



California

ITEM NO. 3

# CITY OF OCEANSIDE

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

JANUARY 16, 2013

REGULAR MEETING                      2:00 PM                      COUNCIL CHAMBERS

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

Mayor  
HDB President  
CDC Chair  
OPFA Chair  
Jim Wood

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

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

City Clerk  
HDB Secretary  
CDC Secretary  
OPFA Secretary  
Zack Beck

Treasurer  
Gary Ernst

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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 2:00 PM, January 16, 2013.

### 2:00 PM - ROLL CALL

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

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

Manager Weiss and City Attorney Mullen.

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

[Closed Session and recess were held from 2:01 PM to 4:01 PM]

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

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

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

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

**No closed session held**

**2. CONFERENCE WITH REAL ESTATE NEGOTIATOR**

CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Properties: Portion of relinquished right-of-way south of the Oceanside Welcome Sign east of North Coast Highway, portion of APN 160-270-84, portion of Loretta Street right-of-way north of State Route 76, and portion of Rancho Del Oro Drive right-of-way north of State Route 78; Negotiating Parties: City of Oceanside and CBS Outdoor, Clear Channel Outdoor, Inc., Lamar Outdoor Advertising, and Sunrey Media LLC/Signs of Support; Negotiator for the City: Douglas Eddow, Real Estate Manager; Under Negotiations: Price and terms of property use agreements

**Direction given to real estate negotiator regarding property use agreements at locations as identified; no final action is reportable.**

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

**A) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

1. DUNEX, INC., CAVALIER MOBILE ESTATES, V. CITY OF OCEANSIDE  
Superior Court Case No.: 37-2010-00061745-CU-EI-NC
2. DUNEX, INC., CAVALIER MOBILE ESTATES, V. CITY OF OCEANSIDE  
Superior Court Case No.: 37-2012-00055503-CU-EI-NC

**Items discussed; no reportable action**

**B) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

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

**Council voted 5-0 to authorize City Attorney to file a civil nuisance abatement action against owners of property located at 415 Grant Street including M&L Financial, Arthur Misaki, Donald Swanson and Linda Castellanos**

**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 City Clerk Beck, Assistant City Clerk Trobaugh, City Manager Weiss and City Attorney Mullen.

**Changes to the agenda**

**CITY CLERK BECK** announced that Consent Calendar Items 6 and 11 have been pulled from the agenda.

**CONSENT CALENDAR ITEMS** [Items 4-13]

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

The following Consent Calendar items were submitted for approval:

4. City Council/Harbor/CDC/OPFA: 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 four purchase orders for the purchase of ten vehicles as follows: in an amount not to exceed \$85,561 to Folsom Lake Ford of Folsom for the purchase of three Ford Interceptor Police vehicles; in an amount not to exceed \$34,526 to Bob Stall Chevrolet of La Mesa for one Chevrolet Caprice Police vehicle; in an amount not to exceed \$123,147 to Downtown Ford of Sacramento for the purchase of four full-size pickup trucks; in an amount not to exceed \$57,862 to Mossy Nissan of Oceanside for two compact pickup trucks; approval of a purchase order in an amount not to exceed \$11,434 to Motorola Solutions, Inc., of Chicago, Illinois, for the purchase of four vehicle radios; and authorization for the Financial Services Director, or designee, to execute the purchase orders
6. [City Council: Approval of a license agreement with Electronic Transportation Engineering Corporation of Phoenix, Arizona, for a Direct Current Fast Charger agreement to implement electric vehicle charging stations on City-owned property at no cost to the City; and authorization for the City Manager to execute the agreement]  
**This item was pulled by staff**
7. City Council: Approval of a three-year agreement with Life Time Fitness Incorporated of Chanhassen, Minnesota, with Life Time Fitness financially responsible for all City support services provided, to host the Oceanside Life Time Fitness Triathlon in October 2013, 2014, and 2015; and authorization for the City Manager to execute the agreement  
**Document No. 13-D0031-1**
8. City Council: Approval to reappropriate \$89,778 in grant funds from the County of San Diego, awarded to the City for reimbursement of funds expended for the performance of grant-funded law enforcement services jointly with other law enforcement agencies under Operation Stonegarden, to the Police Department
9. City Council: Adoption of **Resolution No. 13-R0032-1**, "...authorizing the acceptance of \$500,000 in grant funds from the Board of State and Community Corrections for a Gang Prevention and Intervention Program", for the Oceanside GRIP 2012-2014 project; approval of the grant budget; approval of the appropriation of the funds to the Police Department; approval of professional services agreements for grant-funded activities with the Vista Community Clinic [**Document No. 13-D0033-1**] in the amount of

\$135,000 and North County Lifeline [**Document No. 13-D0034-1**] in the amount of \$120,000; and authorization for the City Manager, or designee, to execute all grant documents and agreements

10. City Council: Approval to accept reimbursable grant funds in the amount of \$47,414 from the 2012 State Homeland Security Grant Program (SHSGP); approval to appropriate the funds to the Fire Department to purchase emergency response equipment for the Fire Department and Police Department; and authorization for the City Manager, or designee, to execute all grant documents
11. [City Council: Adoption of a resolution authorizing the City to submit an application for the Smart Growth Incentive Program (SGIP) grant program in the amount of \$400,000 for the Coast Highway Corridor Study; and authorization for the City Manager to execute all necessary grant documents]  
**This item was pulled by staff**
12. City Council: Adoption of **Resolution No. 13-R0035-1**, "...establishing certain traffic controls within the City of Oceanside" for both the Thursday morning Daytime and **Resolution No. 13-R0036-1**, "...establishing certain traffic controls within the City of Oceanside", Thursday evening Sunset Markets, establishing No Parking/Tow Away Zone areas, extending the street closure hours for the evening Sunset Market from 10:00 to 11:00 p.m., approving the traffic control plan for temporary alley closures of a portion of two alleys located between North Coast Highway and Cleveland Street
13. City Council: Authorization to award a contract [**Document No. 13-D0037-1**] in an amount not to exceed \$213,500 to Synagro-WWT, Inc., of Suisun City for construction of the Digester Cleaning and Repair project; approval of a professional services agreement [**Document No. 13-D0038-1**] in an amount not to exceed \$14,626 with Carollo Engineers, Inc., of San Diego for engineering support services during construction; and authorization for the City Manager to execute the agreements upon receipt of all supporting documents

**COUNCILMEMBER SANCHEZ moved** approval of the balance of the Consent Calendar [Items 4, 5, 7-10 and 12].

**COUNCILMEMBER KERN seconded** the motion.

**Motion was approved 5-0.**

#### **GENERAL ITEMS**

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

14. **City Council: Approval to reject all proposals received for the Fleet Maintenance Request for Proposals (RFP), and continue to provide these services by City staff**

**KIEL KOGER**, Public Works, stated in an effort to identify potential cost-savings and reduce the budget through outsourcing, staff solicited proposals from private companies in June of 2012 to perform fleet maintenance services. These services are currently performed by City staff, which consists of a supervisor and 12 employees and includes providing scheduled preventative maintenance, repairs, towing, parts management, generator maintenance, fuel management and other fleet services to an operation which includes 480 vehicles and pieces of heavy equipment.

Staff only received one proposal and conducted an interview with the proposer, First Vehicle Services. In-house costs were then compared to contractor costs to see if

outsourcing was cost effective. A computer graphic was used to show City staff costs, including labor, parts, supplies, outside services and incidentals, as well as first-year contractor costs. The City staff costs are roughly \$1,860,000. The contractor costs are roughly \$1,770,000. The potential first-year savings for the City would be just under \$95,000.

The costs that would remain even if the services were outsourced are the Fleet Supervisor, to manage the contract, internal service charges for administrative allocation like Information Technologies and debt service on the building. We still have our fuel budget and overtime and pension obligation bond. The contractor bid this on a 5-year proposal. His total costs were just over \$9,300,000.

Staff has found it more cost-effective to continue to perform these services with City staff. The recommendation to not outsource this program was based on the following factors:

- Current salaries proposed by the contractor seem too low by industry standards to attract competent mechanics and technicians. Staff called several private garages and found the proposed average hourly rates to be approximately \$5.00 per hour below industry standards for the San Diego area.
- Increasing each employees' hourly rate by \$5.00 per hour would raise contractor personnel costs by almost \$125,000, which would eliminate any savings to the City.
- Non-target costs, including emergency work, repairs for accidents, death, vandalism issues, directed work and other unforeseen repairs are unpredictable. This uncertainty could cause costs to creep higher.
- Staff called references provided by the contractor and found several cities were generally satisfied with their services, but some indicated costs crept higher over time. Some cities which previously outsourced these services, had changed again to provide service with city staff.
- Staff was told more bids weren't received because others felt there wouldn't be significant savings to the City to justify submitting a proposal.
- The proposers also indicated it typically made sense to outsource when customers weren't happy with the service. This has not been the case. City staff is providing a good service to other departments and has been recognized as one of the 100 best fleets in North America for 6 consecutive years by *Government Fleet* magazine.
- Fleet maintenance is a large operation with many responsibilities and there is a real concern that costs could creep higher over time providing no savings to the City.

Staff recommends that Council approve the rejection of all proposals received in the Fleet Maintenance RFP and continue to provide the services in-house.

#### Public input

**CHESTER MORDACINI**, 9900 Bellflower Boulevard, Bellflower, stated OCEA and Teamsters Local 911 are supporting staff's recommendation to reject the RFP on this particular outsourcing. One of the things you have to keep in mind is that Fleet Services is the backbone of your whole public services operations. We've got 12 guys that are all ASC certified. The City is approximately the 134<sup>th</sup> largest city in the Country.

We have 13 employees that handle the fleet maintenance and do an excellent job.

One of the most important things to recognize when you're talking about public employees in this day and age, and especially in fleet services, is that with \$800,000 in outsourcing, this Fleet Services has already found those areas where they can save the City money by going to outside vendors and having some of that work done. The 12 guys and 1 supervisor are running a lean, mean operation. Where it makes sense to outsource, they've found ways to save the City \$800,000. For a \$95,000 saving in one year, it makes no sense to put the employees out of work. If you look at the contract, after the first year there's a Consumer Price Index (CPI) provision, and slowly but surely that \$95,000 will be eaten up in future CPI increases over the years. Once you lose your Fleet Services, the start-up costs are going to be astronomical. There have been other cities in California that have tried this contractor and ended up redeveloping their in-house services.

OCEA and Teamsters are supporting staff's recommendation to reject the RFP.

Public input concluded

**COUNCILMEMBER SANCHEZ** stated this is one of our great programs in the City that we are very proud of. In times like this we do a bid to see if anyone else can do it better, but we have found that no one else can do it better.

She **moved** approval to reject all proposals received for the Fleet Management RFP and continue to provide the services by City staff.

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

**COUNCILMEMBER KERN** supports the motion. This is one of the processes we need to constantly look at. Approving a single bidder is never a good idea. We need competitive bidding. He likes going through the process to evaluate what we spend and where we spend it. What most people want from any city is to provide services at the most economical cost. We should come back in about 3 years and re-evaluate where we are with Fleet Services compared to the marketplace. Cost containment is going to be one of our big issues in government for the next 5 to 8 years because the economy is not improving. One of the reasons we even discussed the idea of going out to the private sector to provide services is to see if it's more economical for us to get those services from an outside source. After the evaluation, in this particular case, it is not. It doesn't mean we should stop looking. We all need to think of how we can conserve the money that the taxpayers give us to provide those services. Every City employee and everyone on the dais should have that attitude. We will still have to maintain a level of service, but we need to evaluate our processes to make sure we're doing the right thing for the taxpayers.

**COUNCILMEMBER FELIEN** asked for a description of some of the \$800,000 in services or items that have been outsourced already.

**MR. KOGER** responded parts, supplies, glasswork, body work and several services that almost no one else does in-house.

**COUNCILMEMBER FELIEN** asked if its staff's contention that City costs won't be going up at all over the next 5 years.

**MR. KOGER** responded that personnel costs shouldn't be going up over the next few years. He doesn't think there's a raise in anyone's budget anytime soon. There could be other costs in the City that could go up. The contractor's CPI was between 2.5% and 2.9%. He can't say if our costs will go up that much, but as far as personnel costs, they shouldn't.

**COUNCILMEMBER FELIEN** stated his pet peeve is always the unfunded pension liability. How is it that we've calculated a <\$10,000> for unfunded pensions?

**CITY MANAGER WEISS** responded the Finance Director, in consultation with PERS and an outside consultant, provided Council with a memorandum of how that number came about. It's based on the current level of funding and the unfunded portion of the actuarial that PERS provides us. It does not take into account a reduced discount. It is still at the 7.5% discount rate. We only have the ability to translate what PERS gives us. He understands there is some issue in regards to what PERS' actual rate of return is and how that would affect us. If PERS changes their methodology, then the numbers we're providing here are going to change. At this point, we're evaluating that cost based on what PERS is giving us right now on our actuarial.

**COUNCILMEMBER FELEIN** is skeptical. The public isn't getting true numbers in terms of what the true City cost is. We all know there is a huge bubble that continues to develop with this unfunded pension liability. CalPERS has a plan to kick the can down the road as long as they can and not be honest in their rate of return analysis. They hide the true cost of the pensions. If we wanted to get out of our system, CalPERS doesn't use the 7.5% that they tell us to use, they use 3.8%, which by some coincidence is what outside experts recommend CalPERS uses to compute its rate of return. When you use the honest numbers, you get a much different outlook on what unfunded pensions are going to be and what the cost to the City is going to be. He's uncomfortable on this item, and he plans to abstain. We need to get more serious with how we're computing these unfunded pension liabilities so we can have an honest comparison with outside costs.

**DEPUTY MAYOR FELLER** stated it says the fiscal impact is based on the current MOU language and there would not appear to be increases in staff salaries. Is that our staff?

**MR. KOGER** responded yes.

**DEPUTY MAYOR FELLER** believes there is not much optimism about having a pay increase for anybody. Where it says these costs will remain if services are outsourced, that's either way, right?

**MR. KROGER** responded yes. Like our fuel budget, that doesn't go away whether we outsource or not. We still have to buy fuel for all of departments. We still have to have someone to manage the contract, and we still have to pay the debt service on our garage. Those don't go away.

**DEPUTY MAYOR FELLER** asked if that total budget is in the \$3,000,000 to \$4,000,000 range.

**MR. KOGER** responded it's just over \$4,000,000.

**DEPUTY MAYOR FELLER** thinks being one of the best Fleet Services in North America for the last 6 years says a lot for us. There are 480 vehicles in the fleet, and that includes cars, trucks, fire trucks, etc. Is that done by 12 people?

**MR. KOGER** responded yes. The generators and other small pieces of equipment are not included, but it does include fire trucks, police vehicles, bulldozers, etc.

**DEPUTY MAYOR FELLER** asked if they work 7 days a week with a rotation or if they work 5 days and have someone on call for the weekends.

**MR. KOGER** responded we have someone on call for the weekend. They work 2 shifts Monday through Friday. One shift starts an hour and a half earlier than the other shift so there's someone in the garage for about 11 to 12 hours.

**DEPUTY MAYOR FELLER** thinks it's important to note that we are a large city, and you can't rely on 24-hour needs with an outside contractor. With an outside contractor we'd probably end up with a lot of tows going to the yard in the off hours, and we'd probably end up with considerably different results in turnaround on the staff time.

With respect to the dollar amount that Councilmember Felien referred to, would that go away if we eliminated the jobs?

**CITY MANAGER WEISS** responded no. Our unfunded liability to PERS would continue. In reducing the number of City employees, your long-term costs would eventually start to go down. The current level of unfunded liability and the current issues facing us, as well as other cities, would continue even if you eliminated every City employee.

**DEPUTY MAYOR FELLER** thinks we've already gone down the road with the second tier system for new employees. He will support staff's recommendation. He's concerned that only one contractor bid, and from his information they came in \$5 less than what most mechanics work for. This is the right thing to do.

**Motion was approved 4-0, Felien – abstained.**

15. **City Council: Approval to relocate Fire Station 8 from 4927 Oceanside Boulevard to 1935 Avenida Del Oro, Suite F; approval to appropriate \$76,760 from the Fund 503.3020 Public Facility Fees Fund to the Fire Department for costs associated with moving the fire station and securing a building lease; and authorization for the City Manager to execute the building lease**

**DARRYL HEBERT**, Fire Chief, stated the Fire Department recommends that the City Council approve relocating temporary Fire Station 8 from 4927 Oceanside Boulevard to 1935 Avenida del Oro, Suite F. This was a recommendation made from the Tri-Data Study that took place in April of 2012. A computer graphic was used to show existing fire stations in Oceanside. Currently Fire Station 8 is located at the City Operations Center (COC). The proposed new location is close to the intersection of College and Oceanside Boulevard at Avenida del Oro.

Currently the fire station sits right on the border of Vista and Oceanside. The primary reason to move the station is not reducing some of the service to Vista; the primary reason is to improve the response coverage and times for more of our City. The new location is more centrally located. A map was used to show coverage and response times. Where it currently sits, the majority of our responses are in the Vista area, although there is some in the Oceanside area. When you shift the station, it gives greater coverage to the Rancho del Oro area, Costa Serena and some of the industrial areas in Rancho del Oro. Moving the fire station improves the coverage for our Fire Department and our City.

As some of you know, there was a piece of property donated to the Fire Department and the City for permanent Fire Station 8, and it's approximately .7 miles from that location. It is an outstanding location for a permanent fire station, but as economic times dictate, we don't have the funds to build it right now.

We're asking for a 7-year lease because it's his hope that within 5 years with the some of the buildings going in downtown, it will increase funding, and we may be able to embark on building a new station. That takes about a year and a half to two years,

which would give us a 7-year time at the new facility.

We're currently in the process of an administrative CUP through the Building Department. We were able to reduce it from a full CUP because it was less than 5,000 square feet. The original building ended up being 5,038 square feet. We talked to the owners of the building and were able to shave off 39 square feet and get it down to 4,999 square feet. He heard from Director George Buell that there shouldn't be any issue with the CUP.

**COUNCILMEMBER SANCHEZ moved** approval [to relocate Fire Station 8 from 4927 Oceanside Boulevard to 1935 Avenida Del Oro, Suite F; approval to appropriate \$76,760 from the Fund 503.3020 Public Facility Fees Fund to the Fire Department for costs associated with moving the fire station and securing a building lease; and authorization for the City Manager to execute the building lease].

Our highest concern is for our City residents. Vista residents will still be served, but they will not get the better service that we provide to our residents. Six minute response times do make a difference between living and not living.

**MAYOR WOOD seconded** the motion.

**COUNCILMEMBER KERN** asked if there is a renewal on the end of the lease.

**CHIEF HEBERT** responded yes. They said they would extend the lease longer if needed. We can renegotiate in any year of the lease.

**CITY ATTORNEY MULLEN** believes it's a straight 7-year lease. We would have to renegotiate.

**COUNCILMEMBER KERN** likes that we're starting to implement some of the items from the Tri-Data Study. It's going to take a while, but over a period of time we're being more effective and efficient.

It bothers him that they had to do a song and dance for 39 feet in order to have administrative approval versus having the building more effective. Is that 39 feet critical?

**CHIEF HEBERT** responded no. It was a hallway area that extends between the 2 buildings. Building, Engineering and Planning have been very accommodating and have worked well with us.

**COUNCILMEMBER KERN** asked when the lease starts. There are tenant improvements that need to be done, so how does that work?

**CHIEF HEBERT** would not shut down the other station until they are fully ready to get into the new temporary station. There are some improvements that will take about 2 months. They are saying they can complete the building by March 1, 2013. We don't have to exit the other building, and the transfer will happen within 1 day. The units will still be available so there will be no loss of coverage from the station during that time.

**COUNCILMEMBER KERN** thinks being within 7/10 of our desire to be within that service area is important. It's the amount of service that people need, especially if the industrial park starts doing better. We're going to have more calls for service there than we do now. He supports this motion.

**DEPUTY MAYOR FELLER** asked how many of the calls referenced go into Vista.

**CHIEF HEBERT** responded 489.

**DEPUTY MAYOR FELLER** stated then we're averaging about 4 calls a day out of that station, is that right?

**CHIEF HEBERT** responded that's about right. It may be a little less.

**DEPUTY MAYOR FELLER** asked if moving it to that new location cannibalizes on other stations that are busier or are we still going to be going to Vista at that rate?

**CHIEF HEBERT** stated it's hard to project that because we could go into Vista based on one of their units near the border being busy in another area. We'll analyze that closely. He would imagine we will still be going into Vista, like they're still going to come into Oceanside. It will reduce some of Station 4 going north under the bridge at Highway 78 because of some of the traffic in that area and how busy the intersection gets. It reduces the travel time, which increases the response times for Station 4 to get to Costa Serena and up in that area.

**DEPUTY MAYOR FELLER** thinks that's another reason for the Rancho del Oro Interchange.

**CHIEF HEBERT** thinks it will reduce Station 6's time as well coming up the hill up Mesa.

**DEPUTY MAYOR FELLER** asked what the increase is to the bottom line for that station if you're going to lease as opposed to having a corner cubby hole at COC.

**CHIEF HEBERT** responded the first 3 years are at \$51,000 per year, and years 4-7 are at approximately \$58,000 per year.

**DEPUTY MAYOR FELLER** asked if that's an increase from what you have now.

**CHIEF HEBERT** responded yes.

**DEPUTY MAYOR FELLER** supports this.

**COUNCILMEMBER FELIEN** thinks this seems like a great opportunity for a relatively small cost to improve coverage for the City as a whole. While it directly benefits the Rancho del Oro area, it has ripple effects through all of the fire stations in the City to improve coverage for the citizens all over. Is that a correct assessment?

**CHIEF HEBERT** responded yes.

**COUNCILMEMBER FELIEN** supports this and thinks it is a positive development that will improve the City.

**Motion was approved 5-0.**

[Recess was held from 4:39 to 5:00]

**5:00 – ROLL CALL**

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

**INVOCATION** – Cantor Larry Kornit

**PLEDGE OF ALLEGIANCE** – Soccer Club team members

**PROCLAMATIONS AND PRESENTATIONS** –

Presentation – Mayor's Youth Sports Recognition and Appreciation Award

**Presentation was made**

**CLOSED SESSION REPORT**

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

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

**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.

22. **Advance written request to reserve time to speak:** Cathy Nykiel

**CATHY NYKIEL**, MainStreet Oceanside, announced Thursday is market day in Oceanside, with our daytime and sunset markets. This week we will have Oceanside's 125<sup>th</sup> Anniversary booth. On January 24<sup>th</sup> and February 21<sup>st</sup> Oceanside Photo and Telescope will be hosting an Astronomy Night. At the end of February we'll be having our Third Annual Public Safety Night with Oceanside Fire, Police and Lifeguards. The Oceanside Independence Day Parade will be held the Saturday prior to the 4<sup>th</sup> of July.

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

**CHARLES McVAY**, 200 North El Camino Real, agrees that Councilmembers Kern and Felien have the power to remove someone from committees provided there is a just and reasonable cause that has been proven. However, when you remove Mayor Wood as Oceanside's representative on SANDAG, you've violated one of the most sacred laws of the civilized world. It is called innocent until proven guilty. The only reason you gave was that he does not support your views and you don't believe he is working hard enough. Just because you say so doesn't make it true.

In order to remove Mayor Wood for the reasons you stated, you must prove them. You did not. You have not provided one shred of evidence to support your accusations; therefore, since you did not prove Mayor Wood was derelict in his duties to Oceanside, you must reverse your decision on removing him from his position on SANDAG. While this law cannot be found in the U.S. Constitution, Bill of Rights or any other founding documents, this was an acceptable unwritten law from English colonies. In 1894, the U.S. Supreme Court put "innocent until proven guilty" in writing. Although it mostly refers to criminal law, it has been used successfully numerous times in other cases, especially political cases such as we have here.

He believes the Council majority was too busy brooding over Councilmember Kern's loss for Mayor, and they wanted revenge. In his opinion what you did was nothing less than a kangaroo court, all without any proof.

**JIMMY KNOTT**, 127 Sherri Lane, stated when he ran for City Council he asked for all of the candidates to take a public civility pledge, but none of them did. He asked Council to adopt his resolution, which he read, and post it in the Council Chambers.

**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.

24. **City Council: Consideration of a General Plan Amendment and Zone Amendment and Notice of Availability for a Local Coastal Program Amendment to revise Municipal Code Chapter 14C (Inclusionary Housing) and portions of the City Zoning Ordinance pertinent to density ranges and residential building height and parking standards, and establishing the amended text as part of the implementing document of the Local Coastal Program (GPA12-00001/ZA12-00001/LCPA12-0001) (This item is continued from January 2, 2013)**
- 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, public, committees, interested parties and the BIA.
  - C) City Clerk presents correspondence and/or petitions – none.
  - D) Testimony, beginning with:

**RUSS CUNNINGHAM**, Senior Planner, stated staff has assembled the necessary text amendments to the General Plan, the Inclusionary Housing Ordinance and the Zoning Ordinance to implement Council direction provided at its September 26, 2012, public workshop, during which the Council considered ways to induce affordable housing in conjunction with residential projects exceeding the City's base density allowances.

The program we've assembled would provide housing developers with additional options for meeting inclusionary housing standards, as well as zoning incentives to encourage the actual provision of affordable housing in conjunction with market-rate development, rather than the payment of an in-lieu fee, which has been the default choice of the development community for more than 20 years now. Under the proposed program, the in-lieu fee would remain an option, with a second tier fee applied to units achieved above base density. The second tier in-lieu fee would make the developer's contribution to affordable housing more commensurate with the financing gap that is typically associated with affordable housing. That is the inevitable disparity between what it costs to build and manage an affordable unit, and the revenue this unit will generate at an affordable sales price or rental rate.

The program has a fair number of moving parts. There is some complexity to it, but rather than getting into all of the details, we'll focus on an example that's meant to illustrate how the program would apply to the type of in-fill housing projects that will likely comprise much of the City's housing growth into the future. While there is probably something in these recommendations for everyone to disagree with, they do reflect staff's best effort at a synthesis of what we heard over a nearly 2-year period from affordable housing advocates, the building industry, community stakeholders and decision-makers like Council.

The proposal involves additional options for meeting inclusionary housing standards, including the purchase, rehabilitation and reservations of existing market-rate housing units as income-restricted units. Secondly, the donation of land of sufficient size and under appropriate zoning to accommodate the requisite number of reserved units. With these options, the City would maintain sole discretion to accept or not accept the conversion of market-rate units to income-restricted units or the donation of land.

The second tier in-lieu fee would be established at \$12,250 per unit achieved above the base density, with the standard in-lieu fee remaining in place for units achieved under the base density. When one of the other 5 inclusionary housing options, other than the in-lieu fee, the 10% affordability requirement, which is now the percentage required under Article 14(c), would apply only to the units achieved under the base density allowance with no affordability requirement applied to the units above.

The program involves modification of General Plan criteria for exceeding base density. Currently, the criteria for exceeding base density require that such projects be "superior" to projects conforming to the base density allowance. That refers to superior in terms of architecture, landscape, on-site amenities and infrastructure. These criteria also require that such project conform to more restrictive parameters than projects that do not exceed base density: larger lots, greater setbacks, smaller footprints, more parking. At the same time, dwelling units in projects exceeding base density are expected to be larger and have more floor area than units in projects that conform to base density. Taken together, these expectations make it very difficult, if not impossible, for developers to incorporate affordable units into projects exceeding base density. To address this problem, the proposed changes to the criteria for exceeding base density would establish that such projects must be of high quality, but not necessarily superior, to projects that conform to base density.

Waiver of the CUP requirement would apply only to those projects that choose an option other than the in-lieu fee and would not mean the waiver of the discretionary review process. Residential projects involving more than a single unit would continue to be subject to discretionary review and all of the components of that process: public notification, a public hearing, CEQA review and the right of stakeholders to appeal those discretionary decisions to Council.

The program involved concessions to zoning standards when options other than the in-lieu fee are chosen. Those include additional building height up to 8 feet and one additional story and reduced parking that would be consistent with a parking study the City of San Diego conducted and adopted fairly recently. It was an empirical study of affordable housing parking demand, as well as exceptions that now already exist under our 1986 Zoning Ordinance that's applicable in the Coastal Zone.

Finally, to insure that the standards are applied in a reasonable manner in the Coastal Zone, staff found it necessary to modify the density ranges for the R-3 Zoning District, which is a Coastal Zoning District, and to create a density range for the RT Zoning District. These changes do not in any way increase what is already the maximum allowable density within those Zoning Districts.

An example is a 19-unit project involving for-sale condominiums on a 20,000-square-foot, in-fill lot under R3 zoning. This project under that zoning and density allowance would achieve 13 units with an additional 6 units above the base. In this case, the developer chooses to reserve units through one of those five options other than the in-lieu fee, and that means that the units on which the 10% reservation requirement is calculated are those achieved under base density. So 13 units times 10% is 1.3 units. That's rounded down to 1 unit under this program. This project would be eligible for the zoning concessions mentioned because this project would choose one of those options for reserving units other than the in-lieu fee, and no Conditional Use Permit (CUP) would be required of this project.

The same project involving 19 units, with 6 above base, that chooses to pay fees rather than exercise one of those five options, would pay the standard in-lieu fee for the units under the base and then would pay the second tier in-lieu fee for the units achieved above base density. This project would not be eligible for the zoning concessions, and a CUP would be required for this project.

This program went before the Planning Commission in December. At that time, the Planning Commission made the following recommendations, some of which can be addressed this evening and others that would require more work on staff's part:

- Create density ranges for commercial zones that now allow mixed use.
- Add to that list of commercial zones that allow mixed use, the CL, CSL and CP zones. A handout was provided showing where those 3 designations exist in the City.
- Apply the program to the Downtown District, where it has not previously applied. Within the Downtown, formerly the Redevelopment District, 20% of our tax increment had been set aside for affordable housing, but that's no longer the case.
- Eliminate the option of reserving units for moderate-income households. It hasn't been the City's practice to provide for moderate-income households, but there is some language in the current ordinance that speaks to moderate-income households with a provision of units for moderate-income households being a means of meeting one's inclusionary requirements. The suggestion is that this be eliminated, and we focus exclusively on lower income households.
- Commission a nexus study to justify the assessment of in-lieu fees on market-rate rental projects. Following the *Palmer vs. Los Angeles* case, cities cannot require affordable housing in market-rate rental projects; however, through a nexus study they can justify the assessment of in-lieu fees.
- Restrict the zoning incentives, and only that component of the program, to transit-oriented areas that would exclude those transit-oriented areas or those portions of our transit corridors that include estate-residential districts. They defined a transit corridor as that quarter mile radius along those areas served by either high frequency bus and/or light rail.

City staff is currently working on an update of the City's Housing Element, as required by State law. Last fall, with Council's authorization, we submitted an initial draft of that update to California Housing and Community Development (HCD), and we are now responding to initial HCD comment that we received in November. HCD has expressed concern about the extent to which our housing sites inventory relies upon commercial sites for future housing capacity, given that the maximum density allowance for residential use in non-coastal commercial zones is 29 dwelling units per acre, which is one dwelling unit below HCD's default density for affordable housing. Creating a density range of 29-43 dwelling units per acre, as recommended by the Planning Commission for our non-coastal commercial zones, would be looked upon favorably by HCD and could ultimately be a key factor in achieving State certification of our Housing Element. Adding those other 3 zones to those that allow mixed use would also assist us in getting the Housing Element certified, as it would allow us to add more sites to our housing sites inventory.

Eliminating the CUP requirement for certain projects would also be well received by HCD since the State views the CUP as a very significant regulatory constraint to the provision of affordable housing. Based on the comments that we've received thus far from HCD, it appears that the agency is particularly preoccupied with our current CUP requirements and how the requirements may be discouraging densities above the base. Staff believes that adoption of the program before Council tonight will significantly enhance our chances of a timely certification of the Housing Element.

Staff's recommendation is approval of the program as established in the text amendments before Council, and they asked for direction on possible future actions.

#### Public input

**MICHAEL McSWEENEY**, Senior Public Policy Advisor for the Building Industry Association (BIA), 901 Spectrum Center Boulevard, San Diego, stated this has taken a little over 2 years. The BIA generally agrees with most of this proposal. We've worked with your staff, and the only disagreement we have is with respect to the transit-oriented areas. We feel that this proposal has some elements in it that no other city has. You're being a little bit bold and pushing the envelope. If you tax something and make it harder to do something, you'll get less of it. If you provide incentives or make more options available, usually you'll get more. One of the things that was brought forth in our proposal in asking you to look at the inclusionary housing requirements and how we could make that better was to put in incentives so you get more of what you need. Members of his association can help the City meet their Housing Element needs for affordable housing.

The trouble we have with transit-oriented areas is that, if something lies outside of the green lines, then those zoning requirements, which are incentives, would not apply. If there is something that's 3 blocks out of the green line and may be a good project and good for the City, you would take away those incentives that might make the project go forward. We would respectfully request that Council approve the report in front of them and not include the requirement to only have those zoning incentives apply to the transit-oriented areas.

**CHRIS WILSON**, 770 Harbor Cliff Way, was concerned with the adjustment to parking requirements. He lives in a development with inadequate parking. His neighbors drive up and down the streets and into the downtown neighborhoods where they have to park their cars because they have more people living in their place than they have spaces for cars to park. To allow more people to live in a housing development than you have spaces for cars, even in areas where public transit is easily accessible, is going to create gridlock. He invited the Council to walk in the downtown area and see how tightly packed the cars are on the streets there, especially at night. It's dangerous because there are cars parked so close to the corners you can't see around them to see if it's safe to cross. He encouraged rethinking this as far as the exemptions for parking space requirements.

**JIMMY KNOTT**, 127 Sherri Lane, has concerns about the cars and restrictions. The bus lines used to be prevalent in serving the public in Oceanside. It's been reduced from 20 years ago when we had 50-75% more bus lines. The rail line is not going to change, so we can depend on that. The mobile home parks should be resident owned, and the City should set aside funding to help us own those parks. We can pay that back to the City over time. His park owner asked him to tell Council that he has concerns about having some of the areas around his park designated as low-income housing. This will affect his property values.

**JOHN SEYMOUR**, National Community Renaissance (CORE), stated they support the proposal. He served on the task force. Market-rate housing should not be tied to a transit-oriented area. You shouldn't try to constrain market-rate housing in those areas. He also supports the Planning Commission's suggestion to eliminate the moderate-income inclusionary and keep it for the affordable low-income. That will get you more credits with HCD.

**BOB NEAL**, 109 Avenida Las Brisas, is a member of the Planning Commission, but he is here to speak personally and not as a commissioner. He was enthused about this ordinance because it opens up a lot of potential for what the building industry can do for our City. He doesn't remember the restriction on the transit areas. It may have been a miscommunication. He believes we need to open up the City for the opportunities that might be there to meet some of the affordable housing requirements that we have. He complimented Mr. Cunningham and staff on a job well done.

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

**COUNCILMEMBER KERN** agrees with everything except the last one. This should be a citywide program so when somebody comes forward they can say this is what applies for everybody. The rest of it he agrees with. The nexus study should be done at a certain point in time about the rental rates and things like that.

He **moved** approval of consideration of **Resolution No. 13-R0039-1**, "...approving a General Plan Amendment to the Land Use Element of the General Plan to revise criteria to exceed base density allowances (Land Use Element Policy 2.32)", and **Resolution No. 13-R0040-1**, "... amending the Local Coastal Program to provide regulatory concessions for the projects exceeding base density allowances that meet specified inclusionary housing standard", to revise Municipal Code Chapter 14C (Inclusionary Housing) and portions of the City Zoning Ordinance pertinent to density ranges and residential building height and parking standards, and establishing the amended text as part of the implementing document of the Local Coastal Program (GPA12-00001/ZA12-00001/LCPA12-0001), **with the exception** that it be Citywide and not include moderate housing. He doesn't want separate regulations for separate parts of the City.

Parking is tough. We need to have the Planning Commission study the parking issue for a long-term solution. That's always been a contentious issue.

Is this something we'll pass tonight, and then it will come back to Council?

**MR. CUNNINGHAM** responded that, of the recommendations mentioned, two of them could be implemented tonight to be incorporated into the text amendments with the Council's vote. That would be the elimination of the references to moderate-income housing and the transit corridor restriction for the zoning concessions. The others would require further work. We would have been inclined to include the recommendations regarding commercial zones and ways to provide incentives for affordable housing in commercial zones. However, that will likely require some level of environmental review, and we wanted to get this material to Council as soon as possible.

**COUNCILMEMBER KERN** is hesitant to start putting residential into commercial zones. We need commercial activity versus residential. He's for the mixed use, but we can't start pushing residential into commercial zones. We need to reserve all of our commercial zones that we possibly can.

**MR. CUNNINGHAM** stated we are talking about residential in conjunction with mixed use in commercial zones.

**DEPUTY MAYOR FELLER** **seconded** the motion.

**COUNCILMEMBER SANCHEZ** stated our job as Councilmembers is to do what's best for our City and our residents and maintain the high quality of life that our residents expect and require from us. One of the things that is extremely important to our residents is the quality of life of their neighborhoods, how they were built and the characteristics as well as insuring that we have livable, walkable communities.

She attended a couple of the meetings that were held, and it was clear what the BIA was pushing at the time and which is a result of what we have here today. They were pushing to get rid of as many regulations as possible and to be able to do over-the-counter approvals. They want to limit the input of the public and have no design criteria. They would like to be able to build whatever they want and not have to pay for any of the impacts to our neighborhoods anywhere in the City. That is not what our citizens desire, expect or want. This was and has been under the guise of building affordable housing. She proposes that this does not do anything to build affordable housing. This talks about \$1.00 per square foot for in-lieu fees. There is no way you

can build affordable housing with in-lieu fees like that. We had \$12,000 per unit before. If you're going to do \$1.00 per square foot, you might as well have zero. This does nothing unless we go over base density.

The example that was used contained words like "in-fill". How many neighborhoods are we going to hear from when they see these huge projects built right next door that are completely out of character with their neighborhood?

The tables in the back-up material are an oversimplification of what we're talking about this evening. We should have come up with a formula that is going to have a nexus that will be able to build the affordable housing, but we don't. This \$1.31 per square foot might as well just be deleted because it's not going to do anything for us. She asked how many developers have actually built rather than pay in-lieu fees?

**MARGERY PIERCE**, Housing and Neighborhood Services Director, responded only one developer chose to develop on site. That was in 1991, and it was 2 units.

**COUNCILMEMBER SANCHEZ** stated here we're doing 10% of base density. Right now it's 10% of all units. Bottom line is that this acts to reduce the affordable units that would be built.

With respect to building height maximums, it allows one additional story and up to 8 additional feet of building height. How many of our neighborhoods in Jeffries Ranch and Loma Alta and our coastal zones would love to see an 8-foot extension, an additional story, built right next to them. That's completely out of character with their community.

The parking reduction has no nexus. We're talking about getting rid of doing this along transportation corridors. It only makes sense if it's along transportation corridors. It makes no sense if you do not have public transportation. What this suggests is that people with less means don't buy cars. They won't need to park a car. They're going to walk a mile or two to get to public transportation. That is not going to happen. They're going to park their cars along the other neighborhoods. As she recalls, we were talking during those meetings about having more narrow streets and smaller units. We'd be packing them in with smaller streets. It doesn't make sense.

We have people working in our Planning Department who have practically zero history. They haven't actually worked with us and the communities in terms of building neighborhoods, what matters to our community, and how passionate people are about defending their neighborhoods. The notion is absurd that we would give up the very few commercial lands left in our City. We have the lowest ratio of jobs to residents, and yet here we are talking about making jobs for Oceanside residents not a priority. It's an insult to our current and future residents, who will never have the possibility of being able to live and work in the same city. That is very discouraging. We've already turned a lot of our commercial land into residential. All we really have left is Oceanside Boulevard as a major commercial corridor for jobs. Now we're talking about getting rid of that.

This also contains the complete elimination of the CUP for projects where they exceed the base density. That means that we can't put any conditions on them. We spent so much time and effort in design criteria. We've had so many community meetings to talk about how unique our neighborhoods are, what would be appropriate and how critical it is for developers to have up-front notice about what we would like to see in our neighborhoods. This is a complete waiver. They can do whatever they want. This is getting to that notion of over-the-counter approvals. Where's the community in all of this? We get to hear about it after it gets built or is in the process of being built? She doesn't see that this is consistent with our Local Coastal Plan (LCP).

Regarding extending the building heights, there is no discussion about maintaining our public views. Character for her is so important. These are livable communities. This is very discouraging. It's under the guise of building affordable housing, but it isn't going to get built with this. This is all about taking away responsibility at a time when we can't afford to build another affordable housing project. At the very least, we should go back to the formula that allowed us to build the affordable housing that we were able to build. We have a project in our midst and a potential fund to make that happen with the sale of Laguna Vista mobile home park.

In-lieu means you pay to play. Instead of having the responsibility for building those affordable units, which is a State law, you just pay \$1.00 per square foot. She has no idea how this is going to get done. She sees the wholesale destruction of our community: values, character and the elimination of our potential to ever be able to offer the kinds of jobs that our citizens deserve.

She cannot support this. It does not make sense. She doesn't want to build an instant ghetto. She mentioned Crown Heights and its height and density. It used to be one of the better neighborhoods. Now it has absentee landlords who don't care what it looks like or the crime that is happening there. She doesn't want to see that happen to other neighborhoods.

This is density, not Smart Growth. Smart Growth means along transportation corridors. We need to bundle and insure that we have that access to public transportation. This proposal is not in the best interests of our City, citizens, children and future. She urged her colleagues to vote no.

**DEPUTY MAYOR FELLER** has visited several developments built by affordable builders, and you wouldn't know any difference. They are outstanding places to be. He hopes his grandchildren can get a start in a place like those.

Regarding the handout from staff, right behind Lighthouse Church on Mesa and College, there is a CL. Before that church was built, that was to be an Albertson's. Is that a remnant parcel that the church owns that is still considered light commercial?

**MR. CUNNINGHAM** doesn't have any specific information on that particular parcel. This exhibit is meant to show where these particular zoning designations exist throughout the City.

**DEPUTY MAYOR FELLER** thinks Mr. Cunningham clearly said that commercial – professional, limited and light – are all considered something that we could consider mixed-use, not eliminating the commercial.

**MR. CUNNINGHAM** responded at present those three commercial designations do not allow for mixed-use development. The Planning Commission made that recommendation, and staff supports it.

**DEPUTY MAYOR FELLER** clarified it's to move into mixed-use. The medical center that is failing at Mesa and Mission is a perfect example of where you could combine the uses on that property. This is not a drama issue. If it was as bad as people make it seem, he can't imagine that Kay Parker would have supported it. He will support this easily. We should look for every opportunity to have an affordable project, even outside the designated transit corridors.

**COUNCILMEMBER FELIEN** thinks this is an excellent opportunity for the City to move forward by supporting these recommendations. It was summed up today in an excellent editorial in the *Union Tribune*. It comes down to recognizing that we're in a recession. In the middle of a recession, you're not going to collect the same waterfall of fees that you collected during an economic boom as it related to housing. This

ordinance attempts to acknowledge some economic facts. Basic mathematics suggest that lower prices are what create affordable housing. If you can lower fees and regulations, you lower prices, and that creates affordable housing. Here we have an opportunity to move to free market incentives. There must be those at the dais that are skeptical how a free market works. It doesn't make sense to micromanage every square foot of land in Oceanside. We don't want a good project turned down because it happens to be 100 feet on the wrong side of a line. It's important to not create more regulations when you're trying to replace others. He supports the recommendations.

He asked Mr. Cunningham if the issue of allowing residential development, whether mixed or shared, on land that's currently zoned commercial, is coming from the State. If we do that would our housing plan would be more likely to be approved by the State?

**MR. CUNNINGHAM** responded the draft Housing Element that we brought before Council last year included a housing sites inventory. That inventory is a parcel-by-parcel listing of properties that we have identified as having the potential to develop if they are vacant, or redevelop if they're underutilized for the purposes of housing. Many of the sites in our inventory are sites within our commercial districts that currently allow mixed-use. Most of our commercial districts allow mixed-use.

**COUNCILMEMBER FELIEN** asked the how the issue of the State approving our housing plan came into that.

**MR. CUNNINGHAM** responded HCD has expressed concern about the density allowance in our non-coastal commercial districts. Presently, those districts allow a maximum of 29 dwelling units per acre. The State's default density for affordable housing is 30 dwelling units per acre. It makes it more challenging for us to make the case that these are sites that could potentially accommodate affordable housing, with a density allowance of only 29 dwelling units per acre. The State would like to see a density range established of 29-43, akin to the densities allowed currently in our high-density residential zones and allowed along Coast Highway in the C2 zone.

**COUNCILMEMBER FELIEN** stated the pressure for higher density is coming from the State, is that correct? The only reason we're considering it is because the State had a gun to our heads to approve our housing plan, is that correct or is he overstating that?

**MR. CUNNINGHAM** responded that elevating the density allowance in the commercial zones would make it easier for us to make the argument that sites we've already identified in our inventory are sites that could perhaps accommodate affordable housing in the future. The alternative is the rezoning of commercial land to strictly residential, or the rezoning of peripheral areas that might currently have an agricultural designation to residential. That's something that we're trying to avoid; it's a direction we would prefer not to go in.

**COUNCILMEMBER FELIEN** stated it sounds like the issue is that the State controls the cities and they're forcing this on us. As a city, we're obligated to abide by the State laws as they are interpreted by the State bureaucrats.

He asked for clarification that the ordinance Councilmember Kern made his motion for does not include the issue of commercial property conversion.

**MR. CUNNINGHAM** responded that is correct.

**COUNCILMEMBER FELEIN** stated that issue is totally irrelevant to the vote we're taking now. Is that correct?

**MR. CUNNINGHAM** responded to the motion, yes.

**COUNCILMEMBER FELIEN** thinks the issue is to move forward by voting for this ordinance, that we create real affordable housing rather than taxing one segment of the housing market to subsidize another segment of the housing market. This is a way to structure it so we allow the free market to work to provide affordable housing where it makes sense. He supports this.

**COUNCILMEMBER SANCHEZ** noted that other coastal cities such as Solana Beach, Encinitas and Del Mar don't do anything like this and continue to get regional, State and federal funding for their projects. Carlsbad would never do this. It's critical that people understand that what's before us is not required by the State and is not going to build affordable housing. We have a project that we could do and money from the sale of Laguna Vista that we could use to get that project going. That's our affordable housing project, but we're sitting on our hands. This is an exercise in messing with our residents and neighborhoods. This is not about building affordable housing. When people invest in their homes, they put a lot of time and effort into building a home where they can raise their family. Why doesn't the interest of our current residents matter at all to this Council? We need to care about our current residents and not our biggest donors.

**MAYOR WOOD** is a little bit challenged on this one. He recently met with staff and the BIA to talk about this. He also remembers Kay Parker talking to him about this before she passed away. There wasn't a bigger advocate for affordable housing in this City than Ms. Parker. She was leery of the final results but felt it was a compromise.

Commercial zones were another hot topic in this. Nobody wants to give up commercial to residential. It doesn't make money or jobs. The State would love to have us make our commercial into residential for affordable housing, but those don't pay for themselves or for all of the services they get from the City. We also have compassion and want everybody out there to try to have affordable housing. This is a drop in the bucket for affordable housing.

The Planning Commission, which is picked by the entire Council, came back with a solution. They wanted certain things, including the transportation corridor. SANDAG likes transportation corridors. The motion is not for that so he has concerns. He supports a lot of this, but has concerns with the transportation corridor issue.

After titling of the ordinances, the **motion was approved 3-2**, Wood and Sanchez – no.

#### **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.

26. **City Council: Adoption of an Ordinance of the City of Oceanside amending Chapter 2, Section 2.1.64(g) of the Oceanside City Code modifying the appointment process for regional boards and commissions** (*introduced 12/5/2012; 3-2 vote, Wood and Sanchez – No*)

**CITY ATTORNEY MULLEN** stated as noted in the staff report, this action is effectively the re-adoption of the ordinance that previously took place on December 12<sup>th</sup> in response to 2 Brown Act letters that were delivered by legal counsel identified in the staff report.

Public input

**JIMMY KNOTT**, 127 Sherri Lane, asked Council to set this aside and put it to a vote of the people to make this a Charter amendment. This is necessary under the State Constitution and under our Charter.

**CHRIS WILSON**, 770 Harbor Cliff Way, stated this is a rare opportunity for Council, since this has come back before them for re-adoption. He asked that Council take the politics out of this and let the people decide. Make appointments to regional boards and commissions automatic based on vote counts and percentages. Let the person who gets the highest percentage of the vote of the people represent the City on those regional boards and commissions. By definition, they represent the most people in the City. That would also eliminate the bickering that goes on over appointments and policies that should be pursued. He agrees that this should be a Charter amendment. Doing it this way opens the City up to being a test case legally, which is always expensive. We've heard recently that we're in the black, so let's not squander that, especially on something as meaningless as fighting over who gets to sit on our regional boards. There are a lot of them and they all have impacts on the lives of citizens. He urged Council to reconsider the decision that was made on December 12<sup>th</sup>.

**POLLY FUKUHARA**, 520 South Ditmar Street, talked about the power grab by Councilmembers Kern, Felien and Feller. We're not the only people outraged by this. People from outside our City are amazed at what's going on here. She read from a letter from a Carlsbad Planning Commissioner admonishing the Oceanside Council majority for their shady behavior with this issue.

**SUSE SHROYER**, 276 North El Camino Real, stated there is no justification for what the Council majority are proposing to do here tonight other than spite, malice and dirty politics. This is no longer just the Mayor's fight. It is time for the citizens of Oceanside and voters to take the lead in condemning these acts of aggression against the Mayor and Oceanside residents for the best interests of our City.

**ROBERT MARKLEY**, 200 North El Camino Real, asked if this is a comedy or a tragedy. First, a secret band of out-of-town special interest representatives conspired with the Council majority to draft a City Charter. Then the Council majority jams it onto the ballot without any citizen input or even input from the City Attorney. Second, the out-of-town special interests pay for a campaign to get the City Charter they concocted passed, claiming it will give voters more home rule. Third, after the Charter is passed, the Council majority hides behind the City Charter to grab more power for themselves, not the citizens. They use this power to strip the most popular Mayor in recent history of much of his mayoral power to benefit their own out-of-town special interest handlers. If you live outside Oceanside and are watching what is happening, it's a comedy or a three-ring circus. If you live inside Oceanside, it's a tragedy. All of these shenanigans are occurring because we have a severely flawed City Charter.

**LINDA WALSHAW**, 151 Robby Lane, stated this Council majority believes their three voices are the only ones that matter. Over 54% of the vote in November's election re-elected Mayor Wood to his third term of office. Yet the very day he was sworn in for his third term, this Council majority passed this ordinance, stripping the Mayor of powers of office and transferring those powers to themselves. Tonight they are voting to do so again. If voters had wanted Councilmember Kern to have mayoral powers they would have voted for him, but they did not.

This Council would be a big joke to the public if not for the issues at stake that will affect people's lives and families, such as eminent domain, paramedics replaced with emergency techs who can't perform life-saving procedures, higher ambulance bills and longer response times when services are privatized to out-of-town companies, etc.

Thousands of voters have already told this Council majority they do not want these things, yet these 3 Councilmembers continue to push these agendas because their financial support comes from out-of-town builders and developers and because Oceanside's City Charter was written by a lobbyist for the BIA. The BIA might as well be sitting on this dais. At least that would be more honest. Your votes still count. Tell this Council majority that you will not sit idly by while your vote is ignored. Stay informed, get involved, join your local community organizations and take back Oceanside by voting out Councilmember Kern and Felien in 2014.

**COUNCILMEMBER SANCHEZ** stated on November 6<sup>th</sup> we got a clear message about 2 candidates running for the same office: Mayor Jim Wood, who ran for re-election, and Councilmember Jerome Kern, who challenged him. Oceanside residents voted and decided by a super majority that they want Jim Wood to be our City's leader.

The City celebrates 125 years this year. For 123 of those years, we've done things a certain way. We've had a Mayor who has exercised his appointing authority and continued to be the leader during that time. There were a couple of situations brought about by members on this dais about former Mayor Lyon and former Councilmember Terry Johnson, who then ran for Mayor and they settled it at that point. There was also a reference to former Councilmember Melba Bishop. It's saying that it's been done a couple of times, so two wrongs make a right. Two wrongs never make a right. It was not right for those actions to happen, and it isn't right for this action to have happened.

On December 2, 2012, they were still counting the votes, and Councilmember Felien brought forward, under his Council item, his request that this Council majority strip the Mayor of his mayoral powers of appointment. Shortly after that, he requested that Mayor Wood be removed from SANDAG. They said it was because the Mayor had not worked hard enough. The Mayor has worked hard and has been the reason that we have satisfaction by our residents.

The Council majority made the statements that they are going to get these juicy appointments on these committees at SANDAG, and they're going to get more money. From what she understands, that appointment meeting was this morning and they didn't get anything. In order to do that, you need to be able to work with the other regional leaders, and they're not able to do that. Mayor Wood was. We have a different SANDAG make-up that is more balanced in terms of party affiliations and their vision for San Diego County. The person who can bring our City to the future is Mayor Wood.

She's heard some uncomplimentary names referring to Councilmembers Feller, Felien and Kern by regional leaders. They consider us a joke. Our City is not a joke. We care a lot about our City. She's sure all of the Councilmembers do in their own way. To be ethical and do the right thing would mean to place Mayor Wood back as our SANDAG representative. He's the only one that has the ability to make friends and get things for our City.

The Council majority mentioned the Melrose extension and the Rancho del Oro interchange. These are non-regional projects. That means SANDAG is not going to give us the money. These are very low priority projects. The Melrose extension requires condemning 14 private properties, as well as part of the County park. There are not 4 votes on the dais to do that. We know that, yet we're spending over \$1,000,000 on engineering studies that are going to go nowhere. The Melrose extension and Rancho

del Oro interchange are not going to happen in our lifetimes. Putting aside the rhetoric, these are wedge politics. We have the opportunity of going forward with projects that we do have consensus on, like Coast Highway and bringing businesses to Oceanside. We've got a lot more that we can do to make our City greater, and yet we focus on the negatives. We are constantly creating a bad image of Oceanside. We've got to stop that. This is the opportunity for the Council majority to stop that.

We didn't get any of the SANDAG appointments that the Council majority went after. We got shut out of the Transportation Committee. Councilmember Felien is an alternate to Solana Beach Councilmember Lisa Heebner, who is the voting member. Deputy Mayor Feller retained his seat on Public Safety. Nothing happened that they hoped to happen. It was a useless cause. Let's get back to the business of having our Mayor be our City leader. He has a good relationship with all of these regional leaders. The new Mayor of San Diego is ready to change SANDAG. Our voice needs to be heard, and our vision needs to be recognized. It is not going to happen with 3 Councilmembers who have shown our regional cities that they don't want to play nice. If this is what they do to their own board, what will they do to SANDAG?

She agrees with the public when they talk about this flawed charter. On top of that, it is her understanding that our charter is so flawed that starting January 15<sup>th</sup> we will not be able to get any State funding or assistance for projects because of our charter. This charter that was supposedly going to save us money is actually going to cost us money. It's turning our constitution upside down. We have a 3-page charter that doesn't talk about the role of the Mayor or the Councilmember. It says we can do anything by ordinance. That is not a rule of the people. That is a rule of 3 people.

The very least we should have gotten out of the November election is a sense that we need to have a more balanced policy. We need to work better together. Giving our Mayor back his SANDAG position would go a long way to keeping this contract with our residents that we will do the best job possible as representatives.

**COUNCILMEMBER FELIEN** asked how we work together when anyone who disagrees with someone is accused of being unethical or a criminal. How is a majority of the vote a dictatorship? Three votes is called a majority. There was an election in 2010 and 2012. The result of both of those elections resulted in the majority that's on the Council now. In a Council of 5, 3 people are the majority and 2 people are the minority.

His ordinance puts into place the same process that's in place in the City of San Marcos. When it comes to regional boards and commissions where Councilmembers sit on them, the entire Council should have a say in how those appointments are made. That keeps in place the process where the Mayor nominates and the Council approves, which is the process we have now. We've had 4 meetings and not seen the Mayor's list of suggested appointments, according to the process that's still in place.

The reason we're here tonight is because of a minor staff error on noticing a meeting that had nothing to do with the Brown Act or criminal action. To remove any risk of going from a 99% certainty of winning to a 100% certainty of winning, the majority of this Council took the responsible position to hold a second hearing. Mayor Wood's removal from SANDAG, which took place on January 2<sup>nd</sup>, was based on the ordinances that were in place then. That had nothing to do with the City Charter. It had to do with the powers that existed whether we had a City Charter or were a general law city. The two are independent of each other.

He urged a yes vote on this.

He **moved** to adopt the **Ordinance No. 13-OR0042-1**, "...amending Chapter 2, Sections 2.1.64(g) of the Oceanside City Code modifying the appointment process for

regional boards and commissions”.

**DEPUTY MAYOR FELLER** seconded the motion.

**COUNCILMEMBER KERN** called for the question.

**CITY ATTORNEY MULLEN** clarified from a historical perspective, typically we call for the question once every member has spoken once.

**COUNCILMEMBER KERN** stated that's not true. There have been calls for the question before without that. When Councilmember Feller was here by himself they cut him off before he had a chance to speak.

**MAYOR WOOD** stated, as the Board Chair, you can call for the question once everybody has spoken.

**CITY ATTORNEY MULLEN** stated that's typically how it's played. If people keep hitting their light after that, that's where he's seen the call for the question being made.

**DEPUTY MAYOR FELLER** would agree to it as long as we're each only going to speak once.

**COUNCILMEMBER KERN** stated this is the 4<sup>th</sup> time around and what Councilmember Sanchez and Felien are saying, we've all heard before.

**DEPUTY MAYOR FELLER** is so disappointed with all the hype. This isn't the end of the world. Regarding the appointments at SANDAG, every city that voted against us taking those positions does the same thing that we are trying to do here. The majority rules that Council. The representative from Del Mar was threatened that he would be removed from SANDAG if he voted with Mayor Hall and Councilmember Feller. He doesn't have the same warm feelings about Mayor Wood at SANDAG and the job that was done down there. In 7 years the best we got was a Borders or Public Safety Committee while he was in the driver's seat. Obviously, he didn't want to do the work and he didn't want us to do the work.

Our City has over 180,000 people. That outnumbers Del Mar who has 4,400, Solana Beach who has 15,000 and Encinitas who has 70,000. In this situation, we don't have a vote in the regional side. We will have a vote at the table at the SANDAG Board. The SANDAG Board will be able to disagree with 3 of the smaller cities in the County.

We need to go forward with this.

**MAYOR WOOD** stated we have gone over this before. This is not about him. If he's not on SANDAG, it's not the worst thing in the world. However, he was the senior Mayor in the North County and that has pull in San Diego. The rest of the Mayors at SANDAG don't like to see Councils remove Mayors.

Regarding the vote that took place this morning for appointments on SANDAG, he's no longer on SANDAG as they removed him. They planned on taking over all of the subcommittees of "power", which is going to be Transportation and Planning. There are 5 subcommittees for the 5 coastal cities. Deputy Mayor Feller retained his spot and votes on Public Safety. Councilmember Felien got Alternate for Planning. When you tease and make comments like Deputy Mayor Feller just did about small cities, this is their reaction. They have 3 votes no matter how small they are. They outvoted us and Carlsbad because they didn't like what's been happening. If this is the way these Councilmembers treat their Mayor, they would be concerned about working with them. Those 3 votes will rule all of the subcommittees in the future.

Regarding the gentleman who was going to be removed, their Council had a meeting and told him how to vote. When he tried to change it they said they would remove him. Politics come into play. This is frustrating to win by such a large margin and find out it doesn't count for the public. The voters knew what he stood for, and he won. They couldn't beat him at the polls so they're going through the back door with the charter.

The charter is very flawed. It was a tool to circumvent voters. It was supposed to save money on the PLAs for the unions, which is an issue that was addressed by the California Supreme Court. The reason our charter is so short is because it was written by the ABC/BIA. It's an outside influence on how this City is run. We went 125 years as a general law city, and it was fine. The charter was brought forward without any input from our City Attorney or City Manager. They put it on the ballot, saying it would save money. The public voted on it without having a lot of input. Now they've decided to change the entire outlook of the City and how it's run by ordinance, not a vote of the citizens. He requested that the audience here and at home think about the 2014 election and who you want to be your representatives. He's like to see us changed back to a general law city.

There are so many things that are far more important than the Melrose extension and Rancho del Oro interchange. Why are we arguing over these 2 issues that nobody cares about? SANDAG doesn't. Carlsbad doesn't want Rancho del Oro at the Highway 78 bridge. It will drop right down into the environmental property there. There is no money or time for the Melrose Drive extension. It's going to use eminent domain to take houses and property, which requires at least 4 out of 5 votes on the Council, and they don't have that. They're spending the money to study it though.

The Melrose Drive extension has been put on the agenda to go back to Washington D.C. in February. He's worried about that because it could hinder the other really important projects we're going back to get money on. There's no way Senators Feinstein and Boxer or Congressman Issa will touch that. Congressman Issa previously said he would not give money to a controversial project because there are too many projects that aren't controversial. They've gone behind backs here to try and get federal money for that project.

He took Councilmember Feller off SANDAG a few years ago because he was a follower and not a leader. Councilmember Feller complains about not getting enough money as a Councilmember, so this is his opportunity to go down to SANDAG and get \$150 per visit and be on another subcommittee. That is about \$600 - \$1,000 per month to go down there. The Mayor has not done any of this for money, but it is a factor to some in these subcommittee appointments. The Mayor will wait to see how Councilmember Feller changes things at SANDAG. Oceanside did not get any power at the subcommittees because the Council majority offended the other 3 smaller cities. SANDAG's face has changed a lot. One of the most powerful people at SANDAG will be the Mayor of San Diego. He already knows what this vote will be. It's always 3-2.

The projects at Melrose and Rancho del Oro will not help the citizens of Oceanside. They will only help surrounding cities and the BIA.

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

25. **City Council: Adoption of an Ordinance of the City of Oceanside amending Articles 4, 10, 11, 13, 14, and 41 of the 1992 Zoning Ordinance (introduced 01/02/13, 5-0 vote)**

After titling of the ordinance, **MAYOR WOOD moved approval [of Adoption of Ordinance No. 13-OR0041-1, "... of the City of Oceanside amending Articles 4, 10,**

11, 13, 14, and 41 of the 1992 Zoning Ordinance”].

**COUNCILMEMBER KERN seconded** the motion.

**Motion was approved 4-1**, Sanchez – no.

**CITY COUNCIL REPORTS**

16. **Mayor Jim Wood**

**MAYOR WOOD** announced the 24<sup>th</sup> Annual Martin Luther King, Jr. Prayer Breakfast and Awards Ceremony on January 21, 2013, at the Junior Seau Community Center.

17. **Deputy Mayor Jack Feller**

**DEPUTY MAYOR FELLER** attended the Oceanside Police Department promotions.

The grand opening of Pro Kids Golf is Saturday, and the second building of Gilliad is opening on the 28<sup>th</sup>.

Tim Porter passed away unexpectedly yesterday. He was born and raised in Oceanside. Diane Nydegger’s service is Friday at Mission San Luis Rey. Lawson Chadwick passed away. His celebration of life will be held at the Grand Pacific Palisades Hotel on Sunday.

18. **Councilmember Gary Felien**

**COUNCILMEMBER FELIEN** also attended the Oceanside Police Department promotion ceremony. He went to Operation Hope’s permanent facility on Saturday and helped build the bunk beds as part of their permanent shelter for the homeless. He also attended the San Diego North Economic Development Council, who are trying to set up North County as a unique brand to attract business and jobs to our area.

19. **Councilmember Jerome Kern**

**COUNCILMEMBER KERN** emphasized that Pro Kids Golf is opening this Saturday. The program introduces kids to golf, but also gives them tutoring from college students.

February 23<sup>rd</sup> is the Friends of the Library book sale.

20. **Councilmember Esther Sanchez**

**COUNCILMEMBER SANCHEZ** announced the celebration of life for Nadine Virginia Badillo Cruz is Friday. Sunday is Lawson Chadwick’s celebration of life.

On the 23<sup>rd</sup> we have a workshop for the City goals here at City Hall. On January 27<sup>th</sup> Supreme Court Justice Sonia Sotomayor will be talking about her book at UCSD.

January 31<sup>st</sup> is an important public hearing by the Army Corps of Engineers regarding the Gregory Canyon Landfill. They have extended the public comment period to April 15<sup>th</sup>.

**CITY CLERK BECK** announced that Frances Kazerski requested to speak, as he missed his opportunity earlier.

January 16, 2013

Joint Meeting Minutes  
Council, HDB, CDC and OPFA

**MAYOR WOOD** allowed him to speak.

**FRANCES KAZERSKI**, 276 North El Camino Real, asked Council for support for a permanent home for the Bread of Life Rescue Mission in Oceanside. There are people living in river beds and on the streets. Severe cold can have serious health challenges to homeless people. They need shelter so they can get cleaned up and rehabilitated and find a job. There needs to be a place for this. Homelessness is a 24/7 issue that requires a 365-day solution.

**ADJOURNMENT**

**MAYOR WOOD** adjourned this joint meeting of the Oceanside City Council, Community Development Commission, Small Craft Harbor District Board of Directors and Oceanside Public Finance Authority at 7:31 PM on January 16, 2013, to a Council workshop on Wednesday, January 23, 2013, at 2:00 PM.

**ATTEST:**

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Zack Beck  
City Clerk, City of Oceanside