



California

ITEM NO. 4

CITY OF OCEANSIDE

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

OCTOBER 17, 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 2:01 PM, October 17, 2012.

2:00 PM - ROLL CALL

Present were Mayor Wood, Deputy Mayor Feller and Councilmembers Kern and Felien. Councilmember Sanchez was absent. Also present were Assistant City Clerk

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

Trobaugh, City Manager Weiss and City Attorney Mullen.

City Attorney Mullen titled the following items to be heard in Closed Session:
Items 2A, 2B, 3 and Addendum Item 3.5. [Item 1 was not heard]

[Closed Session and recess were held from 2:02 PM to 4:00 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. LITIGATION OR OTHER ADVERSARY PROCEEDING (E.G., ADMINISTRATIVE HEARING, ARBITRATION) (SECTION 54956.9)

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

Miller v. City of Oceanside, Superior Court Case No: 37-2011-00090665-CU-OE-CTL

B) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (SECTION 54956.9(b))

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

Items discussed; no reportable action

3. CONFERENCE WITH REAL ESTATE NEGOTIATOR (SECTION 54956.8)

Properties: Portion of relinquished right-of-way south of the Oceanside Welcome Sign east of North Coast Highway, portion of relinquished right-of-way east of Brooks Street, west of Ron Ortega Park, portion of APN 160-270-84, portion of Loretta Street right-of-way north of SR 76, portion of right-of-way south of SR 76, east of Airport Road, portion of Rancho del Oro Drive right-of-way north of SR 78 and portion of APN 167-040-34 (leasehold interest to be assigned to city); Negotiating Parties: City of Oceanside and All Vision LLC , CBS Outdoor, Clear Channel Outdoor Inc., Lamar Outdoor Advertising, Oceans 11 Properties LLC, and/or Sunrey Media LLC/Signs of Support; Negotiator for the City: Douglas Eddow, Real Estate Manager; Under Negotiations: Price and terms of a lease or use agreements

Item discussed; no reportable action

AGENDA ADDENDUM

3.5 CONFERENCE WITH REAL PROPERTY NEGOTIATOR (SECTION 54956.8)

Property: 4.86 acres at northeast corner of Rancho del Oro Drive and Oceanside Boulevard (portion of APN 162-082-45); Negotiating Parties: City of Oceanside and R.D. Olson Development; Negotiator for the City: Douglas Eddow, Real Estate Manager; Under Negotiations: Price and terms for the sale of real property

Council voted 4-0, Sanchez absent, to extend the escrow on the property for a period of 12 months on the condition that \$100,000 currently in escrow is released to the City and an additional \$100,000 nonrefundable deposit is placed into escrow.

4:00 PM – ROLL CALL

MAYOR WOOD reconvened the meeting at 4:0__ 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 4-12]

The items listed on the Consent Calendar may be enacted by a single vote. There will be no separate discussion of any Consent Calendar items unless requested by members of the Council/HDB/CDC or the public through submittal of a Request to Speak form prior to the commencement of this agenda item.

ASSISTANT CITY CLERK TROBAUGH stated there is a request to speak on Item 12.

COUNCILMEMBER KERN pulled Item 6 for discussion.

MAYOR WOOD pulled Item 8 for discussion.

The following Consent Calendar items were submitted for approval:

4. City Council/Harbor/CDC/OPFA: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)
5. City Council: Approval of a purchase order in the amount of \$30,544 to Oceanside Marine Centre of Oceanside for overhaul and re-powering services for the Police Department's Rescue Boat-1; approval of a budget appropriation in the amount of \$30,544 from the Harbor Unrestricted Fund Balance to the Police Department's Harbor Unit Operating Fund for the project; and authorization for the Financial Services Director, or designee, to execute the purchase order
6. **Removed from the Consent Calendar for discussion – Council**
7. City Council: Approval of a purchase and sale agreement [**Document No. 12-D0701-1**] with Hallmark Communities, Inc., for the sale of City-owned property located at the northeast corner of Cleveland Street and Washington Street at a purchase price of \$450,000 for the purpose of constructing residential units; authorization for the Mayor to execute the agreement and the grant deed [**Document No. 12-D0702-1**] conveying the property; and direct staff to open escrow and consummate the transaction
8. **Removed from the Consent Calendar for discussion – Council**
9. City Council: Adoption of **Resolution No. 12-R0704-1**, "...approving and implementing the Compensation Plan for Unrepresented Employees [**Document No. 12-D0705-1**] dated October 17, 2012"

10. City Council: Adoption of **Resolution No. 12-R0706-1**, "...authorizing application to the TransNet Senior Mini Grant program for grant funds in the amount of \$400,000, committing match funds in the amount of \$140,000, stating the assurance of the City of Oceanside to complete the project, and authorizing the City Manager to accept awarded funds and execute all documents pertaining to the grant"
11. Council/HDB/CDC/OPFA: Adoption of four resolutions establishing the 2013 meeting schedule dates and times for regular meetings of the **Resolution No. 12-R0707-1** (City Council) "...establishing the dates and times of regular meetings and establishing the regular meeting schedule for calendar year 2103", **Resolution No. 12-R0708-2** (Small Craft Harbor District Board) "...establishing the dates and times of regular meetings and establishing the regular meeting schedule for calendar year 2103", **Resolution No. 12-R0709-3** (Community Development Commission) "...establishing the dates and times of regular meetings and establishing the regular meeting schedule for calendar year 2103", and **Resolution No. 12-R0710-OPFA** (Oceanside Public Financing Authority), "...establishing the dates and times of regular meetings and establishing the regular meeting schedule for calendar year 2103"
12. **Removed from the Consent Calendar for discussion – Public**

COUNCILMEMBER KERN moved approval of the balance of the Consent Calendar [Items 4, 5, 7 and 9-11].

COUNCILMEMBER SANCHEZ seconded the motion.

Motion was approved 5-0.

Items removed from Consent Calendar for discussion

6. **City Council: Approval of a three-year professional services agreement with Wittman Enterprises, LLC, of Sacramento to outsource the billing services for emergency medical services (EMS), with compensation to Wittman based on a percentage of collections received from net billing collections, and authorization for the City Manager to execute the agreement**

COUNCILMEMBER KERN noted this proposal is a professional services agreement for outsourcing just the billing for emergency medical services. On Page 16 of the proposal, they mention that their experience in working with the City is a unique qualifier for the selection and decreases the implementation timeline. What is this work experience that makes them uniquely qualified? Did the contract provide an opportunity for everybody to have this unique experience?

TERI FERRO, Financial Services Director, believes the qualification is they solely provide EMS billing services; that's all they do. They have over 100 clients throughout California. We utilized them for a 2-week period a couple of years ago and also recently to help us do some catch-up.

COUNCILMEMBER KERN asked if any of the other bidders were offered the same opportunity to help catch up.

MS. FERRO responded we did contact another firm, but we were in a crunch to get something done.

COUNCILMEMBER KERN stated City staff investigated charges made by Wittman in their proposal against one of the competitors. Why was staff so reliant on Wittman's claim against the competitor? That's rather odd in an RFP (Request for Proposal) process that you would talk to a competitor and they get to bad-mouth another bidder.

MS. FERRO stated we checked for references on Wittman, and one of the clients that Wittman has was a former client of the competitor. We checked on it more to find out about the services that Wittman provides.

COUNCILMEMBER KERN asked Richard Hamilton to come to the dais because he brought some of this to his attention. Was Mr. Hamilton's company contacted by the City to provide services to help them catch up?

RICHARD HAMILTON, Xerox Corporation, and a resident of Oceanside, finds it interesting that in Wittman's proposal they mention that his company was contacted earlier and denied services to the City based on the fact that they didn't have resources available and didn't have the expertise to do it. That's interesting because we're bidding on the contract to provide services for things that we said we don't have expertise to do. It doesn't make sense.

COUNCILMEMBER KERN understands that Xerox is one of the largest corporations in America, especially in this field. He asked Mr. Hamilton for an outline of the breadth of their experience. How big is Xerox?

MR. HAMILTON responded Xerox is a \$22,000,000,000 company. We have 1,700 contracts with State and local government. On a State level, we do the MediCal processing for the State. That's a \$1,000,000,000 contract. We just signed a contract with the State for the California Highway Patrol's CAD systems in the public safety realm. We do a lot of business with the State and/or local government. Specifically, in the healthcare arena, we have outsource contracts with 1,100 hospitals across the U.S. We do the fiscal agency processing, like for California, for 38 states including the District of Columbia. It's about a \$2,500,000,000 footprint in terms of revenues. We touch one out of every three lives in the United States in terms of processing. We're the largest IT healthcare outsourcer in the country.

COUNCILMEMBER KERN stated on Page 27 of the proposal, they mention that you were replacing the contract with the City of Pasadena. A company of that size gets and loses contracts all the time. What happened with Pasadena?

MR. HAMILTON responded when we were in the orals process and interviewing with the City, we explained to them that there were 2 major issues with Pasadena. One, when we came in we found that the City had an in-house program and were billing illegally to Medicare because they were basically billing all of it at an advanced life support level. When we changed that billing process, Pasadena lost about \$500,000 in revenue, which they subsequently blamed Xerox for. All we did was change the way we did billing and because they had put a higher amount in their budget, that became a big issue.

The other issue was our technology solution that we deployed Pasadena's IT group wanted a middleware software that protected their firewall but made the system unworkable. They blamed us for the system not working, even though they had a part in putting this middleware piece in place.

Those were the 2 major issues we argued over.

COUNCILMEMBER KERN stated also in this proposal they claim that you lost a contract in Memphis, Tennessee. Is that true?

MR. HAMILTON responded that's the part that is so frustrating to him. Typically, when we respond to proposals, we don't talk about other competitors. We talk about the excellence that we provide in terms of our customers. We don't spend time denigrating or going over issues with competitors because it doesn't make any sense. You end up making mistakes and putting out misinformation. Memphis is still a customer and has been since 2010. We provide collections work for them for

ambulance billing. He can show Council the contract with them.

COUNCILMEMBER KERN asked staff if they evaluated the failures of the other companies at all. He noticed that Wittman had lost Carlsbad. Did staff go back and research why Wittman had lost Carlsbad?

MS. FERRO responded we did an original RFP back in 2010, which was much more comprehensive. All three firms came in and met with staff for about an hour to an hour and a half to answer questions. The second RFP that went out this year was a much more condensed version, and the scope of work changed. We are focusing more on the urgency to catch-up on billing, reduce the need to utilize City staff and implement the quick transition plan. The Xerox Company and Wittman, on a scale of 1-30, both rated a 28 in those categories. The area that we really took into consideration was the quick transition of implementing a contract. Xerox, being the large corporation that they are, had put in their proposal a list of items that they wanted to change in our contract having to do with insurance and indemnification. We also did not see any California clients. That's what gave Wittman the extra edge, as well as medical billing being all they do.

COUNCILMEMBER KERN stated in the evaluation process regarding the new requirements and contractual issues, you did not receive a score commensurate with your competitor, is that correct?

MR. HAMILTON responded his company averaged 6 in that area, and the competitor averaged 9. The list of contractual discussion points was all we listed on a single page in the proposal. We did highlight about 6 areas that we would like to discuss, but that didn't mean that we had major issues. For example, with Termination For Convenience, we typically like to see a 60-day window as opposed to a 30-day window, which is what the City was proposing. All we said was we wanted to sit down and negotiate in good faith. It didn't mean we were going to take 6 months to negotiate a contract. He found it interesting that there would be such a disparity between the way we were scored, based on the one sheet that we submitted in the proposal, versus a competitor saying they would sign up for any terms the City wants. If that's what the City wanted, they should have said that. That was never listed as a requirement in the RFP process.

COUNCILMEMBER KERN stated that given the change in pricing from the first RFP to the second situation, he was concerned with the steps that staff took to ensure the confidentiality of the pricing numbers from the previous proposals. You invited somebody in to help you, and they come back with a lower bid the second time around. That's the most troubling part of this to him. It troubles him to think that there's been an arrangement made or somebody on staff is driving toward Wittman.

MS. FERRO stated the request for Wittman to come in and help us was in May. The RFP went out in August, months later. We were still under the approach that we were going to continue doing this in-house. Once we closed out the fiscal year, we realized our revenues were down by almost 1/3. We were not in any position to recover with the staff we had on hand. She spoke with the City Manager, and he said to go out for an RFP and start again. She has all of the proposals, emails and communication between the various firms.

COUNCILMEMBER KERN understands that there was an RFP process before, and all of the bids came in. There was a second RFP that came out, and most of the people who bid kept the same pricing, except the winner of the bid who came in with a lower price. He's troubled by that. He isn't alluding to any wrongdoing; it just troubles him.

What was the Fire Department's opinion of the technology solution that was proposed by Xerox, including the optional proposal that they provide regarding taking

over all responsibility for the electronic patient care?

MS. FERRO responded we did not have the Information Technology Department involved in the RFP at all. We did have representatives from Finance and Fire because we are on the billing end. We realized that Xerox was very well qualified, but they just didn't have that extra edge we needed to hit the ground and get going tomorrow. We are about \$1,300,000 behind on our revenue, and we just can't drag this out any further.

COUNCILMEMBER KERN is just uncomfortable with the process right now and would like it to be sent back to the City Manager and City Attorney to review the process internally if possible. He can't support this at this time.

Public input

SHIELA KADAH, 5301 Village Drive, understands that anything you pay to people comes from the taxes paid by the citizens of Oceanside. As a citizen she wonders why you can't just hire more staff. Mayor Wood and Councilmember Sanchez always want to fight to save jobs. The other 3 Councilmembers always want to outsource and get rid of jobs. This affects people's lives. Our tax money should stay with the people of Oceanside and be used to hire more people. We need jobs.

Public input concluded

COUNCILMEMBER SANCHEZ doesn't think this will cause a loss of positions in the City. She asked the City Manager if it would cause us to lose a position.

CITY MANAGER WEISS responded no.

COUNCILMEMBER SANCHEZ doesn't see a problem with staff's process. This is under the direction of the City Manager's office, which manages the day-to-day operations. They followed protocol. She's surprised at these questions being asked. It seems like it's for show, but perhaps you didn't have a chance to look at this until you met with the gentleman from Xerox just before who is also a friend of Councilmember Kern's. Of course you would want to inquire. However, it's our job to look at these at arm's length. There is a process and procedure that was set out. It's been an ongoing process, and staff has been looking at these issues for several years. It's been a difficult situation for all of us, staff included. These are hard decisions that have been made, and she believes that we continue to provide a certain level of service to the community that is relied upon.

She **moved** approval [of a three-year professional services agreement **[Document No. 12-D0700-1]** with Wittman Enterprises, LLC, of Sacramento to outsource the billing services for emergency medical services (EMS), with compensation to Wittman based on a percentage of collections received from net billing collections, and authorization for the City Manager to execute the agreement].

People are not always going to be happy with the results, but she doesn't see anything wrong with this process.

MAYOR WOOD **seconded** the motion.

COUNCILMEMBER FELIEN stated the issue is that someone was brought in to do temporary work, and there is some dispute over whether or not that was offered to all of the competitors. The staff report says it was offered, and yet one of the competitors says they were never called. What would be the explanation for that discrepancy?

MS. FERRO is not aware that the staff report says they were all called. We did call 2 local firms in California, but we did not call the firm in Virginia to come in and provide us temporary help. Xerox is based out of Virginia.

COUNCILMEMBER FELIEN clarified that Xerox was not offered the chance to participate.

MS. FERRO responded not for the 2-week assignment. We needed somebody to come in immediately, and we did not call them in Virginia to bring a team out.

COUNCILMEMBER FELIEN asked, in terms of references and contacting the references of a bidder, do you only contact the references for the person after they've already won or is contacting references for the top 2 or 3 part of the process?

MS. FERRO responded we contact the references for the firm we wish to choose. We contact the references for one firm. Back in 2010, Xerox was a little on the higher side. We didn't make a final decision, but we called references back then, too. There was no need to call references for our second or third choice.

COUNCILMEMBER FELIEN asked isn't calling references part of making the choice. When he hired people, he would always check the references of the top 2 or 3 people. The candidates are going to say all kinds of great things about themselves, but getting other input is important as to whether or not the claims that are being made are true. When he hired people, references were a big part of that decision. That should have been a more important part of that process considering some of the discrepancies that seem to have been found in terms of the accuracy of some of the information that was presented.

MS. FERRO responded we check the references for our number one candidate. If those references started to go sideways, we would have called the references for candidate number 2.

COUNCILMEMBER FELIEN stated the report mentioned the issues were being considered in terms of something that was negative towards Xerox in their experience with Pasadena, but nothing was followed up as far as Wittman and their experience in Carlsbad. Why would that be?

MS. FERRO responded the interview process was looking at specific criteria. Once a decision is made to narrow it down to a number one candidate, then you call references. Obviously, Wittman is not going to list the clients they lost, they just list the clients that they offer as references, Pasadena being one of those. We called them. She understands what's being asked as far as there being 2 sides, but that's not the approach we took in the interview process.

COUNCILMEMBER FELIEN asked between the first and second RFP's, did the requirements of the City substantially change? Apparently 2 of the top bidders didn't change any of their pricing, and one bidder suddenly got their price just under the one that had previously had the lowest bid. He has discomfort with that. Was there any reason for them to change the bid? Did the City require less in the second RFP than they asked for in the first RFP?

MS. FERRO can't answer that question; that's not something we ask for. Each bid was sealed and confidential. If Council would feel more comfortable, we do have the CEO of Wittman here if you'd like to give her the opportunity to defend her proposal.

Price was not everything. If you look at the proposals between the 3 firms, throwing in Critical Care, based on the amount of revenue that the City potentially generates of \$3,300,000, there is \$660 difference between Wittman and Xerox. There is \$31,000 between Wittman and Critical Care. The pricing was not a significant number

to sway our decision.

COUNCILMEMBER FELIEN asked if Councilmember Kern had made a motion.

COUNCILMEMBER KERN responded no. He cannot support this and wanted to redirect it to staff, but he wanted the rest of his colleagues to weigh in on this.

COUNCILMEMBER FELIEN asked the City Attorney if there is any cost to the City in terms of having it reviewed for 30 or so days.

CITY ATTORNEY MULLEN has already reviewed it. Mr. Hamilton sent his complaints about the process to him. He has interviewed staff and reviewed the documents, and it's his opinion that this proposed staff recommendation is perfectly consistent with our City Code purchasing procedures and our Administrative Directive. He doesn't have any legal issues associated with the complaints made by Mr. Hamilton.

COUNCILMEMBER FELIEN invited the CEO from Wittman to come to the podium and explain what made Wittman change the bid from the first RFP to the second RFP when he understands there were no changes in the City requirements.

CORINE WITTMAN WONG, CEO of Wittman Enterprises, stated we've been doing solely EMS billing for 21 years in the State and have perfected a very modest profit margin rate for our business. When we bid these, there is a calculation that we put into place that takes many variables. One of those variables is the average charge per transport. Two years ago when we bid this, your average charge per transport was much lower than it is today. When we were asked to rebid this and we looked at it, we knew what we were up against.

She apologized to Mr. Hamilton for the misprint on the Memphis issue. They work closely and bid a lot of contracts together. She knew in going up against ACS that they typically come in higher. She had no idea who bid what on this contract, but her assumption was that ACS typically came in, as they normally do, anywhere from 6% to 10%. Her 5.25% on her original bid 2 years ago was already lower than what her assumption was that ACS would have come in on. When we were re-asked to bid recently, we looked at the rates, which had gone up quite a bit since the original bid. When we applied that to our formula, we saw that we could make the same amount of profit with a lower percentage charge to the City.

COUNCILMEMBER FELIEN is interested, before we vote on Councilmember Sanchez's motion, in what would make Councilmember Kern happy to resolve this issue.

COUNCILMEMBER KERN is just not comfortable with the process right now because of all the questions he had. There were a couple of anomalies in the staff report that weren't true, so he can't support this motion. If the motion fails, he will request sending it back to staff to review and bring back. If the motion passes, then it passes.

COUNCILMEMBER FELIEN wants to hear what Councilmember Kern's motion is and will vote no on the current motion so we can hear what that is.

COUNCILMEMBER SANCHEZ still has not heard any anomalies. She sees a professionally held process that was done at arm's length. She understands that there are some personal relationships involved here; however, we have to ignore those. All she's heard is that there was a process. There were some suggestions that something didn't go well, but she doesn't see any evidence of that. Our Attorney has already looked at this because of a complaint submitted by Mr. Hamilton. It's been investigated, and we're told that this process followed all of our procedures. If we continue this, that could put a microscope on the personal relationship involved, and that's probably not what you want to happen. We need to move forward with the bidder who is obviously

well qualified and won the bid. Are we going to start micromanaging the bids and asking staff to pick friends? We should not be doing these things. This is on the Consent Calendar, and we see these every other week.

DEPUTY MAYOR FELLER stated the thing that unsettles him is that we're behind \$1,300,000. How far behind were we when we did this 2-day deal back in May?

MS. FERRO responded about the same. We have a 6-month lag. With the various reductions in the Finance Department, we had the intent to have 3 people work on this program, but we're down to one employee. She's doing the best she can. We bring in resources. We thought bringing in an outside firm to do a little catch-up would help. It did; it brought us current through the month of May, but now we have all of the catch-up work to resubmit to insurance companies to collect the dollars. The bills are out through the month of May, but the collections have not happened. We still have to go June – October, so we're seriously behind.

DEPUTY MAYOR FELLER stated we're about the same as we were when we did 2 days of intensive work.

MS. FERRO responded that's correct. We got a big bump and got about 2,000 invoices out. The nature of this operation is that the insurance companies come back, quibble about benefit rates, and there's a lot more follow-up that needs to be done.

DEPUTY MAYOR FELLER asked if any of the people who worked on that intensive were involved in the selection of Wittman.

MS. FERRO responded no. The staff member who worked on that was on vacation while we went through the interview process, so she was not involved.

DEPUTY MAYOR FELLER is not sure why we can't do 2 days of intense catch-up again. That's the only thing that bothers him. Maybe it would be a good opportunity to have the other person spend 2 days with you as well. He has bid on things many times and knew pretty close what other people were bidding, because we all bid on the same things. Ms. Wittman Wong said her bid was the same percentage as the prior time, is that correct?

MS. WITTMAN WONG responded no. The original bid was 5.25% of net collected dollars. When we were asked to rebid this, as the other two vendors were asked to do, we asked for specific information about your current rates. There was a big jump in your rates, which warrants us to be able to lower our percentage some. We did lower it from 5.25% to 4.95%.

MS. FERRO stated all questions posed by vendors was shared with all vendors. When Wittman asked questions, those questions and responses were shared with all vendors.

DEPUTY MAYOR FELLER doesn't know what to do here. He has a little trouble with Wittman having had the inside track by working those 2 days with our staff. It's like a knowledge you have from May to bid in August.

MS. WITTMAN WONG understands. She believes what took place is when the 2 vendors were asked to potentially come help and get the backlog caught up quickly, we were able to turn that around in 24 hours and get a team down here extremely quickly. We sent a staff of 12 down, and none of those are direct line staff. Nobody from her level had any interaction with any staff members. The work that we did on behalf of the City gave us no knowledge that would be beneficial for the rebid of this contract. It was strictly to come in and do data entry to get the City caught up on the backlog of ambulance transportations that had not gotten into the system or originally billed. We came in, got it caught up to a certain point and that was it. The backlog that

exists now, because of the staff that we employ, we will be able to take that old work and get it entered and out within no more than 30 days.

We were brought in during the month of May because of our expertise in California, our knowledge of the California payers and the fact that we have employees located in California and have the ability to bring that staff to help in this backlog. That was why we were brought in.

DEPUTY MAYOR FELLER has an uncomfortable feeling about changing what staff does. He almost always supports staff. In this case, he's done this before himself so he knows what both sides are going through. He doesn't know of a reason to change staff's recommendation. The explanations are satisfactory. Mr. Hamilton has lobbied him as well. He's listened to both sides and we're all trying to do what's right. The best thing we can do is learn from this. City staff needs to be aware what appearances look like. He'd love to give the business to Mr. Hamilton because he lives here in Oceanside. We need to learn from this. Both companies are qualified to do what we need to do.

MAYOR WOOD asked if this is a timely issue.

MS. FERRO responded very timely. Time is money.

MAYOR WOOD went by the staff recommendation, the City Attorney and City Manager. Everything was fine. He isn't going to ask about friendships or political relationships, but they concern him. If this goes forward, you'll probably have some sort of investigation by outside agencies regarding this issue that may not be done before the campaign is over.

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

8. **City Council: Acceptance of the improvements constructed by DBX, Inc., of Temecula for the installation of traffic signals on Oceanside Boulevard at Camelot Street, Cannon Road at Shadowridge Drive, and Rancho del Oro Drive at Cameo Drive, and for traffic signal modification on Mission Avenue at Douglas Drive; and authorization for the City Clerk to file a Notice of Completion with the San Diego County Recorder**

MAYOR WOOD supports all of these changes, but he does not support the traffic light at Rancho del Oro at Cameo Drive. He would like to approve this item, but register a no vote on the Rancho del Oro and Cameo Drive traffic signal.

He **moved** approval [of acceptance of the improvements constructed by DBX, Inc., of Temecula for the installation of traffic signals on Oceanside Boulevard at Camelot Street, Cannon Road at Shadowridge Drive, and Rancho del Oro Drive at Cameo Drive, and for traffic signal modification on Mission Avenue at Douglas Drive; and authorization for the City Clerk to file a Notice of Completion [**Document No. 12-D0703-1**] with the San Diego County Recorder].

COUNCILMEMBER SANCHEZ seconded the motion. She is also voting no on the traffic signal at Rancho del Oro and Cameo Drive.

ASSISTANT CITY CLERK TROBAUGH clarified they are voting on one motion with the understanding that Mayor Wood and Councilmember Sanchez are voting no on the Rancho del Oro and Cameo Drive traffic signal.

Motion was approved 5-0, with Wood and Sanchez voting no on the Rancho del Oro Drive at Cameo Drive item.

12. **City Council: Ratification of the increase in the amount of \$24,750 to the purchase order to Brenntag Pacific to reflect the revised pricing for**

wastewater chemicals (ferric chloride) and authorization for the Financial Services Director, or designee, to execute the revised purchase order

DAN ZINMAN, Arleta, California, stated in about an hour you're going to have a discussion regarding the water rate increases on tap for January. Last week in the *North County Times*, Water Utilities Director Dale said there are no increases in any of our costs; we've cut costs and continue to cut costs. Item 12 is an increase in costs to the tune of almost \$25,000 for ferric chloride.

If we go back to July's City Council meeting, Council voted 4-1 to approve a chemical expenditure increase. Part of that increase was due to ferrous chloride pricing of \$780, negotiated down to \$730, versus \$599 of a year ago. He understands that part of the increase was offset by a ferric bid of \$500 versus \$599 of a year ago.

At that time, Ms. Dale stated for the record that there was an increase in chemical costs. There was an overall increase in chemical costs, and it was justified by being lower than the cost of living.

A lot has happened since that July Council meeting. It's interesting that Paul Hojo was not part of that original bid. Mr. Hojo sent out a simple email bid to several companies, Miles Chemical, the company Mr. Zinman works for, was awarded that bid. Immediately, in July, your pricing went from \$594 to \$730 for the La Salina facility. The Assistant City Attorney told him that his company was awarded that. After the Council meeting in July, negotiations took place. The \$500 a dry ton was not \$500 a dry ton that you were presented. An email from Teresa Gomez to Brenntag Pacific talks about a pricing of \$590. She says this way we don't have to go back to Council. It looks like there were some negotiations taking place in hopes that this would not come back to Council for a vote.

Councilmember Sanchez sent him an email regarding the bid process. Brenntag didn't even bid in the reverse auction. Their email to Ms. Gomez clearly states the price is way too low; it was a mistake and we don't believe we entered it. So how can they start to negotiate when they weren't even a part of the process?

Staff talks about benchmarking. Didn't other agencies offer a piggyback? This behind the scenes negotiations still gave you higher prices than other agencies that have offered to piggyback.

If Council votes no on this, they're going to see a decrease. He asked Council to vote no not only to the increase, but to the way this has been handled and the misleading information you've been provided. He urged Council to take this back to bid.

CARI DALE, Water Utilities Director, clarified that the action this evening is to ratify an increase to a purchase order for ferric chloride. We seem to be confusing a couple of chemicals this evening. Ferric chloride was included in the reverse auction. Mr. Zinman had not participated in the reverse auction. At the time we came to Council, we had stated that the pricing as we knew it at the time that staff was this recommending be awarded was \$500 per dry ton. After the award, Brenntag told us that their bid price was in error and, in consultation with the City Attorney's office, we negotiated with Brenntag for a revised price below their cost.

The overall cost increase for all of our chemicals that were awarded in the July action is below the cost from the previous year, she believes. She and the City Attorney met with Mr. Zinman regarding his concerns. Moving forward, we will be using some alternative means to bid our chemicals, but this is a time-sensitive issue where we do need the chemical for treatment at the waste water plants.

COUNCILMEMBER FELIEN stated this seems like a strange item. How do you make a bid and then claim your bid is wrong but you want to still keep the contract? As

far as the urgency, if the bidder wants to back out then it seems we should be getting the chemical for the price that was bid. That's what won the bid, right – the low price? How do we justify allowing them to up the price even though they won it at a lower price and now no one else gets to bid against them?

MS. DALE responded in consultation with the City Attorney's office, we made a business decision to go forward with the revised pricing, given that the cost to move towards any sort of litigation to enforce the \$500 per dry ton would be in excess of the cost increase that was obtained through the revised pricing. The revised pricing is also below the bidder's cost, so we are realizing a savings there; we're just not realizing the savings of the original bid in the reverse auction. The Water Utilities Department is trying new and unique ways to save money, one of them being the reverse auction process, which was a recommendation from the Grand Jury. We tried that process, and we have a few bumps that we need to work through. Moving forward, we will work through that. However, with the time constraint and the need to have the chemical for the treatment process, we are recommending that Council move forward with the action.

COUNCILMEMBER FELIEN stated that's backwards. Why aren't we putting in the request for the chemical we need while we're negotiating a solution? You're saying this vendor has a right to say he's not going to honor his contract because he made a mistake. It seems our attorney should be sending their attorney a letter and not being afraid of some letter that's going to come from their attorney. We have a contract, right? They aren't going to honor that contract until we negotiate a new price, and that puts us on the hook for not getting the chemicals we need. Is that the relationship as he understands it? If they screwed up their bid, he's not against them being able to back out and having it rebid. However, there is a gross unfairness in this. If you put together a bid and incorrectly estimated your costs, that's too bad. How do we justify to the other bidders and the taxpayers that someone can get in under the tent with a false bid and then do a one-on-one negotiation that competitors aren't part of?

If they want to back out, then we can have another bid. In the meantime, we should be getting the chemicals we need. He doesn't see how this is the City's problem to solve. The answer is to have another bid, however that needs to be done. He will vote no on this.

CITY ATTORNEY MULLEN stated that to rebid is an option for Council. We indicated that the last time it was in front of Council. You can reject this proposal and authorize a rebidding process.

COUNCILMEMBER FELIEN would want that. He **moved** to vote no on Consent Item No. 12.

COUNCILMEMBER KERN **seconded** the motion.

DEPUTY MAYOR FELLER asked how much longer this contract was for.

MS. DALE responded the contract is for the current fiscal year. It will expire June 30, 2013.

DEPUTY MAYOR FELLER would go along with the motion.

COUNCILMEMBER KERN echoes the comments of Councilmember Felien. It sends a terrible message that people can just bid whatever to win the bid and then say you made a mistake and negotiate with City. That's a bad message to send. Just like the previous item, he has a problem with parts of the process. He's not saying anybody did anything wrong, but we need to step back and start over.

CITY MANAGER WEISS clarified that the motion is to vote no. Is it also a direction to rebid it?

COUNCILMEMBER FELIEN yes, that's correct.

COUNCILMEMBER SANCHEZ asked what staff will do in the interim before they get this contract in order to meet their needs for chemicals. Will you go out to the open market and get some at the lowest price until we get a contract in place?

MS. DALE responded that is probably the route we will have to take. If we're unable to do that, we wouldn't be using the chemical for a period of time, which would be an odor issue.

CITY MANAGER WEISS stated we have a contract now, based on \$500 per ton and we would hold them to that contract. That's why we have lawyers.

COUNCILMEMBER SANCHEZ stated we're charged with public safety. That's the number one priority. That includes public health issues. If this poses any threat to that, she needs to know that. When we deal with the contracts, we try to get the best possible offer and deal for the City. Mistakes will happen. The requirement is to bargain in good faith. She doesn't see bad faith here; it was a mistake. She has never seen a judge enforce something that a person can't deliver. A judge is not going to force someone to gift something to the City. This could be in court for a year or more and no one wants that. It seems the most equitable thing to do would be to reject this and rebid. However, she wants to make sure the public is not affected in a negative way. She has some concerns about Ms. Dale saying if we can't find this chemical on the open market, we just won't use it. What do you mean by that? Will our public health be impacted?

MS. DALE responded not necessarily public health, but the odors in the area of the San Luis Rey Waste Water Treatment Plant would be compromised. We would experience some significant odor complaints. This is a chemical that treats and addresses odor.

COUNCILMEMBER SANCHEZ stated then the public in that area would be coming to Council meetings complaining about the smell.

MS. DALE responded correct.

COUNCILMEMBER SANCHEZ believes they have an equal right to enjoy their homes. She doesn't want the whole community by the treatment plant to have to suffer because of a mistake. What will it take for staff to find out whether or not you can cover these chemicals for a short period of time?

MS. DALE responded if we were to use the reverse auction process it could take 4-6 weeks, as well as the time it would take to come to Council for the award, if the amount was over \$50,000. She presumes it would be given the original amount of the contract. So it would be maybe a couple of months.

COUNCILMEMBER SANCHEZ asked if we have some in storage.

MS. DALE responded yes, but she doesn't know the amount we have on hand at the moment.

COUNCILMEMBER SANCHEZ would like to include direction that staff come back to Council if the situation materializes. It would be unfair to the public to have these smells.

COUNCILMEMBER FELIEN understands the concern completely. He agrees. He's confused because he understands that we have a contract, and we can get all the chemicals we want from that contract.

COUNCILMEMBER SANCHEZ stated but you won't. You'll go to court.

COUNCILMEMBER FELIEN stated if the vendor is not going to honor his contract, we'll have to buy the chemicals on the open market and sue him for the difference and get it. It's not our fault that he messed up his bid.

COUNCILMEMBER SANCHEZ has a simple request that if it turns out we can't make the vendor do that, we don't have the chemicals and can't buy them on the open market and have this lag time, this will come back to us so we can figure out a way to insure that our public does not have to suffer the smells because of a mistake.

COUNCILMEMBER FELIEN agrees. That is acceptable. The motion is to reject the bid.

Motion was approved 5-0.

[Recess was held from 5:12 PM to 5:29 PM]

5:00 – ROLL CALL

Mayor Wood reconvened the meeting at 5:29 PM. Councilmember Sanchez was absent [arrived at 5:38].

INVOCATION – Bishop Juan Hernandez of Apostolic Assembly

PLEDGE OF ALLEGIANCE – Marine Corps Junior ROTC

PROCLAMATIONS AND PRESENTATIONS –

Presentation – Mayor's Youth Sports Recognition and Appreciation Award

Off agenda – 2012 Miss Golden State Princess, Cayla Rose Guili

Presentations were made

MAYOR AND/OR COUNCILMEMBER ITEMS

24. **Request by Councilmember Kern to amend the existing lease agreement at 1617 Mission Avenue between the City and the Veterans Association of North County (VANC), by extending the current terms and conditions that exist with the rear 10,000 square feet of the building, to include the front 3,500 square feet of the building, and return to Council in November for approval**

COUNCILMEMBER KERN stated this was a request brought forward by VANC.

CHUCK ATKINSON, Veteran's Association of North County, stated we have 2 leases with the building at 1617 Mission Avenue for 13,500 square feet. We originally had a lease with the City for 10,000 square feet in the back of the building to do tenant improvements and make it a meeting place with all of the veterans associations in North County, as well as provide resources for the veterans in the community.

We are currently raising the funds to do those tenant improvements and get that up and running. In the meantime, we went to the City requesting 3,500 square feet in the front of the building, which the City previously wanted to retain. We talked them into giving us a lease for that portion as well for the purpose of doing a career transition

assistance program, which provides job preparation for men and women coming out of the military. The one thing they need desperately is jobs, and this is a program that can provide them jobs.

The terms of the front lease of the building state that it's restricted to just jobs programs, which was fine. The lease did not have a start and end date. However, if the City had a need for that 3,500 square feet, we would have to vacate it in 60 days. The program we started up is going very well, and we also have a security certification program going on there at the same time. This provides good jobs for men and women coming out of the military.

We've been overrun with different people coming to us with jobs resources and other program resources, but to get them started we'd have to go into the 3,500 square feet portion of the building, which the City has restricted to jobs programs only. We're asking if we could get the lease for the 3,500 square feet rolled into the same terms as what we have in the back with the 10,000 square feet. Then we could devote time and other resources to start other programs in that part of the building and use it as a meeting place for some of these organizations as well.

The Oceanside Rotary Club has raised money for a kitchen, but we're still in the process of raising money for the back of the building, which is a little bit longer than we thought it would take due to the economic times. Recently the grant funds have been made available for use on construction, not just the kitchen or the electrical. Those funds are now in place to move forward with at least Phase I in the near future. We're working with Home Depot and their contractors so we can start doing some construction. In the meantime, we need the front end of the building to do these programs and bring some resources in to provide those services to the men and women of the community.

We've spoken with the Veteran's Association of San Diego and they said their backlog in claims filing with the VA is so large that they need to bring in more people. They would like to bring some of those people into the front of our building to help catch up with the claims. Right now, they're 3 months behind, and with the military downsizing it's just going to make a larger backlog. Interfaith Community Services is working with us as well by providing a lot of resources that the veterans need. Rancho Santa Fe just gave us a second grant yesterday with their jobs program. They have partnered up with Manpower Staffing Services to help place veterans in jobs throughout the County. He listed other agencies that have partnered with them in hiring veterans.

COUNCILMEMBER KERN moved to amend the existing lease agreement at 1617 Mission Avenue between the City and the Veteran's Association of North County (VANC) by extending the current terms and conditions that exist for the rear 10,000 square feet of the building to include the front 3,500 square feet of the building and return to Council in November for approval.

COUNCILMEMBER SANCHEZ seconded the motion.

COUNCILMEMBER FELIEN thanked all of the veterans for their service. He thanked Councilmember Kern for bringing this forward. We have veterans coming back from war into the worst job market in our living memories. As a city, we need to do everything we can to bend over backwards to help our veteran community. If this lease modification will take a small step forward to where this good work can be done, then we shouldn't hesitate before moving forward on it. He urged a yes vote from all of his colleagues.

COUNCILMEMBER SANCHEZ thanked staff for all of the work they've done on this. Staff decided the City doesn't need the space nearly as much as it is needed by veterans. She thanked everyone who works to help veterans. This makes our community special because we have always recognized our veterans and what they do

to make us safe.

San Diego County is going to be hit the hardest in terms of our returning military. Oceanside will have more than its fair share of needing to step up and help. The transition to civilian is a hard thing. She's proud of Oceanside.

DEPUTY MAYOR FELLER is proud of what's being done here. The hospital is going to be completed in 2014, and this is going to be a very convenient location for many of these transitions. We have space in our buildings. That space will rightfully fit into the VANC's plans for our veterans. He thanked everyone for the work.

MAYOR WOOD thinks this is extremely beneficial to the people in need in North County. We've all strived to get this finished sooner. It's way past due for a military town like this. This would have been done by now if it wasn't for the economic crunch. Hopefully, this will move forward. We will do whatever we can to help.

COUNCILMEMBER SANCHEZ thanked the Mayor, who was one of the leaders to make this happen in the first place, along with Councilmember Chavez.

COUNCILMEMBER KERN hopes everyone will return to our next Council meeting on November 7th where we'll be honoring our Oceanside Veteran of the Year and the Oceanside Veteran Organization of the Year. We'll also be renaming the Oceanside Airport in honor of Bob Maxwell, one of the original Tuskegee airmen.

Motion was approved 5-0.

GENERAL ITEMS - None

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.

21. **City Council: (1) Introduction of an ordinance amending Chapter 29 of the Oceanside City Code by establishing wastewater user rate increases, and (2) introduction of an ordinance amending Chapter 37 of the Oceanside City Code by establishing water user rate and external water provider charge increases (Continued from October 3, 2012)**
- A) Mayor opens public hearing – hearing was opened.
 - B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Mayor Wood, Deputy Mayor Feller and Councilmembers Sanchez, Kern and Felien reported contact with staff and the public.
 - C) City Clerk presents correspondence and/or petitions – petitions and correspondence were received and copies were provided to Council.
 - D) Testimony, beginning with:

CARI DALE, Water Utilities Director, stated this evening we are holding the majority protest public hearing for water and sewer rate increases. We held a rate workshop on June 19th where we reviewed historical rate increases, the proposed increases this year from Metropolitan Water District (MWD), as well as the resolution that was adopted by this Council last February in support of the rate litigation between the San Diego County Water Authority (SDCWA) and MWD.

We also recapped the efforts of Mayor Wood and Councilmember Felien, Commissioners Knott and Costa, as well as Water Utilities staff and concerned citizens who testified in Los Angeles at MWD's headquarters in opposition to MWD's increases. There we presented over 1,100 protest letters written by Oceanside ratepayers from 2007 through 2010. Oceanside represented the largest delegation of any agency in San Diego County.

During the workshop, we also discussed the tremendous effort that the City has undertaken and continues to undertake to develop local water supplies in Oceanside. These include the development of the Mission Basin Ground Water supplies, the development of recycled water and the ongoing development of our own ocean desalination plant.

Council is now reaping the rewards of your earlier actions. Because of these investments, 15% of the City's total water needs are met through these local supplies. The costs of these supplies are within the City's control. Absent these supplies, today's recommended rate increases for water would have been far greater. Moving into the future, it is imperative that we continue to invest in local supply development, such as recycled water and ocean desalination, which will decrease Oceanside's dependence on MWD and allow the City to more readily contain its water costs.

Earlier this year, we had provided Council with an extensive list of actions that have been taken by the department to reduce our own costs. Some of these include implementing efficiencies, which have resulted in reductions of the annual operating and maintenance budget; a reduction of 5 positions in the department; optimizing local water supplies, such as the modeling of various supply scenarios and evaluating the financial impacts of those actions; and consolidating functions within the Public Works and Water Utilities Departments.

On the other hand, MWD has had some significant rate increases and increases to costs. In the next 2 years they are increasing their operating budget by \$28,100,000 and this year have an average rate increase of 5%, which is effective January 1, 2013. However, due to MWD's current rate structure, which the SDCWA believes creates an unfair burden on San Diego customers, the actual impact to the San Diego region is approximately 8.5%, not the 5% that MWD has publicized. The 5% rate increase is lower than the original proposal of 7.55, which was the amount recommended by MWD staff when all of us went to MWD.

A computer graphic was used to illustrate the overcharges to the San Diego region due to MWD's rate structure. In 2012, the overcharged amounts represent \$40,000,000 in the San Diego region. For Oceanside, it is approximately \$2,250,000 for this overcharge. By 2021, this increases to \$11,900,000 for the City.

Rate drivers affecting the SDCWA costs include, first and foremost, increases to MWD's costs. MWD's costs represent 48% of all SDCWA costs and an overall 8.5% increase to the SDCWA. The SDCWA's cost increases also reflect increased payments for debt due to infrastructure investments and supply diversification and improvement projects for enhanced water supply reliability. SDCWA costs are also increasing due to low water sales.

Cost increases from MWD and SDCWA are more commonly termed pass-through increases. For MWD, the pass-through represents an 8.5% increase to wholesale fixed, as well as variable cost components. For SDCWA, the cost drivers mentioned previously resulted in a 9.7% increase in treated water and a 9.6% in untreated water. Pass-through costs affect the cost for imported water supplies, which account for 85% of the City's total water supplies. There are a lot of middlemen and transportation involved. It's a very expensive source for us. Oceanside's local water supply, because of Council's earlier investments in local water supply, represents 15% of the City's total supplies. They are within our own cost control.

A computer graphic was used to show where money is spent within the water utility. The total costs that are paid to MWD and the SDCWA are attributed to 46% of all costs spent in the water utility here in Oceanside. The increased costs paid to MWD and the SDCWA translate to a recommended rate increase for the Water Utility of 6.5%. Approving the rate increase also insures that there are adequate revenues to meet

expenditures. It allows the City to meet debt obligations and coverage, provides an operating reserve and continues to fund local water supply development, which is critical to reducing our dependence on MWD and meeting the Council goal of 50% local water supplies by 2030. The recommended rates are also consistent with prior recommendations from the citizen's advisory committee with the exception of they do not reflect inflation for internal costs.

For the single-family residential user, using 12 units of water per month, the water rate increase represents \$4.01 per month increase, or \$62.84 per month. As compared to 23 other regional agencies in the County, Oceanside is the 5th lowest in the County with this rate increase and is in the lowest 25% in the County. It's also \$8.70 per month below the regional average. It's below neighboring cities such as Carlsbad, Escondido and Vista. At the time the last rate increases were brought forward, Oceanside was about the average in the County, so we've improved with our efficiencies.

In the sewer utility, the recommended rate increase is 5%. The recommended action also includes clarification to the ordinance language defining the sewer billing tiers. It is being put forward for consideration in response to Council's comments that were provided to staff in the workshop in June. The increases also insure there are adequate revenues to meet expenditures; that debt obligations and debt coverage are met; and it continues to fund infrastructure replacement, which is critical to reliable utility operations.

The increase affects industrial/commercial as well as residential customers. For special industrial user rates, such as those performing manufacturing or industrial establishments that generate high pollutant loadings, the increase translates to a 5% overall on all parameters, effective January 1, 2013.

For a single-family residential sewer customer with medium sewer flow, the increase also translates to a 5% overall increase, or \$2.71 per month. Compared to the 18 regional sewer agencies, Oceanside sewer rates are \$1.01 per month below the regional average.

There is also a separate action being requested this evening to adopt an environmental mitigation surcharge for sewer customers on each unit of water consumed. It is recommended to pay for the Haymar sewer line break, which occurred in December of 2010. The Regional Water Quality Control Board had initially assessed a fine of \$1,500,000. The department has been in confidential negotiations to reduce this amount. These negotiations are ongoing, and we believe they will conclude shortly. At the recommended rate, the surcharge would be collected until sufficient funds are collected to cover the cost of the fine. At this rate, staff anticipated the surcharge would be discontinued in March of 2013, after 2 months.

In conclusion, this evening's recommended actions are to introduce an ordinance amending Chapter 29 by establishing wastewater user rates, introduce an ordinance amending Chapter 37 by establishing water use and external water provider charge increases, approve an environmental mitigation fee for all sewer customers, and direct staff to implement the user rate and external water provider charge increases.

We have provided an alternative action, should Council choose not to approve the rate increases. This action authorizes the City Manager to take all necessary steps to reduce personnel and operating costs in the water utility, as well as in the sewer utility.

Public input

JIMMY KNOTT, 127 Sherri Lane, stated as a citizen he doesn't like the increase, but in order to have a safe, healthy, reliable source of water, it's needed. As OMHA

Director, he made sure to obtain notices from the department, and every community representative had the information sheets on this. As Vice-Chairman of the Utilities Commission, he went with the Mayor and Councilmember Felien to MWD and asked their Board for help for our fiscally impacted citizens.

In the future, we are going to need more infrastructure if we are to become water independent from MWD. Right now we only receive 15% of our water from the San Luis Rey River. That may be endangered by the Steel-Head Trout. We need a huge investment in our recycled water conveyance system. Right now the City is only 10% covered, or less. We have an elderly wastewater treatment plant at La Salina. We also need further expansion if we plan to expand our business area. This is all going to require a bond act or something else because it isn't free.

SHEILA KADAH, 5301 Village Drive, wonders why the Council majority supports putting the Gregory Canyon Landfill on our San Luis Rey aquifer. That is a disaster waiting to happen. The City has invested \$23,000,000 in ground water facilities and plants and an additional \$150,000,000 in this important research. We get approximately 6,000,000 gallons per day of potable water from the San Luis Rey aquifer. If something were to happen to contaminate it, it would cost the City greater than \$5,000,000 annually, based on the 2012 rate. They want to put this landfill where the land shifts all the time because it's on a riverbed. All landfills leak. There could be landslides, earthquakes, spills from trucks and contaminated storm runoff, and not one landfill liner has ever kept a leakage from contaminating water. It is close to 2 major SDCWA pipelines. A landfill should never have been supported on our San Luis Rey aquifer. This is dangerous. We need to stop the Gregory Canyon Landfill from going in there. There are other places to put a landfill.

KAY PARKER, Albatross Way, stated regarding the environmental mitigation issues, we understand the need to raise the water rates because of the pass-through at 6.5%, and we understand and accept the 5% sewer rate increase. However, we don't understand this mitigation fee at \$0.55 per unit. It's going to hit our senior communities very hard. She is a Board member for Oceana Mission No. 3, and the environmental mitigation fee alone will require us to raise the fees to our seniors who are on fixed incomes by \$4.00 per month. Added to the sewer and water increase, that's quite a load to put on at one time. She asked Council to consider amending those terms and stretch it out for a two-year payback at \$0.25 instead of \$0.55. That would give us a little relief and some time to work in these additional costs. We want to work for a compromise that serves your required need and the ability of our fixed-income senior citizens to absorb this transition.

SEAN SLATTERY, 1229 Parkview Drive, understands the need for the water rates, due to wholesale cost increases. What concerns him is the sewer rates. Specifically, in the past years he has been very diligent with his water usage and has maintained a medium flow sewer. This year, with the water restrictions being lifted, he's used more. All of his landscaping had died and he replaced all of it, so he ended up on the high flow sewer designation. What that means is his last bill for water was \$91.47, which is clearly well above average. The sewer portion, in addition, was another \$82.00. We're transporting maybe half of the water he's bringing in 2 miles downhill to the sewer processing plant. So it costs twice as much to get rid of the water 2 miles away than it does to import the water from Northern California. There is no logic to that.

With respect to the \$1,500,000 fine, which is another \$40 a year that we are forced to pay, the only way we have sewer breaks of this nature is if we have failed to maintain the system. This goes back to a City Council that hasn't maintained the infrastructure.

The way the rate structure appears is there are specific rates for single-family homes, manufactured homes and master-metered single-family. If you're a single-

family home, you have a variable rate based on the number of units consumed. If you have a manufactured home, your rate is a fixed \$16.62. The way this appears is that there are certain gifts to a certain segment of the community. He doesn't have a manufactured home, but if he did his bill would be a lot less than what he's paying right now. In terms of equity, he asked that it be reconsidered based on usage instead of being fixed based on the construction of the house.

DAVE BALL, 1319 Darwin Drive, is here to protest the increase in the pass-through sewer and water rates for 3 reasons. He is fundamentally opposed to tax and fee increases. One of the issues that Ms. Dale missed was that for 10 year MWD did not raise their rates; however the City did raise their rates, as did other cities in the County that are furnished by MWD. We need to give that money back to the citizens. Lastly, the Constitution of California states that all assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California. He didn't get a copy of that report with the letter he got.

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

MS. DALE stated one suggestion was to consider amending the terms of the environmental mitigation charge. That is an option. The amount that was noticed is the highest that could be passed along. Council could change the terms of that to a lesser amount and extend the time that it is allowed.

CITY ATTORNEY MULLEN responded that is correct. For the 218 notice, you are authorized to impose up to the maximum so you can always impose something less.

MS. DALE stated in terms of the sewer tiered structure, this is one of the recurring themes that we saw in several of the protest letters, as well as when she's talked to ratepayers. This is something that seems to be an emerging theme, and staff would like direction to continue looking at providing a more equitable way to administer the sewer tiers or rates moving forward. At this time, the sewer tiers are what they are, but we're open to looking at that in the next year.

In terms of MWD not raising the rates, she did not bring the information on how much MWD did raise rates over the last 10 years. In revealing some of the rate increases before we went up and talked to MWD, she recalls a number of 101% that MWD has raised rates over the last 5-7 years.

MAYOR WOOD believes it was 101% since 2006.

MS. DALE believes that sounds right.

ROB GRANTHAM, Carollo Engineers, stated with regard to the need for an engineering report, that would be required for an assessment and this is not an assessment under Proposition 218. It's a user rate.

CITY ATTORNEY MULLEN stated it's a property-related fee under Proposition 218 and there are various legal requirements under the constitution and Omnibus Implementation Act, which have been followed. This is not an assessment; it's not imposed against the land.

COUNCILMEMBER KERN asked when the fine that we have to pay is due.

MS. DALE responded that has not yet been determined.

COUNCILMEMBER KERN asked if we have money to cover it if we stretch out the payment. If we have to pay it in January, and we're collecting it over a 2-year period, that's a detriment to the Sewer Fund. Is that correct?

MS. DALE responded it would be.

COUNCILMEMBER KERN is concerned about stretching it out until we see what the dollar amount is and what we can do about it. He's not opposed to stretching it out if it's something we can do internally. Right now we're just authorizing the collection of the fee.

He's upset that we have to pay it at all. Like the previous speaker said, it was a failure of the Council. He and Councilmember Feller voted to fix the pipe. It came to Council in August of 2010, and the majority at the time voted not to fix the pipe. Six months later the pipe broke. Not only did it cost us \$1,500,000 in fines, it also cost us another \$418,000 to do the emergency repairs. That's \$2,000,000 more that we had to pay because we failed to maintain our infrastructure.

The problem is that there is a lot of aging infrastructure in our sewer department. A couple of years ago, the outfall on Oceanside Boulevard collapsed, and we had to borrow money from the Water Fund to pay for the sewer outfall.

We have an aging plant and aging infrastructure. We can't have Council sit back and vote to delay maintenance on any of our projects any longer. That's why he's concerned about not paying this fee as quickly as possible because we don't know when the next break may occur, and we may need that money in order to fix it. The other option was to delay our Capital Improvement Projects in order to pay the fee, which we could do, but we're rolling the dice again. We may have another break while paying the fine off from the last break. Before we go forward, he wants to make sure the money is in the account. He agrees with lowering the fee and stretching it out. We can't keep rolling the dice.

If he moves to approve this, can the mitigation fee mechanics be determined at a later time?

CITY ATTORNEY MULLEN stated you can give the City Manager the authorization to reduce the fee based upon the amount needed to cover the actual fine. If, for example, the fine turns out to be half of what the proposed fine is, then Council's direction could be to the City Manager to reduce it by half. If we give the City Manager discretion to reduce that fee, in the ordinance, based upon the final fine, then we'll be covered.

COUNCILMEMBER KERN moved to introduce an ordinance amending Chapter 29 of the Oceanside City Code establishing waste water user rates, introduce the ordinance amending Chapter 37 of the Oceanside City Code by establishing water user rates and external water provider charges increases and direct staff to implement the user rate and the external water provider charges increase, and include what the City Attorney said above about the mitigation fee.

DEPUTY MAYOR FELLER seconded the motion for discussion. He thought Carlsbad was really low on sewer. What is the difference?

MS. DALE responded one of the main differences with the City of Carlsbad is that they belong to a Joint Powers Authority (JPA) called Encina with 7 other cities and districts that discharge to Encina for the treatment of their wastewater. Other than that, she isn't sure what the differences are in the charges. Having worked for the City of Carlsbad, she can say that we have a lot more lift stations to operate, maintain and manage than Carlsbad does, as well as significantly more sewage to be treated. We're hoping to get lower than Carlsbad at some point. She thinks we're making progress.

DEPUTY MAYOR FELLER asked what happens if this is not approved tonight.

MS. DALE responded if the sewer and water rate increases were not approved, the alternate action was to allow the City Manager to make cuts in any way shape or form so that our expenditures meet the revenues.

DEPUTY MAYOR FELLER doesn't know that we can cut much more at this point. He's not supportive of increased taxes, but this is an important process to approve because at some point we're going to get good at this. Ms. Dale said this rate increase may only last 2 months. Explain that, please.

MS. DALE responded that was in the case of the environmental mitigation surcharge. At the rate that is recommended of \$0.55 per unit of consumption, we believe we would only need to administer that portion of the surcharge for approximately 2 months in order to have enough money to pay the fine that may be assessed.

In reference to Carlsbad, Mr. Grantham said they are underfunded on their infrastructure replacements, so that may also be the reason they are less.

CITY MANAGER WEISS stated we think we'll have some recommendations and negotiations in regard to the fine within the next few weeks, which we will bring to Council in Closed Session. Once we get a further understanding of what the total dollar amounts are, we will include that as part of the discussion. There is latitude within the ordinance. As the City Attorney mentioned that we could then make the appropriate adjustments.

DEPUTY MAYOR FELLER thinks if it's something that can be handled in two months, the winter months are the right months to try to solve that. Ms. Dale was talking about the mitigation rate of \$0.55 per unit, and during that time people are using less water.

COUNCILMEMBER KERN stated we have to collect \$1,500,000. If it's low usage months, we may have to go to a third month to collect it.

DEPUTY MAYOR FELLER understood, but that's different than 2 years of an increase. He heard that we didn't increase rates for 10 years. He doesn't know when that happened. It hasn't been while he's been on the Council. It would have to be 15 years or so ago. He'll support this with the change that was made in the recommendation.

COUNCILMEMBER SANCHEZ thinks we should do this in steps, especially with respect to the fine. This is the Water Quality Control Board, and we're trying to negotiate up to half of it to go towards our own projects. It's hopefully going to come right back into our community.

As to the reason for the breaks, it's been 12 years that she's been working with Shelley Hayes Caron, who has been really pushing us, to get that line out of the creek. For 12 years we've been trying to get staff to do that, For whatever reason, there was a reliance on what Carlsbad was going to do with a project they were working on. The fault is not hers or the Mayor's. That sewer line should never have been placed under a creek in the first place. We've been trying to get that fixed, but unfortunately there were some problems between Oceanside and Carlsbad, but it didn't happen fast enough. This all didn't happen within a year. It's been there for many years. That creek is always active, especially in the winter months. This is more like a river than a creek.

The winter is the worst time to do rate increases. That's when work slows down for many people, plus there are the holidays. She would not want to do it during the winter months. She isn't sure this motion incorporates what she'd like to do to make sure it's done in steps so it's more affordable. When is the Water Quality Control Board

going to make a decision?

MS. DALE responded it should be going to the Board in February; however, we hope to be coming to Council in Closed Session on November 7, 2012.

CITY ATTORNEY MULLEN stated November 7th is when we're tentatively planning on bringing our recommendations to Council. The Board will not vote on it for quite a while.

COUNCILMEMBER SANCHEZ asked how long they usually give us to come up with the funds. Is that part of the negotiations in terms of coming up with a payment plan of sorts?

MS. DALE responded standard practice is you can put half of the fine towards an environmental compliance action or alternative project. Typically, you have a longer timeline than you would if you were just to pay the money directly to the Board. It could be up to 1 or 2 years for that portion of it.

CITY ATTORNEY MULLEN understands that the portion that's actually paid to the Board would be paid quickly; the projects would be later.

COUNCILMEMBER SANCHEZ asked if we've submitted a project for consideration for that amount.

MS. DALE responded we have been in substantial confidential negotiations with the regional Board, which we believe have concluded.

COUNCILMEMBER SANCHEZ stated the good news is up to half of it will come back to the community. The other half would have to be paid within 60 days of February. Do we have the funds where we could actually do it in steps now and then pay back that fund?

CITY MANAGER WEISS doesn't know that you have the funds now. The rate increases will start being collected in January so, depending on the amount of the fine and what has been negotiated and may be acceptable to the regional Board's staff, we may be able to reduce the amount that's actually collected to a lower level, but collect for a longer period of time. If, for example, we only have to come up with half of the money, that makes a difference. We'll have more detailed information as we get closer to a resolution with the regional Board's staff. We should be able to bring this back to Council in November.

COUNCILMEMBER SANCHEZ thinks the way the motion has been made, she's not sure if it's incorporating her concerns.

COUNCILMEMBER KERN stated that a portion of the motion was for staff to come back to Council after all of the settlement agreements are reached. We increased the rates and included the mitigation fee. Once staff has concluded their negotiations, they're going to come to us with an amount and a payment schedule.

CITY ATTORNEY MULLEN understands the motion to be that the environmental mitigation fee would not exceed \$0.55 per unit. It's not going to be effective until these ordinances go into effect, which will take some time. The intent would be to authorize the City Manager to reduce that once the final fine is known.

COUNCILMEMBER SANCHEZ is concerned about the actual rate. Up to half of it can be collected over a year versus two months.

CITY MANAGER WEISS understands what Councilmember Sanchez is saying. The way the ordinance is currently written, it allows us to collect the money for a period

not to exceed a year. It's possible we can extend a portion of it out 10 or 12 months versus some other portion for a shorter period of time. We understand your concern and will bring that to Council as part of the final resolution of the overall fine.

COUNCILMEMBER SANCHEZ thought there were some other good questions raised by the public, including about the cost of transferring and why the transfer costs locally seem more than for MWD.

MS. DALE stated that's a totally different utility; you're comparing water to wastewater. It's just different costs.

COUNCILMEMBER SANCHEZ asked Ms. Dale to explain that. Someone asked how it is that less power is needed to have something flow downhill than across deserts and everything else.

MS. DALE responded that's an apple to oranges comparison. You're talking about water in Northern California and from the Colorado River that's being pumped a very long way. There are energy costs and costs for the actual water itself. As for the sewer, there are a significant amount of lift stations here that pump the sewage from low portions in the City to higher portions. We had a discussion this evening about chemical costs for odors, and there is a significant cost that is put out every year in chemicals, as well as significant capital costs for odors and the treatment itself.

MR. GRANTHAM thinks it was a good question. Thinking big picture, the demarcation point is at the City line. We're buying water from the SDCWA coming from MWD. That's one cost. If we can take that out of the equation, then the question is internally for our water system versus our wastewater system. Then you're talking about water through our water pipes, versus water going through our wastewater pipes. They're commensurate in pumping lift stations and gravity beds. The real cost in terms of our wastewater system is at the treatment plant. From a capital cost perspective, 2/3 of our costs are pipelined, but from an operating standpoint, 2/3 of our costs are for the treatment plant. It's the power, chemicals and manpower at the treatment.

The question regarding the structure was a very good one in terms of those recurring themes. Do we have a cost-of-service nexus between what the cost is to treat the water and what the person is paying? He thinks we do as a starting point. We boil it down to a unit cost for a gallon of water and a pound of chemical. It would be worthwhile to come back and take a look to make sure that we are tied in. We have a very solid basis.

COUNCILMEMBER SANCHEZ thinks our public deserves the best possible response that we can give. Why are you charging this and explain where those costs go. We have a lawsuit against MWD, and it has to do with the cost of the transportation and how they are charging San Diego much more than Los Angeles. Have we established what a fair transportation cost would be for our city?

CITY ATTORNEY MULLEN has not identified what a fair charge would be, but one of the basic issues in the lawsuit is the cost of water that MWD incurs when they purchase water from the State water project. Then there is classifying a transportation charge. Because we're at the end of the pipe, we get hit harder than other jurisdictions do. He doesn't know if we or the SDCWA has identified that it should be a certain price. What they're trying to do is set aside their decision to approve the rates. That's the remedy they're requesting, and then to remand it back for further proceedings with the Board. There are 2 lawsuits pending: the 2011-12 lawsuit and the 2012-13 lawsuit. Those are still winding their way through the court.

COUNCILMEMBER SANCHEZ wants us to push really hard to make sure that the fine is half of what you're talking about so we have a year to put funds into one of our own projects. That will make us feel better about all of this. With respect to the

other half, she would like to see that in steps, whatever we can do to make sure it is done in a way that is respectful to our constituents. She's not sure if that's incorporated in the motion.

MAYOR WOOD stated we're either going to approve the rate increase or have the City Manager get rid of employees. How we handle the fee for the mitigation will be coming back to Council.

COUNCILMEMBER FELIEN stated when we had the issue of the landfill, the City voted twice on this issue. The first time they voted 2:1 to allow the hearing to go forward. It's not an issue of Oceanside approving the Gregory Canyon Landfill; the issue is whether it should go through a hearing process on whether it was or was not a good idea. Hearings are done by the federal and State governments and by agencies that are established for that very purpose. The second time it came up for election, the citizens in the City voted by a 55% to 45% margin to allow that process to go forward. So when the issue came before the Council, we respected the view of the majority of the voters as expressed in two elections. He doesn't make any apologies for that. The elections and voting results are public record, and anyone can access them.

As to the issue of the Haymar sewage spill, it has gone on for a long time. As correctly pointed out by Councilmember Kern earlier, we had a vote on July 20, 2010, when we had a different Council majority. The item was to approve archeological work. This archeological work had to take place before the repair of the sewer line could take place. This speaks to the larger issue of whether or not Council should pander to a handful of supporters or make decisions for the benefit of the whole City. Two people came forward and said that the archeological work should not go forward in order to allow the repair work to go forward. The Council majority at that time of Wood, Sanchez and Lowery decided not to repair the sewer line. Because that wasn't done in July of 2010, we had an exposed sewer line and staff came forward asking for action to take place. Six months later we had a winter storm and the line broke. We then had to pay \$400,000 to repair it and will be hit with a \$1,000,000 fine to pay for the lack of action.

When the sewer line was repaired in January of 2011, how long did it take for that repair to take place?

MS. DALE responded 2 weeks to a month.

COUNCILMEMBER FELIEN asked how long the archeological study would have taken.

CITY MANAGER WEISS isn't sure what was in the scope of work, but it was limited to the area of the repair, so it probably would have taken less than 30 days.

COUNCILMEMBER FELIEN stated it would have been 60 days from July to repair the sewer if the Council had chosen to do so. The sewer broke in December, so the entire problem could have been avoided. He supports Councilmember Kern's motion. How can we go before the Water District and say it was out of our control and there was nothing we could have done when there was a vote, and the majority at the time voted no.

There were comments that the former majority held power for such a little time and it's because decisions like this are so costly. When the former majority was in charge, they also destroyed the Rancho del Oro interchange, which crippled our ability to create jobs in our business parks. The public had a chance to vote on that, and they voted out that majority and replaced it with this majority. The larger issue here is whether the people want a Council that makes the hard decisions for the benefit of the entire City, or a majority that makes the decision to pander to supporters. The voters have control and can decide what kind of Council they want.

COUNCILMEMBER KERN clarified no matter what the fine is, we have to collect the full amount. If it's a 50/50 split between paying the Water Quality Control Board and a project, we still have to collect the full amount and then spend the money on the project.

MS. DALE responded that's correct.

Regarding the Gregory Canyon Landfill, **COUNCILMEMBER SANCHEZ** stated that was a project that had lots of money and lobbying going to Washington D.C. so they could waive their Environmental Impact Report (EIR). There as a report that said it should not happen. Out of 100 sites, it was the last site that was being recommended, and it wasn't even being recommended. This is on a sacred site for the Native Americans, on our water aquifer and there is a SDCWA pipeline underneath it. Every single expert has indicated that the liner will fail. We are depending on water from the San Luis Rey River for our future water needs. We've been sitting here talking about how expensive that is. Are we going to invest millions of dollars relying on the San Luis Rey River when it's going to become contaminated and we're going to have wasted all of these investments because of some foolishness?

With respect to the previously mentioned votes, the County voted for that not our citizens. Our citizens did not want to have their water source contaminated. We care about our kids, seniors and families and would not want to contaminate our water. Water is the most precious resource we have here.

She doesn't feel comfortable with the motion. She's not sure she can support this. There is more than can be done with this motion.

After titling of the ordinance amending Chapter 29 establishing user rate increases and allowing the City Manager to discontinue collection of it based upon the final fine amount, the **motion was approved 4-1**, Sanchez – no.

After titling of the Ordinance amending Chapter 37 establishing water user rates and external water provider charge increases, the **motion was approved 4-1**, Sanchez – no.

[Recess was held from 7:16 PM to 7:21 PM]

20. **CDC: Adoption of a resolution denying Conditional Use Permit (RCUP12-00005) and Regular Coastal Permit (RRP12-00007) for a pawn shop located at 222 North Coast Highway – Oceanside Jewelers – Applicant: Chad Coogan (Continued from October 3, 2012)**

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

SHAN BABICK, Associate Planner, stated today Council is considering a Conditional Use Permit (CUP) and Coastal Permit for a pawn shop located at 222 North Coast Highway. This business has been operating as a jewelry shop since 1989. The current owners purchased the business in 2008. The applicant is requesting approval of a pawn shop, which will be housed in the same confines as the existing 736-square-foot building.

Oceanside Jewelry is a retail store that currently engages in the buying, selling and repairing of jewelry. The pawn shop will allow for limited collateral lending services.

These services would be limited to loans and pawn on items associated with a jewelry store. Such items would include jewelry, watches, diamonds, gold, silver, coins and bullion. The applicant has no intention of pawning items such as electronics, televisions, computers, musical instruments, furniture, tools and motorized equipment. One of the reasons is the store is too small.

The applicant does not propose any changes to the exterior of the building nor any changes to the existing signage. In addition, the applicant does not propose any changes to the business operations; the business will continue operating on the current timeframes.

Staff reviewed the operational characters of a pawn shop, and we believe that from a land-use perspective, the proposed use will not have a negative impact on surrounding areas. It is consistent with the surrounding areas and land uses, which are mainly retail, offices and restaurants. As part of the review of the CUP, we also submitted to other City departments, including the Police Department, who reviewed the operational characters and use and determined that they cannot support the pawn shop due to problems with increased crimes located within the high crime area. The Police Department has indicated that in the year 2009, criminal activity at pawn shops generated 14 arrests and resulted in the seizure and location of \$90,000 of stolen property.

Pawn shops and second-hand dealers also require a considerable amount of Police time to research databases and open investigations to determine if an item is stolen property. Due to budget constraints, current staffing levels do not allow for the assignment of full-time employment to do pawn shop investigations. In short, the Police Department does not have the manpower to monitor these types of businesses.

Staff believes that the proposed use does not fully meet the intent of the Zoning Ordinance and the underlying subdistrict goals due to the potential increase of crime in a high crime area and the costs of managing and increasing staff time to monitor these types of businesses.

On September 26, 2012, the project was reviewed by the Downtown Advisory Committee and by a 4-0 vote they approved the pawn shop with the condition that the signage will not reference a pawn shop. Staff recommends that the Commission adopt the resolution denying the CUP and Regular Coastal Permit for a pawn shop located at 222 North Coast Highway.

CITY ATTORNEY MULLEN noted that while the City Clerk indicated that she did not receive any correspondence or petitions, there was correspondence provided by the applicant's counsel and that has been included in the administrative record.

Applicant

BOB CASEY, Attorney for Mr. & Mrs. Coogan and Oceanside Jewelers, thanked Council for their consideration this evening. He introduced Chad Coogan.

CHAD COOGAN, Oceanside Jewelers, has worked in the jewelry industry for 25 years and spoke of his experience and award-winning designs. The services of Oceanside Jewelers and Chad Coogan are regularly used by other jewelers nationwide. His experience with gems and jewelry would make the transition to lending on jewelry and jewelry-related items and precious metals virtually seamless.

He and his wife purchased Oceanside Jewelers in 2008. The store was dark, cluttered, dirty and run-down. Since buying the business, they have regularly made improvements to the property and its operations. They have an impeccable reputation and excellent rapport with the Oceanside Police Department. Oceanside Jewelers had been involved in the recovery of over \$50,000 worth of stolen property. He spoke of

their security system and the measures taken to insure they aren't receiving stolen merchandise. They will use the same guidelines and diligence in their loans that they use in their jewelry business. They have already put in a non-revocable pawnbroker surety bond.

Oceanside Jewelers has been jewelry store in downtown Oceanside for 23 years. In 2010, we saw the need to expand our services to include collateral lending. The City did not respond well to this request, and we felt it best not to pursue it further at that time. However, very soon after that Coast Jewelry and More was granted their permit across the street at 205 North Coast Highway in a 4-1 vote in light of a lot of opposition. This opposition came from many of the same people and organizations that currently support his application. Coast Jewelry and More is now a direct threat to Oceanside Jewelers because they were granted the ability to lend, which gives them an advantage over Oceanside Jewelers. The option to receive a loan on jewelry or family heirlooms rather than having to sell them, serves the community and the public better.

He asked the Oceanside Jewelers be allowed to compete on a level playing field with Coast Jewelry and More. Oceanside Jewelers is and will remain a jewelry store. The changes will be unperceivable.

MR. CASEY stated Mr. Coogan is a local business owner who has poured his heart and soul into this business. This is about supporting a small local business owner who has invested in this City, and it's about fairness. Mr. Coogan is not seeking the expansive uses of a pawn shop that Coast Jewelry and More received. He is seeking a very limited use of collateral lending. The most important thing to remember in voting on this is that this application solely seeks to allow Mr. Coogan to return an item to a client after they've given it to him.

The reason why we're seeking this under Chapter 22, which deals with pawnbrokers, is because that's the only section of the Municipal Code that allows for collateral lending. Therefore, this application is painted with a pawnbroker feel to it. We are seeking collateral lending and are doing it under a pawnbroker license, but Mr. Coogan has agreed to certain conditions in his application in advance. He won't be seeking those pawn types of uses that most people associate with a pawn shop. If this application is approved, the general public will not notice a change in the operations or exterior of Oceanside Jewelers. The collateral lending would be limited to those items only sold in a jewelry store and would not exceed 50% of his revenues. There would be no use of the word "pawn" allowed on the exterior or interior of the premises.

Mr. Coogan's charitable donations and participation in the community were noted.

This application is strongly supported by the neighbors and members of the community. Mr. Coogan has received over 80 letters of support and more are coming in. Those have been provided to staff. He read some of the letters of support. Clearly the evidence in the record shows that the residents and businesses in downtown Oceanside support this CUP.

Mr. Coogan seeks the ability to do collateral loans on jewelry only. Furthermore, the City's recommended denial is not based on evidence in the record. He asked Council to consider that staff initially recommended approval of the CUP in the draft but reversed itself based on a recommended denial by the Oceanside Police Department. The Oceanside Police Department has not contacted Mr. Coogan or inspected his store and has not prepared a report specific to this item. He requested the Police Department's report or analysis on the CUP and learned that they do not have one specific to the CUP. Mr. Coogan paid a \$9,000 application fee to cover the costs of preparing such reports and conducting reviews. To our knowledge, the Police Department has not done this specific to this CUP, which is important. If they're relying on a report they did back in 2010 for another establishment, it is not relevant to this

one.

He asked Council to support a local business owner and think about this rationally and logically.

Public input

ROSEANNE KISS, 406 South Cleveland, cannot believe she is standing in front of Council supporting a pawn shop license. She is encouraging and supporting a jewelry store that Mr. Coogan has owned for 5 years and that has been on Hill Street for 23 years. As a small business owner herself, she loves seeing long-standing businesses staying successful. He is asking only for a collateral lending license to offer his customers loans on what he already buys and sells: jewelry, diamonds and coins and nothing more.

She referred to a license granted to Coast Jewelry and More. The approval was given with very few, if any, restrictions allowing them to operate as a full traditional pawn shop. Oceanside Jewelry is simply requesting the ability to loan on products that they already buy and sell. Their CUP specifically restricts what they can lend on: jewelry, diamonds, watches, gold, silver, coins and bullion. As an active participant and local business owner in Oceanside, she feels the Council's approval in granting this permit will allow Oceanside Jewelry to continue to operate successfully and competitively in the downtown community. She does not see this business operation causing any problems or becoming a deterrent to our downtown. She asked that existing business in Oceanside get the same level playing field as new businesses coming into town.

RICK WRIGHT, Executive Director of MainStreet Oceanside, stated the Board voted unanimously to support Mr. Coogan's application. It seems counterintuitive for us to be supporting a pawn shop application, especially in light of the fact that we did not support the Coast Jewelry application. In this case, we feel it's a matter of parody. He was surprised to hear the 2009 numbers cited by the staff because presumably those were the same numbers that were in place when Coast Jewelry went forward and was approved.

Some people feel that pawn shops will degrade downtown, but both Coast and Oceanside Jewelers have agreed not to use the word "pawn" in their signs. When Coast Jewelry went forward, he was concerned about the crime and asked the applicant specifically if they would be willing to not pawn small items that might increase opportunistic crime in the downtown, like iPods and cameras, etc. His request fell on deaf ears. Oceanside Jewelry has agreed not to deal in that type of merchandise - just strictly jewelry.

He suggested Council approve this application, close the loop and be done with pawn shops in downtown.

CARA COOGAN, 760 Encinitas Boulevard, stated our clientele is asking for something like this, where they can get something back that means something to them. Her husband has been making jewelry since he was 14, and that is how he's become what he is today. Our business means everything to us. He has worked endlessly for the last 5 years to make it something our family can be proud of and to support the community. She is only asking for fair play.

PERRY, Owner of Breakfast Club Diner, is Oceanside Jewelers neighbor. He's invested a lot of money to come to Oceanside and most people would think he's crazy to even think about having a pawn shop next to his business. However, he believes that this is not a pawn shop. It is a chance in this economy for a small business to survive and for people to be able to pawn their jewelry to help pay rent, but then be able to get it back. He wouldn't support this if he thought it would hurt his business. He deals with

the public every day, and he hears nothing but good things about Mr. Coogan and his business. He is a client of Oceanside Jewelers. He supports this 150%. The playing field should be fair. Downtown Oceanside is very important to us. It's becoming a hub and Mr. Coogan's business isn't going to destroy what we're trying to create here.

RUTH JAMESON, 3940 San Pablo Avenue, was one of the first artists in Artist's Alley. At one time we would have died to have someone like Mr. Coogan in our building. This building has a history of strange people coming and going, and it nice to have an artist in there. He teaches art at his children's school and that gives her hope that art can come back to Artist's Alley. This would be a great benefit to our City. She believes Council should approve this. Mr. Coogan has agreed to the restriction on the CUP and has invested so much in this shop, so let's give him a chance to stay there and keep that building thriving.

KEVIN McALLISTER, owns 1933 and 1935 Coast Highway, is a customer of Oceanside Jewelers and had such good experiences with them that he has authorized Mr. Coogan to make purchases on his behalf for his wife, sight unseen. After being a small business owner in Oceanside for 30 years, he feels this is a proper business to authorize.

TERRY JOHNSON, former Mayor, has found that the proposed business is not a pawn shop, which he was previously led to believe. Before they built the Royal Theater, all of the row houses on Cleveland Street, the Hattie Brooks Sunshine Theater, MainStreet Oceanside, Farmer's Market and many other things downtown, the Council from 1992 until 2004 made a commitment to turn the City around and revitalize downtown. We needed to eliminate some businesses downtown, like some of the real pawn shops, barber shops, bars, tattoo parlors, etc. that catered to a seedy crowd and took advantage of young Marines. We made a commitment to get rid of the prostitutes and make it unpleasant for gangs and drug dealers downtown. In order to enjoy the amenities we have now, we had to eliminate those types of businesses. It's important to have parity. To have one real pawn shop come in and have this not-so-real pawn not be able to come in is not fair. Closing the loop after this is a good idea. Council should take a look at the pawn shop you approved 2 years ago and find some way to have it be more like what is proposed tonight.

MARY LOUISE FUENTES, Capistrano Drive, has lived here 41 years and didn't know anything about this until tonight. She worked at this store for previous owners and liked working for a family. Small business is what we want in town. She is very happy to hear that a real artist and jeweler is here now. The jewelry business is tough in this economy, and the pawn business will help. She hopes Council passes this.

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

COUNCILMEMBER SANCHEZ understands that all of the conditions that we placed on Coast Jewelry and More are on this, is that correct?

KATHY BRANN, Downtown Development Manager, responded we haven't placed conditions on this because the current recommendation would be denial.

COUNCILMEMBER SANCHEZ moved to approve the CUP and RCP for the pawn shop located at 222 North Coast Highway, including the conditions that they've already accepted.

This is a wonderful business. She was very impressed by Mr. Coogan and the fact that he has so much support in the community. She remembers some of the discussions we had at the dais about these being different times and that we need to offer what we can to the community. As she understands it, all of the conditions that we had discussed for Coast were to insure that we would completely avoid criminal activity and that we were talking about an upscale situation for us.

CITY ATTORNEY MULLEN stated Council's rules require that if you're taking an action that is inconsistent with the staff recommendation that requires findings, we would put those findings and resolution together and bring it to Council's next meeting.

COUNCILMEMBER SANCHEZ stated when she made her decision regarding Coast, she planned on having those conditions apply. When we talked about them, she wanted to make sure we would be able to be fair.

MAYOR WOOD seconded the motion.

DEPUTY MAYOR FELLER stated some great people have supported this business. He didn't approve the first pawn shop and it's a pretty unsightly place right now. Maybe we're not paying close attention to what's happening, but massage parlors are now spas, cash for gold places are all up and down Coast Highway and there are already applications for tattoo parlors in the downtown area. Over the years some great things have happened and changed. While it looks like there is support for this, he would be going against his principals and what he believes is a different vision for downtown if he approved this. We got rid of the strip club downtown and ended up with a great surf museum. We've got to rein it in or it will be like it was before. He supports businesses, but he doesn't think doing this is the right thing. This is the second pawn shop and then there will be third one, and everyone will say it isn't fair. We're going backwards.

COUNCILMEMBER KERN understands Deputy Mayor Feller's concerns, but this has been so restrictive. There is no signage. He doesn't think the way the police handle it now will change if this is approved. If something is stolen it seems like it wouldn't be pawned because the criminal isn't going to go back and get it. Mr. Coogan has worked quite extensively with the Police Department. When he was in this store he identified at least 3 cameras, and there are probably more. Mr. Coogan takes a picture of each item and sends it to the Police Department for identification. That's why he's been able to recover over \$50,000 worth of goods. He's helping, and he's agreed to the restrictions. There will not be any difference to the look of this store. Nothing onsite will say pawn. He's supportive of this. Mr. Coogan has contributed a lot to this community and has a lot of support from the community.

COUNCILMEMBER FELIEN asked Chief McCoy to explain what his concerns are and if it's possible to address those.

FRANK McCOY, Police Chief, stated from the Police Department's perspective, pawn shops usually don't make a good match for the community because of crime issues that have been stated. The report that was submitted for 2010 gave some amazing statistics. For this current year, crime is up 10% and that is led by property crimes, such a burglary, auto theft, etc. If Council was looking to approve this item, he would recommend having the conditions that this particular business owner has consented to and not the conditions that were put on Coast Jewelry and More. He would not want to see a full-fledged pawn shop in the downtown community. He stated 2 years ago at the Council meeting that he would not support the Coast pawn shop.

This gentleman is making a lot of significant changes to what he wants to do, which is not a traditional pawn shop. He would support the recommendations set out before Council tonight.

COUNCILMEMBER FELEIN believes as a matter of equity and fairness, we should move ahead. Deputy Mayor Feller expressed valid concerns in terms of maintaining the integrity of our downtown area, but the restriction the applicant has agreed to and the support he has from the local business community will bring out the best and keep out the worst for this type of operation. It is a matter of equity and fairness to move ahead. He will support the motion.

MAYOR WOOD talked to the applicant when we did the first pawn shop back in the downtown area. We wanted to see an image change there and we did. We approved the last one, but his issue is opening Pandora's Box. We have the first one and a second one and then there will be a third and fourth, etc. He expressed his concerns to this applicant. He's very happy with the requirements under the CUP. It says a lot that so many local business people are supporting this.

Motion was approved 4-1, Feller – no.

22. [City Council: Adoption of a resolution making findings that the proposed cogeneration project to be installed by CHP Clean Energy, LLC, under a power purchase agreement will generate cost-savings; approval of the power purchase agreement with CHP Clean Energy, LLC, of Boston, Massachusetts, for the construction (at no cost to the City) of the La Salina Wastewater Treatment Plan Cogeneration Facility project and subsequent energy purchase; and authorization for the City Manager to execute the agreement]

(This public hearing is being continued to 5:00 p.m., November 7, 2012)

23. **City Council: Adoption of a Resolution adopting a Mitigated Negative Declaration (MND) and approving Development Plan (RD12-00001) and Conditional Use Permits (RCUP12-00001 and RCUP12-00008) for a Mixed-Use development consisting of a 124-unit hotel, 90 live-work units, and approximately 8,357 square feet of retail/office space located on one city block bounded by Mission Avenue on the north, Seagaze Drive on the south, Horne Street on the east and Clementine Street on the west – Belvedere – Applicant: Amidi Group**

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

SHAN BABICK, Associate Planner, stated this site had an extensive background and sense of history. This project has been in our office since May of 2004. The current project proposed a 7-story, 124-unit hotel, 90 work-live lofts and approximately 8,357 square feet of ground floor office retail space, situated on one City block located at Horne and Mission.

The building consists of 2 floors of underground parking garage. The amenities include a pool and spa; 4,500 square feet of meeting rooms; exercise room; 4 elevators and a 9,500 square foot terrace. The 2-level underground parking structure consists of 388 parking spaces and includes 56 hotel valet parking spaces. The 90-unit live-work lofts range in size from 606 square feet to 1,564 square feet. They have a ratio of 2 parking spaces for each loft. The management plan in conjunction with the business license review process will insure the integrity of these lofts.

Computer graphics were used to show various design angles and ideas.

Vehicle access to the development site will be from both Clementine Street and Seagaze Avenue, although the Seagaze access is only for the live/work lofts. Vehicle access on Clementine is limited to right turn in/right turn out. Due to the Mission Avenue Improvement Plan, which this body approved some time ago, Clementine Street will be one-way northbound between Seagaze Drive and Mission Avenue. Pedestrian access will be provided from Clementine Street.

The project provides 14,000 square feet of landscape and hardscape. The existing 7 trees will be replaced with 30 new trees. The trees are Chinese Pistache, or Flaming Trees, that are part of the landscape plan we've worked on for 2 or 3 years.

They are also planting vines on the eastern and southern portion of the site, which will provide some landscaping along those sides of the building.

Staff believes that the project conforms to the Downtown D District in that it meets or exceeds all of the development standards. Our concerns center on the bulk and scale of the building, but it has been stepped back, and the architectural design is very compatible with other buildings that have been built in this area, such as Oceanside Terrace and the Wyndham project. Staff feels that the height and scale are compatible to the neighborhood. The first 2 levels have a very pedestrian feel, which is good for the community.

There are 3 Use Permits on the project. Within Subdistrict 2 you need a Use Permit to go above the 65' height limitation. This project is just under 80'. Previously this had been approved at 90', so it's been reduced.

The work/live lofts also require a Use Permit. Staff believes that the work/live lofts are an appropriate use for the downtown project area that allows the greatest flexibility in urban living, but also reduces fuel consumption by allowing the people to work and live at home.

The hotel use also requires a Use Permit, as all hotel uses do. Staff believes that the hotel use, in conjunction with the retail use and work/live lofts, are compatible uses. In addition, the project has been conditioned to provide a management plan to insure the compatibility of all uses. Staff believes the project meets the intent of the General Plan and the underlying Subdistrict goals, which encourage development of commercial mixed-use projects and bring much-needed new office retail space, as well as visitor-serving uses in the downtown area. The design of the building is consistent in both height and scale to similar new developments along Mission Avenue and Coast Highway, and we believe that the quality of the design is consistent with some of these other uses that are well received by the community.

On September 26, 2012, this project was approved by the Downtown Advisory Committee on a 6-0 vote. This is a \$31,000,000 development and is projected to provide 150 temporary construction jobs and 270 permanent jobs. In addition, the project is projected to provide approximately \$600,000 in annual Transient Occupancy Tax, approximately \$500,000 in annual retail sales tax and approximately \$300,000 in new property taxes.

Staff recommends approval of this item.

Applicant

HAMID NIKKO, representing the Amidi Group, stated staff did a very thorough job of explaining everything. We are proud and honored to be part of the new era of the downtown development. The City is in need of a high-quality hotel, and we have added that component to our project. We have done an extensive traffic study to make sure we are meeting all of the City requirements. We have addressed every issue and are happy with the end result.

Public input

RICK WRIGHT, MainStreet Oceanside, stated this is the third version of this project that we've seen, and it tends to get better with time. We support this project.

If we're going to continue to do this type of project downtown, we need to be sensitive to the residents. Residential areas are adjacent to every project we're going to do downtown. Please listen carefully to what they say and try to incorporate that into the plan.

RUTH JAMESON, 3940 San Pablo Avenue, stated when she sat on the Redevelopment Advisory Committee (RAC), they wanted so much to have a live/work project like this. The structure presented tonight doesn't look like the pictures on the Internet. This is the highest buildable place in our City. We should not have something that looks like Plan B from a large commercial corporation that has presented something that does not look like Oceanside. She asked that we continue with the architecture that we started with at City Hall. The presentation tonight is overworked and has embellishments that are not needed. She would like to see something beautiful and reminiscent of our heritage in Oceanside. We need to reinstate the Design Review Board.

SAUNDRA RENWAS, 416 South Horne Street, stated this hotel will be our neighbor, and we're concerned about it enhancing our neighborhood and not diminishing it. We understand that we have to have the Mission Avenue commercial area to help support our town, but we ask that you don't forget about our bungalow neighborhood. She asked the Council, developers and contractors to watch and plan very carefully regarding our area. This is a much cherished neighborhood. Computer graphics were used to show the neighborhood.

Regarding trees and landscaping, although the 30 trees sound like a big number, we also want some other green space on the sidewalks. We would like more enhanced landscaping around the hotel to reflect all of our neighborhoods. We'd like it to not be completely different but be intertwined with what we already have established.

LISA HAMILTON, 323 South Ditmar, is speaking as part of OCNA (Oceanside Coastal Neighborhood Association). This group attended our meeting last night and presented us with their renderings. They told us about their other buildings as well. This building looks much better than their other buildings. She used computer graphics to show other buildings by this developer. We are hoping that the building proposed for Oceanside will look like the building shown in the renderings. We would like to see at least 30 trees, but we are concerned there will not be enough landscaping along the sidewalks. Hopefully Council will take our concern about landscaping under advisement. This is going to be a huge building, and planting will soften the outline.

TERRY JOHNSON, 169 Mayfair Street, stated this is a landmark location. Before he left the Council in 2004, we had discussion and approved the first rendition and proposal, and the property owner was able to receive entitlements. Here we are 8 years later, and it's about time. He's happy to hear that the community is embracing this. He hopes the developer and his associates listen to the community regarding the character of the neighborhood and their desires to be part of this. He supports this and would like to see it become a landmark for Oceanside and the region.

JOAN BOCKMAN, 1017 Alberta, stated there are some beautiful homes in this area, but they have to coexist with some ugly blighted apartments around them. We already have traffic and parking problems. Every new development makes it worse. When does this get fixed? Our traffic issue is not necessarily volume; it's speed. We must lower the speeds on our streets. Some of the streets don't bear any traffic because they are cul-de-sacs, but our streets are open and bear traffic for everyone else. We want it that way because we want free access, but we have to do something about this. A computer graphic was used to show an outline of a suggestion one of the homeowners came up with for the street in front of their house. Something has to be done about the traffic, parking and landscaping. She requested Council approve staff time to work with the residents on this. Every project being approved needs to pitch in money for the funding of these things. We need physical changes to our streets.

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

Applicant rebuttal

In response to comments made about their other building by them, **HAMID NIKKO** stated it is not comparable to this building because it was an existing high rise in downtown Los Angeles. As shown in our renderings, this project has been treated very differently than that one. We tried to incorporate as much landscaping as we were allowed to around the project. As far as how many and what type of trees, this was something that City staff directed, and we are following.

One of the public's concerns was the parking. We have more than what is needed for parking. The requirement was for around 350 spaces, and we are providing 432.

We are also trying to make our project as environmentally friendly as possible. For example, we are offering a drop-off shuttle service, which reduces the traffic in the vicinity. We are proposing offering the shuttle within a mile and a half so people can use public transportation and get to the Transit Center.

BIJAN ARMINPOUR, Architect for this project, stated with respect to traffic, we've been very sensitive to the traffic and the traffic studies for this entire area, and it has been incorporated into the design that we have. The vehicular traffic in and out has been based on those studies. We have 2 different access points from 2 different streets. One is for self-parking, which is mainly used by the live/work units, and the other is valet parking for the hotel use. These will reduce and distribute the parking. We also plan to provide shuttle service because of the proximity of the project to the Transit Center, freeways and beaches. It will be free of charge to all residents and hotel guests. This is an incentive to use fewer cars so we'll have fewer on the road.

Regarding the landscape, he considers himself a lucky architect because he's become familiar with this neighborhood and because it's another opportunity to work with a developer who cares for the project. He has done a number of projects with this developer. The landscape scheme is what is in the sketches for your traffic study. We will be very sensitive to the landscaping. Whatever the City requires, we will comply with. We will be discussing all of this with the neighborhood and City staff and will obtain Council's approval. It will be a very comprehensive landscape plan. This is just a concept.

MS. BRANN added the landscape plans are conceptual. Once they get into their construction drawings and realize some of the storm water quality issues that they're going to have to address, they will probably end up having a lot of fire retardant planters and things of that nature around the site.

The other project by this developer was mentioned only because of the business plan and because the upper entertainment deck has been highlighted in several magazines in Los Angeles. There have also been a lot of special events there, and we wanted to highlight that those opportunities are going to be enjoyed here as well.

DAVID DIPIERRO, City Traffic Engineer, stated the way that the trip distribution is set up for this project, all of the traffic is more or less being pushed to Mission Avenue. We're not showing any traffic going into the neighborhoods from this particular project, so there's no nexus to require them to do any mitigation. On the other hand, the neighborhood is asking for a traffic calming project. Our traffic calming program is on hold currently, so we've got a priority list going. About 2 years ago, the Council approved the new traffic calming plan that we would have to go into the neighborhood and implement to address their issues at this point.

COUNCILMEMBER SANCHEZ stated this has gone through different stages. It started off as our first major high-rise mixed-use. She was not happy with the previous renderings of this, but this one is a huge improvement. We originally had planned for drug store, a coffee place, etc. on the first floor. When that got taken out, she was very disappointed. This is fantastic. She can see a bit of the Museum of Art in this building's

design. She likes it lower and thinks it is more pedestrian friendly than before.

She **moved** approval for the [adoption of **Resolution No. 12-R0711-3**, "...adopting the Mitigated Negative for Development Plan (RD12-00001) and Conditional Use Permits (RCUP12-00001, RCUP12-00008 and RCUP 12-00009)" for a Mixed-Use development consisting of a 124-unit hotel, 90 live-work units, and approximately 8,357 square feet of retail/office space located on one city block bounded by Mission Avenue on the north, Seagaze Drive on the south, Horne Street on the east and Clementine Street on the west – Belvedere – Applicant: Amidi Group].

She asked staff to continue to work with the community on the landscaping and the traffic issues. We're far from getting that completely done. In terms of the concept and moving forward with the resolutions and approvals, she is happy to make the motion. To have a hotel where there is residential is fantastic. This is part of what we believe in that Oceanside is a destination and people want to come here.

COUNCILMEMBER KERN **seconded** the motion.

DEPUTY MAYOR FELLER can't imagine anything else on that corner now that he's seen this rendering. Consideration should be given to whether the developer likes the design since he's spending the money. This looks like Plan A, and there is finally something that you can build. The landscaping has been drawn in to spice it up and as it goes along, he's sure they will make the adjustments. It's tremendous to kick this off and have something you can go forward with.

COUNCILMEMBER KERN understands that people want the design to be more like the Mission or the Museum of Art, but they are building something unique, and he commends them for that. He's getting sick of red tile. This is a good project.

He is becoming more and more attuned to the landscaping. If you want to see the difference between us and Long Beach or Carlsbad, it's the palm trees. We complain about undergrounding telephone poles, but we planted palm trees along Coast Highway. It's not very appealing to walk down Coast Highway because of the palm trees. He would encourage minimizing the use of palm trees and maximizing the use of canopy trees. We're trying to become a walkable community. The one thing about a walkable community is the canopy trees.

In the long-term we need to go with projects that move toward a pedestrian and bicycle friendly community because it makes sense. It will slow down traffic and make more parking available.

We need to look at these streets and redesign them if necessary. That's why we have traffic engineers, to engineer the streets to become more pedestrian and bicycle friendly. Part of that is the trees. We need to make it appealing to ride your bicycle down the street because you have the canopy over you.

He likes the project. He asked about the start time versus the start time for the Mission Avenue improvements and having that couplet in place when this project comes on line.

MS. BRANN responded we were very successful in receiving several grant funds from SANDAG and part of that was \$1,500,000 towards Phase I of Mission Avenue. In a perfect world, we'll finalize the construction drawings, go out to bid and potentially be under construction roughly a year from now. In terms of them getting financing, she's not sure of that schedule.

COUNCILMEMBER KERN stated the last issue is the lighting on the south side regarding light pollution into the neighborhood from the project itself. Nobody brought it up or addressed it. How is that going to be addressed?

MR. ARMINPOUR responded this project will be 100% LED. The difference between LED lighting versus any other lighting is that the intensity of the light is completely different. A 12 watt LED has about 700-800 lumens of light, which is compared to about 75 watts of incandescence, but the density and glare of the light is much less. On previous projects we have used all of the lights as down lights. At the street level it would be all low lighting that shines on the sidewalk to make it more pedestrian friendly. In all of the other places it would be all small lights, which is also low light.

COUNCILMEMBER KERN is more concerned about the 4th and 5th floor lighting spilling over into people's backyards.

MR. ARMINPOUR responded some of the balconies that we have facing the street will have some kind of lighting, but there will be lighting sconces that only shine down.

COUNCILMEMBER KERN thinks that the problem has been addressed then.

COUNCILMEMBER FELIEN thinks this looks like a fabulous project, and he shares the enthusiasm for the landscaping. When he's walked in other cities, the trees and the shade add to the ambiance to make it a walkable community. He would like the project to incorporate as many trees as possible. He will support the motion.

COUNCILMEMBER SANCHEZ attended the International Livable Cities Conference in Portland and stayed at a hotel that was bicycle friendly and encouraged people to cycle and not use cars. They had bike racks and things like that. Will that be incorporated in this project?

MR. ARMINPOUR responded CalGreen has been adopted by the State that addresses all of the issues about environment, one of which is exactly what Councilmember Sanchez mentioned. We are complying with CalGreen 100%. This project will be a CalGreen project. All of the roof rain water will be filtered through planters in the courtyard before it is dumped into the City storm drain. There are many other items as well.

COUNCILMEMBER SANCHEZ asked if the developer agrees to work with the neighborhood in terms of traffic calming and landscaping issues.

MR. ARMINPOUR responded yes, 100%.

Motion was approved 5-0.

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

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

Advance written request to reserve time to speak: None

19. Communications from the public regarding items not on this agenda

JIMMY KNOTT, 127 Sherri Lane, was asked by a former Senior Commissioner to get some information out since we no longer have a Senior Commission. In a survey of older Americans living in San Diego County, there were a few things that we need to pay attention to. 46% of seniors agreed that isolation or loneliness affects their quality of life. 38% said the biggest problem they have health-wise is affording dental care. The problems repeated most throughout the survey are major home repairs, yard work

and minor home repairs. The two biggest concerns they have are medical problems and financial concerns.

At least 1/3 of the seniors have minor difficulty walking. This is being forgotten in our plans of a walkable community. We need to accommodate our seniors. Staff needs to address this.

He announced that on October 24th and 25th there will be public hearings at El Corazon and our Community Rooms for the budget priorities and Citywide goal-setting. The public is invited.

CATHY NYKIEL, MainStreet Oceanside, announced Candidate Night is October 18th; the Haunted Market is on October 25th; and Dia del los Muertos is October 28th.

Next year will be the City's 125th anniversary and we will need volunteers for the July 4th parade committee and donors for our flags.

DANA CORSO, 5838 Ranchview Road, spoke on why she is running for City Council.

DOROTHY McCORKLE, 4610 Bristlecone, is a long-time animal welfare advocate. We have all seen stories about animal cruelty. It breaks our hearts. Unfortunately, not very often are abusers convicted and penalized for their actions. The greatest cruelty of all is the rampant unregulated breeding of animals. Why are our public animal shelters offering adoption fees as low as \$25 an animal? Why are they so crowded? There are simply not enough homes for the animals that are coming into the shelter. A large number of homes are needed. Who pays to feed and shelter these pets? Taxpayers do. In San Diego County shelters, as many as 20 kittens are brought in every day during kitten season. We must reduce the number of pets being born. While we have a few low-cost spay and neuter services, their impact is minimal. The City, its residents and our community are letting this happen because we have not put in place restrictions and regulations to end the excess population. She urged people to step up and be involved; help end this crisis of pet overpopulation. She will be voting for Mayor Wood, Councilmember Sanchez, Dana Corso and Zack Beck as they are animal advocates. They can and will work to provide the best chances for our pets.

JULIANE DEMGE, 1527 Krim Place, backs the previous speaker on spaying and neutering. She cannot believe that Council would okay that hotel. It looks like it came out of 1950's architecture. It's crowded and confusing and doesn't look anything like the buildings in Oceanside. It's ugly.

Regarding overpopulation of pets, she would like to have Council demand that these backyard breeders be licensed. You license the lady who sells objects on the corner, yet you let these breeders do business without a license. These people make a lot of money, and they need to be treated as a business. We need to be a leader in this area and have other cities look to us.

CHRIS WILSON, 770 Harbor Cliff Way, stated this election coming up in 3 weeks gives people an opportunity to change the face of the Council. People need to pay attention to how members of the Council vote. He asked people to think about each vote that these Councilmembers who are up for election have taken. People need to consider that as opposed to who shows up at their kids' soccer game, etc. While those are nice things, we don't elect Councilmembers to do that. We elect them to make laws and regulations and pass ordinances that affect our quality of life. Please take that into consideration when casting your votes this election.

CLOSED SESSION REPORT

18. Closed Session report by City Attorney

CITY ATTORNEY MULLEN reported on the items discussed in Closed Session:
See Items 2A, 2B and 3 and 3.5 above. [Item 1 was not heard]

INTRODUCTION AND ADOPTION OF ORDINANCES

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

25. **City Council: Adoption of an Ordinance of the City Council of the City of Oceanside amending Article 33 of the City Zoning Ordinance modifying the City's sign regulations** (*introduced 10/3/12, 5-0 vote*)

After titling of the ordinance, **COUNCILMEMBER SANCHEZ** moved adoption of **Ordinance No. 12-OR0712-1**, "...of an Ordinance of the City Council of the City of Oceanside amending Article 33 of the City Zoning Ordinance modifying the City's sign regulation".

MAYOR WOOD seconded the motion.

Motion was approved 5-0.

26. **City Council: Adoption of an Ordinance of the City Council of the City of Oceanside adopting Article 33C of the Oceanside Zoning Ordinance regulating signs on private property in the Downtown Project Area** (*introduced 10/3/12, 5-0 vote*)

After titling of the ordinance, **COUNCILMEMBER SANCHEZ** moved adoption of **Ordinance No. 12-OR0713-1**, "...adopting Article 33C of the Oceanside Zoning Ordinance regulating signs on private property in the Downtown Project Area".

COUNCILMEMBER KERN seconded the motion.

Motion was approved 5-0.

CITY COUNCIL REPORTS

- 11. **Mayor Jim Wood** - no report due to time
- 12. **Deputy Mayor Esther Sanchez** - no report due to time
- 13. **Councilmember Gary Felien** - no report due to time
- 14. **Councilmember Jack Feller** - no report due to time
- 15. **Councilmember Jerome Kern** - no report due to time

ADJOURNMENT

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

October 17, 2012

Joint Meeting Minutes
Council, HDB, CDC and OPFA

Oceanside Public Finance Authority at 9:42 PM on October 17, 2012. [The next regular meeting is scheduled for 2:00 PM on Wednesday, November 7, 2012]

ACCEPTED BY COUNCIL/HDB/CDC/OPFA:

Barbara Riegel Wayne
City Clerk, City of Oceanside