You did talk about risk and said that it's not normal in public safety to say let's try something else to see how it works, and if that doesn't work out then we'll try something else. Is that what you basically said when you were talking about lowering costs, that it's all about the risk?

MR. MONTANERO mentioned that it's one issue with making a policy decision. You either have standards that you live by and are inflexible on, and when you run out of money you're stuck, or you can look at the alternative, something more flexible and risk-based, based on the outcomes of what you actually do.

COUNCILMEMBER SANCHEZ stated there are two things she keeps hearing and reading about for the last couple of years having to do with the cost of our Fire Department and responding to calls, etc. One of those is PERS, that our firefighters and all of our employees should be paying their share, which is something we're moving towards. The other is overtime. She hasn't heard any other complaints, except the occasional complaint about a fire apparatus being in a neighborhood. She asked the Chief why that fire apparatus is in a particular neighborhood.

FIRE CHIEF HEBERT responded if they aren't responding to calls in that neighborhood, they're probably traveling through it to get to other calls.

COUNCILMEMBER SANCHEZ stated there was a suggestion that they shouldn't need to be there because they don't see any smoke or anything like that.

FIRE CHIEF HEBERT responded in Oceanside we operate on the AVL (Automatic Vehicle Locator). Even though Station 5 has a unit there that's responsible for the geographic area of Station 5, they could be in a different place in that area. If there's a closer unit to respond, the AVL will recognize that. There is no benefit of them being in the station or at the grocery store or on a medical aid call. It depends on where the call takes place, as long as they're within the geographical areas of that station.

COUNCILMEMBER SANCHEZ stated that goes along with working 56 hours a week. They are assigned to that apparatus 24 hours a day, 7 days a week. In order to insure that you are able to respond in the quickest way, you must be with your apparatus, is that correct?

FIRE CHIEF HEBERT responded correct.

COUNCILMEMBER SANCHEZ asked how much it would cost to hire a Management Analyst.

CITY MANAGER WEISS doesn't have the numbers for that, but staff can get that to you.

COUNCILMEMBER SANCHEZ stated that was one of the recommendations. We're talking about cutting costs, but that would definitely be a cost, right?

CITY MANAGER WEISS responded at this point in your budget, you don't have any money for it.

COUNCILMEMBER SANCHEZ stated then we wouldn't be able to do that. The study also recommends filling vacancies more rapidly to avoid excessive overtime. That's what we're trying to do. Is that correct?

FIRE CHIEF HEBERT responded correct.

COUNCILMEMBER SANCHEZ stated the study recommends deleting MOU language establishing service levels. The service levels regarding the number of stations was a Council decision. Council decided to do a new Fire Station 7 and have a Fire Station 8 out at COC. Those were policy decisions by Council in insuring that we would be meeting a minimum level of service that our residents and taxpayers expect, which she was happy to hear is an excellent level of service.

She asked the Fire Chief how he feels cuts to ambulance service will affect our fire suppression capability, and would he recommend implementing any of Tri-Data's recommendations?

FIRE CHIEF HEBERT thought long and hard about each one, has broken down several notes, met with his staff and talked to Mr. Bresler and Mr. Montanero at length during and after the study. He doesn't believe that the 32 staffing level should be in the contract. That's a management right, and he agrees with Council that we should establish that policy. Having said that, he would not want one person less to protect our City. That comes from 23 years of working here and seeing the types of hazards that exist. Even though our fire loss is low, we are a very busy department, and we fight a lot of fires. EMS is the biggest thing we do; there is no doubt about that. As a Fire Chief, he can't disregard the risk, not to mention the disasters that could potentially happen in Oceanside. We have major freeways, thoroughfares, gas pipes, trains, railways, hazardous materials from Camp Pendleton, etc. To do it with anything less than 32 would concern him as a Fire Chief.

He considers those four ambulances with those very well-trained, capable Firefighter/Paramedics as part of his fire force.

COUNCILMEMBER SANCHEZ asked how he feels our overall response profile of call volume and daily staffing compares to our neighboring cities or other California fire departments.

FIRE CHIEF HEBERT thinks we do very well with the resources that we have, especially in the County. We are the second busiest fire department, next to San Diego, and the third largest city, after Chula Vista, and we have an excellent response profile.

DEPUTY MAYOR FELLER stated Table 4, the sick leave use by rank, is an interesting situation. It says that over time shifts required per year to cover sick leave is 430 shifts. Is that 430 individual people shifts?

MR. BRESLER responded yes.

DEPUTY MAYOR FELLER asked how many shifts are there in a year.

FIRE CHIEF HEBERT responded each Firefighter works 10 shifts a month. Multiply that by 12 is 122 shifts. There are 104 fire personnel.

DEPUTY MAYOR FELLER asked if 10,000 or 12,000 is about right.

MR. BRESLER responded 32 minimum staffing multiplied by 365 days would be the total number of shifts per year.

DEPUTY MAYOR FELLER clarified we go on about 16,000 calls per year. Is that right?

FIRE CHIEF HEBERT responded yes, about 16,500 per year.

DEPUTY MAYOR FELLER asked how many of those turn out to not actually be a call, where you just turn around and go back.

FIRE CHIEF HEBERT doesn't have those numbers available. He can get those to you.

DEPUTY MAYOR FELLER asked when we changed Fire Station 8 back to an engine, what was in there before and what was it staffed with?

FIRE CHIEF HEBERT responded originally it was opened up with a type one engine, which is a fire engine with three personnel on it. There was a brief period where, due to budget cuts, rather than browning out an engine company as Council has talked about, we reduced it to a type six apparatus with two personnel on it.

DEPUTY MAYOR FELLER asked if those were firefighter/paramedics.

FIRE CHIEF HEBERT responded it had a captain and a firefighter/paramedic on it.

DEPUTY MAYOR FELLER stated this constant staffing was approved around September of 2010, so we've been using it for 2½ years.

FIRE CHIEF HEBERT stated constant staffing has been around since about 2005 or 2006. If you're talking about the 32 constant staffing, that was 2010.

DEPUTY MAYOR FELLER stated in the study on page 24 are recommendations 6 and 7. Those are pretty important recommendations.

MR. BRESLER responded yes they are, very much so.

DEPUTY MAYOR FELLER stated one of the reasons that other cities are not eager to join with us in this regionalization is that we have the highest paid fire department. Somebody would have to come up to our level, or we'd have to reduce down to theirs to join departments.

The charts in the study are pretty interesting in terms of the types of service calls. Everything is in there. If people are interested they can see all of this information in the back-up.

The study used SANDAG's growth numbers in terms of people, and said we would increase to about 195,000 by 2020. That would increase the number of calls to 95 additional for each unit.

What are the staffing levels for Vista, Carlsbad and North County, within each unit?

FIRE CHIEF HEBERT responded three people on their engines. Carlsbad and Vista each have two firefighter/paramedics. North County has a firefighter/paramedic and an EMT on their ambulances.

DEPUTY MAYOR FELLER stated then we're right in line with them. He would think we would be better served if captains and engineers were still firefighter/paramedics, since they're the ones that are usually going to the scene first in almost all cases. Is that correct?

FIRE CHIEF HEBERT responded on the engine companies, that's correct.

DEPUTY MAYOR FELLER stated the employee numbers for the Fire Department have not increased since 1992. Has that been based on budget constraints or is that because of the negotiations between staff and the bargaining units?

FIRE CHIEF HEBERT responded it's been intertwined. There have been staff recommendations that labor contracts don't have anything to do with where staff was reduced. As far as the force on the firefighting floor, the units and number of people on the units might have been an issue.

DEPUTY MAYOR FELLER clarified that the Management Analyst position that you want to add to administration is mostly to serve the data needs to drive the department, is that correct?

MR. BRESLER responded that is correct. Currently the Fire Department has been using some of its staff members to do double duty with staff analyst work and also oversee emergency management. We think there is an opportunity to improve data collection and the other functions that go into analyzing such as services, sick time analysis, overtime analysis and budget analysis. Those are the kinds of functions that someone with a background in that area is much better prepared to do than most senior fire employees are.

DEPUTY MAYOR FELLER asked how the tiller truck is staffed.

FIRE CHIEF HEBERT responded there are 3 people on that: captain, engineer and a firefighter who drives the back.

DEPUTY MAYOR FELLER asked if he gets paid extra.

FIRE CHIEF HEBERT responded no.

DEPUTY MAYOR FELLER asked if he receives training.

FIRE CHIEF HEBERT mentioned that most other departments do pay extra, but through labor and management agreement, when we looked at getting the tiller, that was one of the things we determined as a staff. Yes, they get outstanding training. They go through training in Encinitas, who was gracious enough to let us train on their tiller truck. We sent most all of our crews without spending money on overtime to do it. Now we're just finishing up having every member in our organization, except for Chief Officers, trained on the tiller truck, and it will be in service.

DEPUTY MAYOR FELLER clarified that we cannot change the minimum staffing. Can we do the data-driven idea without the Management Analyst?

FIRE CHIEF HEBERT responded we do the best we can with our current staff. He doesn't know that he agrees 100% with Tri-Data's assessment on that. We provide outstanding data. Additional help would be great for planning, and he agrees with that for master planning and looking toward the future. Disaster planning is another area we need to be looking at. The City Manager approved the conversion of the Fire Marshall to Battalion Chief, and Fire Chief Hebert plans on using that position to do some of that analysis. Having an analyst would be very helpful.

DEPUTY MAYOR FELLER thinks most of this has been covered pretty

thoroughly, and he appreciates the time everyone has taken with this. There is a lot to be said going forward about the things that are necessary and the negotiations that will be taking place. He personally doesn't see an advantage in discontinuing our ambulance service, but he sees possibilities of maybe having EMT's driving the vehicles, since the trucks show up on a regular basis. Until we get into the negotiations, that's where he'd like to leave it.

2. **Public Communications on City Council Matters (Off-Agenda Items)**

JIMMY KNOTT, 127 Sherri Lane, has been authorized by the Board of OHMA and joins with the management and park owners of Oceanside in condemning any defacing or theft of any political signage. These acts are childish and if committed they should be reported, investigated and appropriately handled. Recently a sign was placed high up on a fence at the mobile home park to avoid these problems, and the park management was cited by our Code Enforcement Department because the park is commercial property and not residential property. This needs to be corrected. This is residential property, and this has ramifications on all people who live in the park.

According to State law, the park owner and the people living in the park have the same right to post. Our City has some conflicts with codes, and there is some confusion. There needs to be clarity provided to the public.

ADJOURNMENT

DEPUTY MAYOR FELLER adjourned this meeting to a regular meeting on Wednesday, May 2, 2012 at 2:00 PM. This adjourned meeting of the Oceanside City Council was adjourned at 4:41 PM, Wednesday, April 25, 2012.

ACCEPTED BY COUNCIL:

Barbara Riegel Wayne
City Clerk, City of Oceanside