



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

JANUARY 30, 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 30, 2013.

### **2:00 PM - ROLL CALL**

Present were Mayor Wood, Deputy Mayor Feller and Councilmembers Sanchez,

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

Kern and Felien. Also present were City Clerk Beck, Assistant City Clerk Trobaugh, City Manager Weiss and City Attorney Mullen.

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

[Closed Session and recess were held from 2:01 PM to 4:04 PM]

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

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

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

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

**Item discussed (WCE, OCEA, MECO, and OPOA Non-sworn); no reportable action**

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

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

[1. Miller v. City of Oceanside

Superior Court Case No. 37-2011-00090665-CU-OE-CTL]

**No closed session held**

2. The Villages of Rancho Del Oro Association, Inc. v. City of Oceanside

Superior Court Case No. 37-2011-00055586-CU-MC-NC

**Items discussed; no reportable action**

**3. CONFERENCE WITH REAL ESTATE NEGOTIATOR**

A) CONFERENCE WITH REAL ESTATE NEGOTIATOR – Property: Community Garden located at the 400 block of Weitzel Street on the northeast corner of Weitzel Street and Civic Center Drive (APN 147-230-58); Negotiating Parties: CDC and North County Solutions for Change; Negotiators for the CDC for the lease of the Property: Margery Pierce, Neighborhood Services Director, and William F. Marquis, Senior Property Agent; Under Negotiations: Rental rate and terms for lease of Property

B) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: Portion of 6.52 acres of land on Jones Road (APN 146-090-35); Negotiating Parties: City of Oceanside and Reach Corporation; Negotiators for the City: Darryl Hebert, Fire Chief, and Douglas Eddow, Real Estate Manager; Under Negotiations: Price and terms for a lease of real property

C) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: 0.74 acres of land on Yucca Road (APN 165-021-16); Negotiating Parties: City of Oceanside and Bruno

and Eliana Marsella; Negotiators for the City: Douglas Eddow, Real Estate Manager; Under Negotiations: Price and terms for the sale of real property

- D) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: Vacant parcel of land at 438 South Cleveland Street (APN 150-182-06); Negotiating Parties: City of Oceanside and Hallmark Communities, Inc.; Negotiator for the City: Douglas Eddow, Real Estate Manager; Under Negotiations: Price and terms for the sale of real property

**Items discussed; no reportable action**

**4:00 PM – ROLL CALL**

**MAYOR WOOD** reconvened the meeting at 4:04 PM. Present were Mayor Wood, Deputy Mayor Feller and Councilmembers Sanchez, Kern and Felien. Also present were City Clerk Beck, Assistant City Clerk Trobaugh, City Manager Weiss and City Attorney Mullen.

**CONSENT CALENDAR ITEMS** [Items 4-11]

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

**COUNCILMEMBER SANCHEZ** asked to pull Items 8 and 11 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 an increase to a purchase order to California Water Technologies, LLC, of Pasadena for wastewater chemicals for an overall increase of \$54,446; and authorization for the Financial Services Director, or designee, to execute the revised purchase order
6. City Council: Approval of Amendment 1 [**Document No. 13-D0060-1**] to the professional services agreement with Parc Civil of Oceanside in an amount not to exceed \$100,000 for additional as-needed Supervisory Control and Data Acquisition (SCADA) professional services; and authorization for the City Manager to execute the amendment
7. City Council/Harbor: Approval of a two-year property use agreement [**Document No. 13-D0061-2**] with Oceanside Outrigger Canoe Club for canoe storage on Oceanside Small Craft Harbor District-owned property, for a two-year minimum revenue of \$30,120; and authorization for the City Manager to execute the agreement
8. **Removed from Consent Calendar for discussion – Council**
9. City Council: Approval of a two-year professional services agreement [**Document No. 13-D0062-1**] with Rancho Santa Fe Security Protective Services of Encinitas to provide alarm monitoring and security guard services at the Civic Center and various City facilities, retroactive to January 1, 2013, through December 31, 2014, for a total cost of \$296,101; and authorization for the City Manager to execute the agreement
10. City Council: Approval of a five-year professional services agreement [**Document No. 13-D0063-1**] with BLX Group LLC of Los Angeles in the amount of \$62,000 for arbitrage consulting and compliance services for City bond issues; approval of a five-year professional services agreement [**Document No. 13-D0064-1**] with BLX Group

LLC of Los Angeles in the amount of \$19,000 for arbitrage consulting and compliance services for Successor Agency to the Oceanside Redevelopment Agency; and authorization for the City Manager to execute the agreements

11. **Removed from Consent Calendar for discussion – Council**

**COUNCILMEMBER SANCHEZ** moved approval of the balance of the Consent Calendar [Items 4-7, 9 and 10].

**COUNCILMEMBER KERN** seconded the motion.

**Motion was approved 5-0.**

**Items removed from Consent Calendar for discussion**

8. **City Council/Harbor: Approval of a ten-year property use agreement with Boat Rentals of America, Inc., on Oceanside Small Craft Harbor District-owned property, for a ten year minimum revenue of \$165,528; and authorization for the City Manager to execute the agreement**

**COUNCILMEMBER SANCHEZ** stated during our workshop we had one Oceanside resident who also has a business at the harbor bring up issues having to do with fairness in leasing and other things at the harbor. She had the chance to meet with that person last week, and he has got a lot of things he would like her to look at. She is requesting time to look at those and see whether or not things he's brought up are issues that we should address as a Council and a City. She doesn't want to go forward on this 10-year lease if there are issues in the harbor having to do with inequities in lease terms and conditions. It's time to really look at the harbor leases that we have control over. We've got a jewel in the harbor and if we can make things better for the businesses then that would attract more tourists and bring more tax dollars to the City.

She **moved** to continue this to give Council a chance to look at the issues that have been raised.

**MAYOR WOOD** asked if there is a time issue that would be hindered by this continuance.

**CITY MANAGER WEISS** can't answer whether there is a time issue. We have looked into the issues that Captain Joe raised, and representatives from Property Management are going to be meeting with him. At this time, he does not have a lease with the City with regard to his business; he is a sublesser. We can continue this on a month-to-month basis until more information is gathered, but he suspects staff wouldn't have this back to Council for 60 to 90 days.

**COUNCILMEMBER SANCHEZ** stated several businesses are on a month-to-month basis so it wouldn't be unusual.

**JULIE COOK**, Program Specialist, stated we can continue with a month-to-month; that's up to Council's discretion.

**MAYOR WOOD** doesn't mind a continuance on this issue.

**DEPUTY MAYOR FELLER** stated it is probably not the leases he is worried about. He met with Captain Joe and has read and discussed his material extensively. As a sublease, he is not equitable with other people who are doing business there. His business does not conflict with his Boat Rentals at all. This isn't one of those businesses that Captain Joe is concerned about.

**COUNCILMEMBER SANCHEZ** stated it's not one that he mentioned, but if we're going to look at this as a whole, entering into a 10-year lease may create inequities with others. She is suggesting that we hold things as they are, look at some of the issues that have been raised and see if there is some way of dealing with the inequities that have been suggested to exist.

**DEPUTY MAYOR FELLER** asked if by delaying this it gets into their high rent seasons.

**MS. COOK** responded yes. Their high season is coming in the summer, and that means a loss of revenue to the Harbor District.

**COUNCILMEMBER KERN** stated it affects the rent, so why can't we have it back on February 27<sup>th</sup> instead of 60 to 90 days.

**CITY MANAGER WEISS** stated the next meeting is at the end of February, and it's unlikely that we'll have these issues resolved by then. It would be at least the middle to the end of March before we would bring a formal action back to Council.

**COUNCILMEMBER KERN** doesn't know what was discussed and why we are doing this. We have the recommendation to move forward on the item, and Deputy Mayor Feller said this has nothing to do with Captain Joe's issues.

**DEPUTY MAYOR FELLER** stated Captain Joe's issues are over chartering, burials at sea, fishing, whale watching, etc.

**COUNCILMEMBER KERN** is scheduled to meet with Captain Joe tomorrow. Knowing this was on the agenda, Captain Joe said nothing about pulling this to him.

**MAYOR WOOD** doesn't see the problem with continuing the item.

**COUNCILMEMBER SANCHEZ** thinks there are 2 issues. One is personal in terms of some of the monopolies that he describes. He is also representing other businesses, and we never got to that. She would ask for a month to find out if we can go forward on this.

**COUNCILMEMBER FELIEN** met with Captain Joe this morning and his primary issues don't directly deal with this business. He has the larger issue of lease equity. A lot of his issues are worth following up on. We have to decide if we're going to freeze all business in the harbor until those issues are resolved. Are the terms in this lease comparable to other businesses in the harbor?

**MS. COOK** responded yes, they are. Boat Rentals has been a long-time tenant at the Harbor District, and he's adding additional dock space to increase the revenue to the district.

**COUNCILMEMBER SANCHEZ** stated this has been on a month-to-month since July of 2012. Continuing it for one month shouldn't be a problem. She asked for the Council's indulgence on this.

**MAYOR WOOD** seconded the motion.

**COUNCILMEMBER KERN** will agree to bring it back on the 27<sup>th</sup> of February. He doesn't want it to come back in 60-90 days. He meets with Captain Joe tomorrow and if there are no substantive issues that deal with this particular item then we can vote on it on February 27<sup>th</sup>.

**CITY MANAGER WEISS** stated we can bring this back on the 27<sup>th</sup>; however, it is unlikely that the issues that Captain Joe has raised will be resolved by then.

**COUNCILMEMBER KERN** stated if he thinks there is a nexus, then we'll have to do something after the 27<sup>th</sup>. If he doesn't feel there is a nexus, then we can vote on it on the 27<sup>th</sup>.

**MAYOR WOOD** agreed.

**Motion to bring back at February 27 meeting was approved 5-0.**

11. **City Council: Acceptance of the improvements constructed by Fidelity and Deposit Company of Maryland for the Harbor Aquatics Center Project and authorization for the City Clerk to file the Notice of Completion with the San Diego County Recorder; approval of an amendment to a professional services agreement with Safdie Rabines Architects of San Diego for additional architectural and landscape architectural construction support services in the amount of \$48,971; and authorization for the City Manager to execute the amendment**

**COUNCILMEMBER SANCHEZ** asked that this be pulled. This was a project where we had high hopes for having a public area on top where there would be access for all. That had to be deleted from the project because the company went bankrupt and costs went over. We didn't get what we envisioned. We talked about how it would be nice to have weddings up there, etc., and she hopes at some point we're able to build that public piece.

**MAYOR WOOD** agrees. When the plan came forward, the upstairs part of it was for community meeting facilities. He asked for an update.

**CITY MANAGER WEISS** stated the community portion of the project was deleted because of cost issues, but also there was an issue raised by the slip renters that the slip renter fees were going for improvements that were more of a general public nature. If there is desire by the Council to move forward, the designs are already finished, and we could add that as a potential project in your capital budget for this next year. However, we would not be able to use harbor funds for that and would have to look at some other funding source.

**MAYOR WOOD** asked about the company that folded.

**CITY MANAGER WEISS** responded the contract has been complied with.

**CITY ATTORNEY MULLEN** added the contract has been fully complied with as Change Order 1 eliminated that public space that the City Manager referred to. They built what was approved by the City, with the change order.

**COUNCILMEMBER SANCHEZ** hopes we can bring this forward for discussion to put it in the priorities in our capital improvements. She's heard a lot from the public, and they were really looking forward to this space.

**CITY MANAGER WEISS** stated Council's vote on this is accepting the improvements on the existing contract. If it's your desire to move forward, we will evaluate the public portion as a project in the CIP going forward.

**COUNCILMEMBER SANCHEZ moved** approval of acceptance of the improvements constructed by Fidelity and Deposit Company of Maryland for the Harbor Aquatics Center Project and (1) authorization for the City Clerk to file the Notice of Completion [**Document No. 13-D0065-1**] with the San Diego County Recorder; (2) approval of an amendment [**Document No. 13-D0066-1**] to a professional services agreement with Safdie Rabines Architects of San Diego for additional architectural and landscape architectural construction support services in the amount of \$48,971; and

authorization for the City Manager to execute the amendment].

**COUNCILMEMBER KERN seconded** the motion. He asked if we went back and built a second story, would we have to do anything to the bottom floor in order to add that second story? Is it structurally sound enough to add a second story?

**NATHAN MERTZ**, CIP Manager II, responded there were 2 building proposed with the project. One storage/maintenance building is completed and constructed with no alteration or modifications to be done to it. The other building is where the 2-story building was. It's basically 2 new stories. We have to start from the ground up. We've stubbed out all utilities and everything in anticipation of having a future building there. We'd have to update the plans to new Code changes, revise the Coastal permits, go through the entitlement process, bid it and then build it.

**COUNCILMEMBER KERN** asked why we have to go through another Coastal permit.

**MR. MERTZ** responded we will if it changes in any way. But this is a whole new building. There is no building there now. It's been padded out to accommodate a building.

**COUNCILMEMBER KERN** stated we can move forward with that at a later date. We'll have this in the budget discussions about where we would take money from to put into this.

**COUNCILMEMBER FELIEN** asked if the plan for the existing 1-story building was strong enough to add the second story onto it.

**MR. MERTZ** responded the site was arranged with 2 buildings with a parking lot between them. The north building, which is the Community Center building, was intended to be a 2-story building, but there is nothing there now.

**COUNCILMEMBER FELIEN** clarified then we're not voting to put a 1-story building on that location.

**MR. MERTZ** responded no, we are not.

**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.

12. **City Council/OPFA: Adoption of resolutions authorizing the execution and delivery of documents relating to the sale and delivery of, not to exceed \$12,500,000, the 2013 Certificates of Participation (2003 Refunding) and authorizing certain documents and directing certain actions in connection therewith; and approving a lease/purchase agreement and certain other documents in connection with the execution and delivery of documents relating to the sale and delivery of the 2013 Certificates of Participation (2003 Refunding) in a principal amount not to exceed \$12,500,000; and approval of a budget appropriation in the amount of \$1.5 million in accordance with City Council Policy 200-13; and authorization for the City Manager to execute the documents**

**MICHELE LUND**, Treasury Manager, requested Council's approval of the resolutions as outlined above. The resolutions will approve the execution and delivery of the documents to finalize the financing. We're also requesting the \$1,500,000 budget

appropriation in accordance with City Council Policy 200-13.

On January 2, 2013, Council approved the execution of a commitment letter with Compass Bank, which committed the City to issue the bonds and lock in the interest rate for 60 days. The letter was executed on January 14, 2013, and the interest rate was locked in at 1.776%. Given that interest rate, the City will save approximately \$572,000 on an average annual basis.

At that same meeting, she outlined the structure of the financing, which included the necessity of the pledge of essential assets as security on the bonds. At that time, we were waiting for the final appraisal on the properties in order to finalize the terms of the commitment letter. While the appraisal came back sufficient to cover the overall debt service, the fair rental value appraisal wasn't sufficient to cover the debt service as it was structured at the time for the annual payment. We had to restructure the amortization and financing, which made the debt service level until 2019, at \$1,350,000 on an annual basis, and the remaining would be \$900,000. Because we had to change the structure, the bank had to re-evaluate their financing. To make their cash flows work, they increased the basis of the index from 103% to 110%. That's why the interest rate changed. The savings were still significant enough that it did not make that much difference in the overall savings.

Following tonight's approval of the documents, we will finalize them; they will be executed; and we are scheduled to close on February 28<sup>th</sup>.

**COUNCILMEMBER SANCHEZ** moved approval of [adoption of **Resolution No. 13-R0067-1** and **Resolution No. 13-R0068-OPFA**, "...authorizing the execution and delivery of documents relating to the sale and delivery of, not to exceed \$12,500,000 2013 Certificates of Participation (2003 Refunding) and authorizing certain documents [**Document No. 13-D0069-1** and **Document No. 13-D0070-OPFA (Trust Agreement)**; **Document No. 13-D0073-1** and **Document No. 13-D0074-OPFA (Site Lease)**; **Document No. 13-D0075-OPFA (Assignment Agreement)**; **Document No. 13-D0076-1** and **Document No. 13-D0077-OPFA (Certificate Purchase Agreement)**; and **Document No. 13-D0078-1 (Escrow Agreement)**], and directing certain actions in connection therewith"; and approving a lease/purchase agreement [**Document No. 13-D0071-1** and **Document No. 13-D0072-OPFA**] and certain other documents [**Document No. 13-D0079-1 (Bond Counsel Agreement)** and **Document No. 13-D0080-1 (Placement Agent Agreement)**] in connection with the execution and delivery of documents relating to the sale and delivery of the 2013 Certificates of Participation (2003 Refunding) in a principal amount not to exceed \$12,500,000; and approval of a budget appropriation in the amount of \$1.5 million in accordance with City Council Policy 200-13; and authorization for the City Manager to execute the documents].

**COUNCILMEMBER KERN** seconded the motion.

**Motion was approved 5-0.**

13. **City Council: Introduction of an ordinance amending Chapter 12 of the City Code to extend the letter grading system to include mobile food facilities**

**DAVID MANLEY**, Neighborhood Services Division Manager, stated this is basically a housekeeping issue to reconcile our ordinance with the County ordinance as it relates to the food trucks.

Last year, we made amendments to Chapter 12 of the City Code to allow hot food trucks within the City. Subsequent to that, the County amended their regulations to extend the restaurant grading ordinance, which is those little cards in the windows with their grade on them, to the food trucks. The County has asked all jurisdictions too inspections and amend their codes to parallel the County code so it's clear what they

can and cannot enforce.

These are minor amendments to the Code. There is a grading ordinance and applicable fees that they already charge, and it allows the City Manager to enter into the agreement to allow them to continue with the inspection that they already do. We're one of the last cities to adopt this. The County intends to roll this out in the next month or two.

**COUNCILMEMBER SANCHEZ** stated we knew this was coming. The County moved on this about a year ago. She **moved** approval of [introduction of an ordinance amending Chapter 12 of the City Code to extend the letter grading system to include mobile food facilities].

**COUNCILMEMBER KERN** seconded the motion.

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

#### **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.

29. **City Council: Adoption of an ordinance of the City Council of the City of Oceanside amending Chapter 14C of the Oceanside City Code modifying the City's inclusionary housing regulations** (*introduced on January 17, 2013, 3-2 vote, Wood and Sanchez-no*)

After titling of the ordinance, **COUNCILMEMBER KERN** moved adoption of **Ordinance No. 13-OR0083-1**, "...amending Chapter 14C of the Oceanside City Code modifying the City's inclusionary housing regulations".

**COUNCILMEMBER FELIEN** seconded the motion.

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

30. **City Council: Adoption of an ordinance of the City Council of the City of Oceanside amending zoning regulations for projects exceeding the City's base density allowances and reserving units for low and moderate-income households in accordance with the City's inclusionary housing standards – regulatory concessions for projects exceeding base density allowances and meeting specified inclusionary housing standards** (*introduced on January 17, 2013, 3-2 vote, Wood and Sanchez-no*)

After titling of the ordinance, **COUNCILMEMBER KERN** moved adoption [of **Ordinance No. 13-OR0084-1**, "...of the City Council of the City of Oceanside amending zoning regulations for projects exceeding the City's base density allowances and reserving units for low and moderate-income households in accordance with the City's inclusionary housing standards – regulatory concessions for projects exceeding base density allowances and meeting specified inclusionary housing standards].

**COUNCILMEMBER FELIEN** seconded the motion.

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

**MAYOR AND/OR COUNCILMEMBER ITEMS**

**26. Request by Mayor Wood for annual review and appointment of Councilmembers to Boards, Commissions and Committees, and appointment of Deputy Mayor**

**COUNCILMEMBER FELIEN** is frustrated sometimes by the Brown Act. It's a good thing, but sometimes when you're dealing with personnel issues and personalities it would be nice to be able to go in a back room and hash it out. Unfortunately, it has to be done in public. It's for the larger good, but it can be frustrating. Looking down the list of appointments and recommendations, he sees Mayor Wood and Councilmember Sanchez on most of them. That doesn't seem to reflect the 50/50 balance in the City, which is the very reason he felt compelled to introduce his ordinance. If we look at the positions where people actually vote, it's 100% Wood and Sanchez. That doesn't seem to reflect what the voters have spoken through the election process. It's hard to look at this as a starting point for negotiations. He asked the Mayor to explain his thought process and the balance of the appointments all going to himself and Sanchez for voting positions.

**MAYOR WOOD** stated Councilmember Felien didn't want to be included in too many advisory boards, so he kept him off those. He picked the Deputy Mayor because of the things that have been happening lately. As for the regional boards, nobody gave him a list saying what they would like or not like. For the Buena Vista Lagoon, he put Sanchez and Kern. For the Oceanside and Vista School Board Committees, everybody else has been on it. He changed it and put himself and Sanchez. He figured he'd get involved in something he hasn't done. For the California League of Cities, he put Feller and Felien. For the California Legislative he put Wood, Sanchez and Kern on that. That's voting up in Sacramento. For North County Dispatch/Fire he left it himself and Feller. We all know what's happening with SANDAG. He put himself, Feller and Felien. Now they've removed him, but this is his request. He put Sanchez on the SANDAG Shoreline Preservation because she's on the Coastal Commission. Councilmember Kern is the back-up on that. North County Transit District is himself and Felien. He put himself and Sanchez on the Washington D.C. Appropriations because we generally deal with democrats back there, and that helps the City.

Those are his suggestions. He understands under the new policy after the middle of February, Council can add, delete or whatever is necessary, but this is what Council asked him to provide as soon as possible. Some of those assignments are there because of the person's ability to deal with it, noting personalities and other things.

**COUNCILMEMBER FELIEN** stated it's a difficult process to go through, and he wishes they could sit down and hash it out. Every single one of these appointments that involve voting and appropriating money on regional boards and agencies are Mayor Wood and Councilmember Sanchez. He doesn't see how this reflects the balance of power in the City. He has asked the Mayor at several meetings to bring forward this list, and he appreciates him bringing it forward as a starting point. He was hoping to see a little more balance in it. He can't support the list as it is now on the regional boards and commissions.

**COUNCILMEMBER SANCHEZ** stated there are only 2 where voting has to do with funds.

**COUNCILMEMBER FELIEN** clarified the one where you're voting and representing the City. Those would be the League of Cities, North County Transit District, SANDAG and the trip to Washington D.C. Part of the appointment process is dealing with the issue that the Mayor is the Mayor, but he is also in the minority.

**MAYOR WOOD** figured when he turned this in there would be controversy over it. He's in the minority on the Council, but not in the City for voting. He picked these because you asked him to come up with a list. If you were picking the list, you'd do it differently. These are the ones he thinks are effective. You've already removed him from the SANDAG Board so he can't say much about that. Looking at everything else, he wants people who can do something for us. Some of these were changes. North County Transit District is the only one he left as it was. If you're going to change it, that's fine. Council has stripped him of his authority, so after February 16<sup>th</sup> you can add or delete who you want. These are his recommendations, like it or not. He's not sure we can solve this tonight.

He **moved** to approve the list.

**2013 Council Nominations**

**City/Harbor/CDC Boards, Commissions and Committees**

<b>City/Harbor/CDC Advisory Group</b>	<b>Liaison</b>
<b>Arts Commission</b>	<b>Feller</b>
<b>Economic Development Commission</b>	<b>Wood</b>
<b>Harbor &amp; Beaches Advisory Committee</b>	<b>Kern</b>
<b>Historical Preservation Advisory Commission</b>	<b>Felien</b>
<b>Housing Commission</b>	<b>Sanchez</b>
<b>Integrated Waste Commission</b>	<b>Sanchez</b>
<b>Library Board of Trustees</b>	<b>Wood</b>
<b>Manufactured Home Fair Practices Commission</b>	<b>Wood</b>
<b>Parks &amp; Recreation Commission</b>	<b>Feller</b>
<b>Police &amp; Fire Commission</b>	<b>Kern</b>
<b>Utilities Commission</b>	<b>Sanchez</b>

<b>2013 – Deputy Mayor</b>	<b>Sanchez</b>
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<b>Regional Boards and Committees</b>	<b>Primary</b>	<b>Alternate I</b>	<b>Alternate II</b>
<b>Buena Vista Lagoon JPC</b>	<b>Sanchez, Kern</b>	-	-
<b>City/OUUSD/VUSD Committee</b>	<b>Sanchez, Kern</b>	-	-
<b>League of California Cities – Executive Committee</b>	<b>Feller</b>	<b>Felien</b>	-
<b>League of California Cities – Legislative Delegates (voting)</b>	<b>Wood</b>	<b>Sanchez</b>	<b>Felien</b>
<b>North County Dispatch – JPA/Fire</b>	<b>Wood</b>	<b>Feller</b>	-
<b>SANDAG – Board</b>	<b>Wood</b>	<b>Feller</b>	<b>Felien</b>
<b>SANDAG – Shoreline Preservation Committee</b>	<b>Sanchez</b>	<b>Kern</b>	-
<b>North County Transit District – Board</b>	<b>Wood</b>	<b>Felien</b>	-
<b>Washington, DC Appropriation Visit – Legislative Delegates</b>	<b>Wood</b>	<b>Sanchez</b>	

**COUNCILMEMBER FELIEN** appreciates the Mayor bringing this forward as a starting point. He feels there isn't enough balance in it yet to approve it.

Regarding the issue of Deputy Mayor, is the position primarily ceremonial or does it involve truly representing the Mayor and making decisions? Since we have two previous Deputy Mayors on the dais, he asked how often they represented the Mayor and if any decisions were made on behalf of the Mayor in his absence. If there are real decisions being made or events being attended, he's more deferential to give the Mayor his choice. If it's primarily ceremonial, then it should be rotated. He's interested in feedback on that issue.

On the City boards and commissions, he's had a time conflict with the Arts Commission so he cannot accommodate that one. The appointee for the Economic Development Commission should have some type of accounting, finance or business background in order to make a solid contribution.

The larger issue is whether or not his colleagues feel the liaisons are effective and if we might be better off having a process where the commissions and committees notify all of the Councilmembers of their agenda. The Councilmembers attend the ones that interest them and participate in the issues they want to be involved in. It's hard, based on the divisions in the City, for any Councilperson to speak for the Council. He would not attempt to speak for some of the members at the dais, and he would not want them speaking for him. We don't have enough consensus where this can work the way it is intended.

**COUNCILMEMBER KERN** thinks we should start splitting things up. There is a misunderstanding as to what liaisons do. It is not us as a Council going to those commissions and representing the Council to the commission. It is those commissions that take action, and the Councilmembers come back and report to the Council what the commission has done. Having different people go through that have different experiences is valid. He thinks rotating is valuable. He's never been on Harbor and Beaches and would appreciate being on there. As far as going to different commission meetings, he attends about half of the Utilities Commission meetings because that's his point of interest. He does that on his own and doesn't report back to Council about what happened at the meeting. That's up to the liaison to explain the commission's action to the Council. That's what the liaisons are for.

He has no real problem with the top part of this list, unless there is some particular commission someone would like to be on or not be on. These are the Mayor's appointments. He's ready to bifurcate these into 3 sections. We can have the liaisons as a motion and vote; the Deputy Mayor motion and vote; and then we can vote on the ones on the bottom or pull any particular ones that we want to have a separate vote on.

He **moved** to bifurcate the vote.

**CITY ATTORNEY MULLEN** stated if the maker of the motion finds it acceptable, you could proceed forward first on a vote for the City boards and commissions on the Mayor's nominations.

**COUNCILMEMBER SANCHEZ** was going to suggest that we move on the items on the top. With respect to the Deputy Mayor, she and the Mayor work really well together. It is ceremonial? Yes, it is except that every now and then the Deputy Mayor chairs a meeting. Other than that, she and the Mayor work well together. If he needs her to do something, whether she's the Deputy Mayor or not, she's there for him. It's about the City. If she's asked to take the time to do something, she'll do it. She can see why he is recommending her for Deputy Mayor.

The Buena Vista Lagoon issue is coming up. She's been asked to meet regarding that issue. In Washington D.C. she gets along very well with the staff for all three of

our representatives. They've had a wonderful relationship with the Senators. The more they see you, it makes things easier in terms of getting money and encouraging them to work that much harder for you. If you don't send an elected official, you don't rank as high in their eyes. If you care enough about getting the money, then you're going to go there and do everything possible to meet with these folks. They enjoy the Mayor and she is able to help staff. Staff does a good job, but it's nice to have those elected representatives there. If we're interested in moving forward on those things that we truly have consensus on, we need to get these funds. They're out there, and it's a competition. Let's do everything under the sun to get it.

**MAYOR WOOD** stated we've received \$59,000,000 over the year from the federal government by going back there in person. If you don't show up, you're probably not going to get anything. You also have to have some rapport with your staff and Senators. We have democratic Senators. That's why he has stayed non-partisan, and it's helped him to get money. He takes Councilmember Sanchez with him because she has rapport with the two strongest Senators in the United States – Feinstein and Boxer. It is his understanding that this isn't up to the Council; it's strictly a Mayoral decision.

**CITY ATTORNEY MULLEN** clarified the Mayor is referring to the Washington D.C. appropriation visit and, by Council policy, the Mayor or his designee are the representative of the City. That's not something you need to vote on.

**MAYOR WOOD** tries to send people, or himself, that he thinks have the best chance to get appropriations, etc. He knows who we're going to be dealing with.

**DEPUTY MAYOR FELLER** has been on all of the commissions over the years and is proud to be a liaison to any one that he's assigned to. He attends and, when it's appropriate, brings forward the issues.

As far as the Deputy Mayor position, it needs to be rotated. Councilmember Sanchez has been Deputy Mayor 4 times during the 12 years we've served together. This past year was his second time. Councilmember Kern has not had it, and Councilmember Felien has only been here a couple of years. He's not in favor of appointing Councilmember Sanchez as Deputy Mayor again.

As far as the Washington, D.C. visits, he asked if Mayor Wood is attending this year.

**MAYOR WOOD** responded no, because of what's happening here at the Council.

Regarding the commissions and committees, some of the Councilmembers have said they don't want to be part of them; they aren't interested in being liaisons. The only feedback he's received is that everybody misses the Senior Commission.

Regarding the top portion only of the list, **COUNCILMEMBER KERN seconded** the motion to approve the top half of the list.

**Motion to approve the top portion was approved 5-0.**

**MAYOR WOOD moved** to appoint Councilmember Sanchez as Deputy Mayor.

**COUNCILMEMBER SANCHEZ seconded** the motion. When we don't agree on this, then we don't have someone.

**Motion failed 3-2;** Councilmembers Kern, Felien and Feller – no.

**MAYOR WOOD moved** to approve the appointments for the Buena Vista Lagoon.

**COUNCILMEMBER KERN seconded** the motion

**Motion was approved 5-0.**

Regarding the appointments to the school boards, **COUNCILMEMBER KERN** asked if the Mayor is tied to these appointments.

**MAYOR WOOD** responded no, he thought he would try it himself. Do you want in there?

**COUNCILMEMBER KERN** responded yes, but it's up to Councilmember Sanchez whether she wants to be on there or not.

**COUNCILMEMBER SANCHEZ** wants to be on there.

**MAYOR WOOD** stated there are 2 required on this one. If Councilmember Kern wants it, he can have it.

**COUNCILMEMBER KERN** responded yes. He would be glad to meet with them on that one.

**MAYOR WOOD moved** to appoint Sanchez and Kern to the school boards.

**COUNCILMEMBER KERN seconded** the motion.

**Motion was approved 5-0.**

**MAYOR WOOD moved** to approve the appointments to the California League of Cities – Executive Committee.

**COUNCILMEMBER KERN seconded** the motion.

**COUNCILMEMBER FELIEN** sees that as being tied in with the one below it, the voting delegates. He would like some balance. He enjoyed attending the monthly meetings for the League of Cities, but the voting portion should not be Mayor Wood and Councilmember Sanchez. We need a little more diversity on these. Part of the solution to solving the bottom one might be a change to the top one.

**MAYOR WOOD** stated we're dealing with mainly democrats on this, so that's why he put himself and Sanchez on that one.

**COUNCILMEMBER SANCHEZ** asked if the Executive Committee is different from the Mayor's Committee.

**COUNCILMEMBER KERN** stated this is for the California League of Cities.

**MAYOR WOOD** stated the one below is voting delegates for all of the things down there. It's usually all Mayors.

**Motion was approved 5-0.**

**MAYOR WOOD** stated this next California League of Cities is for the legislative delegates. Generally speaking, this is for Mayors.

**COUNCILMEMBER KERN** would gladly give up his alternate spot to Councilmembers Feller or Felien since they're on the Executive Committee.

**COUNCILMEMBER FELIEN** responded that would be fine.

**MAYOR WOOD moved** to approve the appointments for California League of Cities Legislative Delegates, but change the second alternate to Councilmember Felien instead of Councilmember Kern.

**COUNCILMEMBER KERN seconded** the motion.

**Motion was approved 5-0.**

**MAYOR WOOD moved** to approve the North County Fire Dispatch JPA.

**COUNCILMEMBER KERN seconded** the motion.

**Motion was approved 5-0.**

**MAYOR WOOD** stated the next one is the SANDAG Board, and you've already removed him. That isn't going to be effective until February.

**COUNCILMEMBER KERN moved** to continue this one until February 27<sup>th</sup>.

**COUNCILMEMBER SANCHEZ** opposes this one. We need to have the Mayor on SANDAG. We should be supporting him. That is the way we're going to get potential maximum funding.

**COUNCILMEMBER KERN** suggested Councilmember Sanchez make that argument on the 27<sup>th</sup> when it comes back.

**MAYOR WOOD** stated the Chair of SANDAG picked all of his positions and no one from Oceanside was picked.

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

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

**MAYOR WOOD moved** to approve the appointments to the Shoreline Preservation Committee.

**COUNCILMEMBER KERN seconded** the motion.

**Motion was approved 5-0.**

**COUNCILMEMBER KERN moved** to continue the North County Transit District (NCTD) to February 27<sup>th</sup> as well, because this is the other regional one that was in dispute.

**COUNCILMEMBER FELIEN seconded** the motion.

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

[Recess was held from 5:05 PM to 5:20 PM]

**5:00 – ROLL CALL**

Mayor Wood reconvened the meeting at 5:20 PM. All Councilmembers were present.

**INVOCATION** – Zack Beck

**PLEDGE OF ALLEGIANCE** – soccer club team members

**PROCLAMATIONS AND PRESENTATIONS** –

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

Presentation – Mayor’s Youth Sports Recognition and Appreciation Award (Soccer Club of Oceanside Boys Under 12 All Stars)

**Presentations were made**

**PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS**

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

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

**CATHY NYKIEL**, MainStreet Oceanside, 701 Mission Avenue, reminded everyone that Thursday is market day. We have a great morning market and also the Sunset Market. At the end of February we will be having a public safety night with Oceanside Fire, Police and Lifeguards. We are in need of volunteers for this year’s parade.

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

**ROBERT BOYDEN** became homeless this morning when his girlfriend’s motorhome was taken from them unjustly. Over the last year, living in a motorhome, he’s seen and met a lot of homeless people who are very good people. They end up living in the bushes, and then everything gets taken from them by Code Enforcement. The City needs to investigate this matter more and work harder with the homeless people. He doesn’t know where he’s going to go tonight. This needs to be addressed. A lot of the homeless people have lost jobs and homes or, like him, are handicapped. He lost his business in Oceanside. He is a 5-time world champion skateboarder. In 1976, he put Oceanside on the map in Sports Illustrated, and he brings a lot of revenue to the City. Please see if you can give us an advocate for the homeless people.

**JIMMY KNOTT**, for **FRANCES KAZERSKI** who became ill and left, asked the Mayor and Council to consider a Super Bowl party on Super Bowl Sunday to assist the homeless people with a meal. It has been an average of 33 degrees in the San Luis Rey Riverbed in east Oceanside. Please assist the Bread of Life, as well.

**GERRY NANCE**, 3363 Tyler Street, Carlsbad, represents American New and Information Services, Inc. Last night he was called out to a house fire on Frontier Drive. While working the scene as a freelance photographer, one of your officers interrupted him. Your officers are sworn to support the U.S. Constitution. The First Amendment protects news gathering. Please train your officers and supervise your employees. Any further confrontations, interference, delays, arrests, searches or seizures are actionable.

**JIMMY KNOTT**, 127 Sherri Lane, spoke at a previous Council meeting about the 10 commandments of public civility. Tonight he is handing out a pledge that has been adopted throughout the United States by various cities. He encouraged Council to consider adding it to Council’s template as well. He read the pledge. If we adopt this template, we can move Oceanside ahead and correct some of the problems we’ve had with our image.

**LINDA WALSHAW**, 151 Robby Lane, stated that in the campaign materials for November, claims were made of that this Council majority represented the following: advocated for the City Charter, saving Oceanside residents millions of dollars each year; provided for sound public safety, the new Fire Station 7 helped reduce response times; and insured that all residents have a voice in the future of Oceanside.

Despite these claims, recent facts suggest otherwise. For example, if the City Charter has saved millions of dollars each year, then why does Oceanside's budget surplus not reflect that fact? Instead it is comprised of the \$1,400,000 refund we're getting from the State and another \$803,540 refund we're getting from the County. Where are all of these millions they claim the Charter is responsible for?

When the recent public budget workshops indicated that attendees wanted this Council majority to stop wasting taxpayer funds on outside consulting reports, Mr. Feller stated that 84 Oceanside residents, who took the time away from their jobs and homes to participate, don't represent the majority of voters in Oceanside. If 84 voters who attended your workshops – another example of an outside consultant that cost taxpayers \$10,000 – how many voters does it take before this Council majority listens? You didn't listen to the 15,484 voters who signed the referendum against Proposition E and instead spent \$200,000 on a special election they did not want.

You are not listening now to the 30,844 voters, 54.16%, who re-elected Mayor Wood, and instead transferred Mayoral powers to yourselves and appointed yourselves as our representatives. So how many voters will it take to get you to carry out the will of voting public?

The campaign materials also stated that you stand for a government that is accountable, will spend tax dollars wisely and provide service levels that maintain a good quality of life. We, the voting public, beg to differ. This Council majority continues to ignore the will of voters, spend our tax dollars on outside consultants and continues to threaten our quality of life by threatening our senior communities and reducing City services, even when we have a budget surplus.

The public told you they don't want development of Oceanside's only remaining agricultural land at Morro Hills, yet here we are tonight proposing to spend \$148,655 on another consulting report that the public already told you it doesn't want.

The voters of Oceanside are irate. As long as we are a democracy, the voters are the majority, and we elected Mayor Wood.

#### **MAYOR AND COUNCILMEMBER ITEMS** – Continued

25. **Request by Mayor Wood to provide the vacated 73<sup>rd</sup> Assembly District Office in City Hall to "Visit Oceanside" and direction to staff**

**MAYOR WOOD** thinks this is a good idea and believes most of the Council agrees in giving some space to Visit Oceanside.

**LESLEE GAUL**, Visit Oceanside, 928 North Coast Highway, appreciates the time to speak and address the possibility of working with the City on office space. When Visit Oceanside came to be 2½ year ago through the Tourism Marketing District and by partnering with the hotels, one of the priorities for the hotel industry was the group sales team. Group sales are really important for Oceanside because they provide a foundation of business throughout the year; they drive revenue all year long. We're happy to have that leisure in the summer, but we also need to focus on those groups coming in during the off-season so we can have that revenue. Group business is measurable. We know what teams and groups are coming into the area and where they're staying. We're helping to facilitate those room blocks so we can go back and measure it.

As Oceanside grows, the priority is to grow that sales team. Right now we have one full-time sales person who has made a tremendous different this past year. We would like to add to that, especially with the economy in tough times. With Camp Pendleton and that contracting business slowing down, we need to find alternative markets, and we need people out there looking at those different viable markets.

We're looking at 600-800 square feet of possible office space. She looked at this space last week and found that it isn't going to be quite enough for the team. In working with staff, we looked at a small space at the back of the Code Enforcement building. That would be ideal because it gives us space to grow, and it's better for security purposes because we don't have to worry about passes into the Civic Center building. We can have our own private access and key. Visit Oceanside is willing to pay for all of the operating costs like the desks, phones, utilities, etc.

Visit Oceanside is the tourism arm of the City. We're an extension to the Economic Development Department of the City when it comes to marketing Oceanside and bringing groups to the area. We've developed a system that keep us all on the same page and enables us to provide a greater level of customer service. Logistically, it makes sense for us to work closely together.

The lodging association generates \$3,400,000 in hotel tax to the City. If you look at the fair market value, based on the 600 square feet that staff showed her, it's about \$7,200 annually. Taking that into TOT (Transient Occupancy Tax) terms, that's about .002% of the hotel tax generated.

Hotel tax was started in the 1950's to raise money for tourism promotion. When tough times hit, cities had to put that money back into the General Fund. We understand that vital services are important and that needed to happen. The national average is that cities are still giving back 55% of the hotel tax to their local convention and visitor's bureau for tourism promotion. She listed percentages of cities in the State who give tourism tax back to the tourism agencies.

Because it is for the group sales office, she used a computer graphic to shows what the group sales do and the group business coming in. In the year since hiring a salesperson full-time, we've increased the group business to Oceanside by 74%. That put over \$57,000 directly into the General Fund in hotel tax revenues. She listed groups that are currently scheduled to come to Oceanside.

**MAYOR WOOD** thinks this should be referred to the City Manager, and he can get back to Council on it. We can't respond tonight because it's not agendized.

He **moved** to have the City Manager look into this and get back to Council.

**COUNCILMEMBER KERN** asked if giving direction to staff to work out an agreement between Visit Oceanside and the City would be appropriate tonight.

**CITY MANAGER WEISS** responded yes, and direction on whether or not Council wants to charge fair market rent or find some other way to consider services provided, possibly through defined increased TOT to cover those payments somehow.

**COUNCILMEMBER KERN** thinks staff can come back with a solution to that question, so direction to staff would be to work with Visit Oceanside and come back to Council with a plan.

**COUNCILMEMBER SANCHEZ** seconded the motion.

**COUNCILMEMBER FELEIN** supports this item and effort. He thinks it would appropriate to look at charging market rent, but allowing a credit based on some type of

formula that their efforts directly benefit the revenue of the City.

**Motion was approved 5-0.**

**GENERAL ITEMS** - Continued

14. **City Council: Approval of a professional services agreement with Carollo Engineers of Oceanside in an amount not to exceed \$1,179,279, to update the Water, Sewer and Recycled Water Master Plans; approval of additional funding of \$148,655 for the optional task for the Morro Hills sewer evaluation; authorization for the City Manager to execute the agreement; and adoption of a resolution authorizing an application to the State Water Resources Control Board to obtain a recycled water planning grant in an amount not to exceed \$75,000 to offset costs for the Recycled Water Master Plan**

**CARI DALE**, Water Utilities Director, stated we have met with representatives from the Morro Hills area and have come back with what we feel is a representative scope of work for what all parties were requesting.

Public input

**NEIL NEGATA**, 1480 Wilshire Road, lives in South Morro Hills and is encouraged by Council's wanting to include South Morro Hills in the Water and Septic Master Plan Update. The City needs to plan for the future. It's in the best interests of the City and the citizens of Oceanside to plan for the future and know what to expect for development. One day the City will change, and it's necessary to plan for that day. This will ultimately save the City time and money. Please consider approving the City's Master Plan Update for sewer and water, including the additional South Morro Hills sewer survey. It is unfair and immoral to deny part of the City access to City services.

**ANN GUNTER**, Lightfoot Planning Group, 5900 Pasteur Court, Carlsbad, is a registered lobbyist. Our office is working in conjunction with 5 of the major growers within Morro Hills. As you probably know, we've worked with those growers for many decades. For this project, we participated in meetings with staff, homeowners in Morro Hills and the growers to address what the scope of this study should encompass. Early on, there was a concern that this study wasn't going to have enough detail and reflect things like geographic conditions and restrictions. Some of the existing homeowners, as well as growers, felt the study needed to be expanded in a way that it would be a useful document for Council.

The existing General Plan on zoning allows subdivision of property in the agricultural area to a minimum lot size of 2.5 acres. That doesn't mean all land can go to 2.5 acres; there are a lot of constraints that can affect that. There are long-standing questions about what is suitable here. Is septic really going to work in these areas? Prior Water Utility Directors have said they don't know. There are groundwater contamination concerns with septic, potentials for failures, soils conditions, etc. It needs to be studied on a broader basis.

From our perspective, it's good planning to look at this on a comprehensive basis, not to do it for one grower's property or one landowner's property who wants to do a subdivision, but to look at the infrastructure as a whole for this overall agricultural district. It's a typical standard requirement for infrastructures to look at a reasonable range and also a worst case. There has been some debate and discussion about what the upper limit should be in this area. We've presented data that shows that 1,000 units is about the maximum. We think it makes a lot of sense for the City to invest dollars and time in this study and look at the full range of what the options are going to be.

This study is not authorizing development of land. It is giving Council information in the long-term with the results of the study to answer questions and have a basis so you can make those future decisions. It's appropriate for Council to establish that range with the minimum that the homeowners want, and the maximum has shown to be around 1,000 units. Whether that comes out of the study is to be determined, but you don't want to set a lower number and find out the capacity could have been higher.

**MIKE MELLANO**, 462 Wilshire Road, believes all Councilmembers received an email from him outlining his position. His family is moving forward with plans to subdivide our property at some time in the future, and we want to know, relative to the sewage, what we can do. That's our only question. Can we use septic tanks, and if not, do we have to have a sewer system? We believe that it's a reasonable question, and the City has a moral responsibility to tell us what we can do so we can go forward with our planning. We plan to continue farming as long as we can, but there are lots of things beyond our control that may mean we have to quit. When we quit, we're going to develop our property, and we're working with Lightfoot Planning Group on that. We want what's good for Oceanside.

**KAREN GREEN**, President of the South Morro Hills Association, stated 3 representatives were invited to participate in the review of the options Morro Hills. We understood from the beginning that this was a planning study for the landowners that formed a block in 2011 and tried to form an assessment district to pass their development planning costs across the neighborhood. That assessment district was unsuccessful. The block represents approximately 1,890 of the nearly 3,500 acres in Morro Hills.

We appreciate our farmers and growers. They provide sustainable jobs and safe, locally grown food. We sympathize with shrinking profits due to high costs of water, regulations, and foreign competition. We understand wanting to look ahead to when they will no longer farm and their desire to optimize their return on investment by developing their land. Development is not opposed if it's consistent with the General Plan zoning and land-use policies for in our area.

The issue at hand is not property rights of an individual land owner to develop their land. What's being decided is whether the optional planning study merits funding by the City for inclusion in the City Master Plan Update and the fee structure of recovering the costs of this study by applying a special fee to any future development in Morro Hills.

She would imagine that Council's decision criteria would be similar to the Board of the Association in reviewing this task: 1) is the study consistent with existing policies, 2) will it provide meaningful information, and 3) will it serve the interests of the community. We concluded it did not fulfill these requirements. We have concerns with what appear to be biased assumptions, as detailed in our letter to the City. We're concerned that the upper range of new homes to be analyzed has been artificially inflated to 1,000 by adding the 600 – 700 new homes that could be built on the 1,890 acres, considering density and street requirements, with an additional 300 – 400 homes that would be built for somewhere else in the neighborhood. That's without regard to how the existing parcels are configured or other land owners who want to continue with their agricultural operations. Like the rights of the land owner who wants to develop, we need to respect the rights of the land owner who wants to continue with their agricultural operations.

We're also concerned with the sewer evaluation, which we based on cursory review of soils geology and testing of about 5% of the new home sites. Results will be used to map where sewers would be needed and to estimate potential sewer demands. However, because of the study limitations and lack of any development plans for the area, the results will not identify any pipelines or facilities. It's questionable how useful this would be in a Master Plan Update other than to identify that sewers may or may not

be needed, depending on how the development is planned. That's going to cost \$148,000.

The Board urges the City to say no to funding the optional study. It's a research study designed to identify percolation rates in certain areas of Morro Hills, the type of testing that everybody who's developed up there has had to pay on their own. The study should be funded and paid for by the property owners that would benefit. If you decide to approve it, please don't make other land owners share in the cost by applying a special fee to any other development. We would also like the Association to continue to have a seat at the table in the coordination meetings so the assumptions can be corrected.

**ANDREA PETERSEN**, 5910 Camino Baja Cerro, is concerned about the vote tonight to fund an evaluation for Morro Hills. It's asking the City to use their funds to benefit a few interests. It studies theoretical development in the future. We have a 2.5 acre zoning on our land. Septic systems have shown to be efficient and useable on 2.5 acres and that is accepted by the new studies on septic systems.

She has a 13-acre farm and intends to keep that in the family. She has developed and sold some parcels up there, and she had to bear all of the costs for doing that. She would not benefit from this. Mr. Lightfoot is using numbers, including her farm, from anything in the neighborhood over 2.5 acres thinking that's going to be part of development, in order to get the numbers he's talking about. She believes the amount of homes he can put up there directly implicates whether a sewage system would be necessary. We have to nail down how many homes we're talking about and do it with precision. He apparently justified that number because he used that number when he presented his plans to our neighborhood. Doesn't he remember that his vision for the neighborhood was not accepted at that time? His argument for the need for this study appears to be partly based on his method of calculation. Please do not let one consultant lead the City into glaring fiscal irresponsibility.

**SUZANN DEMMON**, 18 Bahia Lane, stated this is an extremely important agricultural area to our City. We need our growers and the food they manufacture and grow. We do not need more homes. You can argue that it creates jobs, but they're temporary jobs. The farming industry and agricultural area creates jobs day in and day out. She asked Council to not spend any more money on these studies that you keep doing over and over. You've complained that we have no money for many of our City programs and things that we like to support, but you keep wasting our money and spending it on studies. She urged Council to listen to the voters of Oceanside.

**CHRIS WILSON**, 770 Harbor Cliff Way, is friends with many people who live in the Morro Hills area, and they don't want their area developed. As a resident of another part of Oceanside, it's not fair to ask that the rest of the citizens of the City have money they have paid in the public coffers used for something that would benefit a very small area of the City and a few developers who are looking to line their pockets. This is something the people there don't want, and he doesn't think the rest of us who live in the City want it as a long-term thing. It's a waste of public funds, and he urged Council to reconsider approving it.

**LINDA SILLS**, 42 Chico Lane, stated if she had her way, she would change the Declaration of Independence back to "life, liberty and property". However, if you deal with Morro Hills, the Circulation Element or Item 30, they are all under one big tent. You're not going to see any of it or understand it until you step back, look up and see where it comes from.

Regional and local development plans are intentionally designed to permanently limit your personal freedom of movement and lifestyle. A vast change in your future freedom of movement and lifestyle choice is being orchestrated across the nation by coordinated structure of environmental justice activists and United Nation actions using

assumptions and environmental predictions based on bad science. The plan's goal is to force people to move closer to work or change jobs to employment closer to home and end the ability of the average person to live in suburban environments and housing. The plans legally limit the suburban housing supply, making suburban housing so expensive that the average person will have to live in smaller, high density or multi-use condominium or apartment developments built along public transit corridors. That's just part of the agenda. There is a lot more.

**ERIN MORIN**, 1241 Chambord Court, is a third owner of Gilligan Groves, representing her brother and sister as well. Because we have a large amount of land – 311 acres of avocados – getting into the sewer plan is not appropriate at this time. The landowners should be responsible for paying their fair share of the study and development. We could be on a different path than other growers in the area. We want to keep the character of the neighborhood, but we want to do it in appropriate lot sizes for that area. The neighborhood has character and should be developed the way the neighborhood is coordinated. We want to continue in agriculture and have to because of family problems. Water is an issue. The Farm Bureau is having a coalition for labor and working with farmers on tackling the labor issue. She's seeing hope at the end of the tunnel. Hopefully we can get together and tackle some of these issues. When you build these sewers, the ratepayers are going to be paying for it as well, not just the Morro Hills residents. The rates will go through the roof with more sewer systems.

**DENNEY MILLER**, 6105 Las Tunas Drive, stated his home, like all residences in the Morro Hills community, is served by an onsite wastewater treatment system, formerly called a septic system. The State Water Board has recently adopted policy that will bring our State into compliance with federal statutes concerning the disposal of wastewater on site. This policy will govern both existing onsite wastewater systems and the installation of future systems. The new State policy makes it very clear that future residences built in the Morro Hills community would be well served by onsite wastewater systems and will not require municipal sewage treatment.

The envisioned study must fairly and objectively incorporate the new State policy into the methodology findings and results. It is not correct to believe that Morro Hills' residents will derive any special benefit from the proposed Morro Hills sewer evaluation. In fact, most of the residents are perfectly satisfied with the situation as things now stand. The only benefit derived will be to the few property owners who have pushed this to its present place on the City agenda. They alone should pay for the evaluation. No other Oceanside residents derive benefit and should not be required to pay for it.

He requested Council not approve payment by the City for the Morro Hills evaluation that has special benefit for only a few property owners. The City's scarce resources would be better spent on other projects with more benefit to more people.

**DENNIS MARTINEK**, 1537 Sleeping Indian Road, stated Council's decision should benefit the community, the residents and taxpayers of Oceanside. We have good development and bad development. You should be supporting good development and opposing bad development. Bad development imposes greater costs on the community and citizens. He opposes the decision Council made a couple of weeks back supporting the building community and encouraging development throughout the City without concern for sprawl. It was a bad decision. You're imposing greater cost on the residents of the City.

The issue before you tonight is similar. You have a concept that's been around for a couple of decades called Smart Growth. It's a worldwide movement toward smart, efficient, fiscally responsible development. The idea is to develop along the transportation corridors, encouraging people to live in an area where they can walk or bicycle and where they can benefit financially. Development along the transportation corridors is more efficient, not only for developers or residents, but also for the City.

You don't have to go as far to provide services, and you don't have to pay for a huge amount of infrastructure in rural areas.

The item tonight is a Smart Growth issue. By paying for this study, you're encouraging development in a rural area. You're going to impose these costs on the citizens and taxpayers of Oceanside. You're going to subsidize them by paying \$148,000 up front for this study that's going to benefit a handful of landowners in the area. That should be paid by the beneficiaries. The way it's written now is the primary objection he has. You're subsidizing poor development and going against all of the concepts you've heard from SANDAG and your own planners with regards to Smart Growth.

He asked Council to think smart and not be unfair in imposing these costs on people who don't stand to benefit from it.

Public input concluded

**COUNCILMEMBER SANCHEZ** stated most of this item is something that we should all be excited about, which is the notion of Oceanside seeking its own source of water. Most of what is before us is a study to insure in the future that Oceanside is sustainable. Unfortunately, there is a part in here that goes against a lot of what sustainability is all about, which is the South Morro Hills sewer study.

She attended several of the community meetings and understands what the goal is here. We have agricultural land that has been zoned agricultural for about 75 years. Those growers, who have benefitted from buying this land as-is, zoned agricultural, have the ability, if they decide not to farm anymore, to seek reduction down to 2.5 acre lots. That has been the law for about 75 years. There is no reason to do anything more than that. What is before us is a private request that the citizens of Oceanside pay. That is what is unjust and why people are speaking out against this.

Councilmembers are approached from time to time by private citizens saying they're having a sewer problem, and they feel it's unfair because it's such a huge bill. We have to tell them they are responsible for it. She feels that this is asking for help to get this developed and have the City pay for it. With this item, we're saying yes, we want to look into that. That is unfair. The goal for a couple of property owners is to build thousands of homes. It is not a Smart Growth plan. The City does not have services out there. We don't have fire, police, water or sewer. We've never collected fees.

There are some cities that are built with primarily on-site waste management. Vista has some very urban areas that are completely on septic. None of those people went to the City of Vista and said they owed them a study and the city should pay for it because somehow it would benefit the city. It doesn't. These are funds that are taken directly out of taxpayer money.

One suggestion was to get this money through developer impact fees. That means that something else that really would benefit the citizens of Oceanside won't get funded. These are finite funds. The goal here is for a couple of farmers to maximize their profits, but they shouldn't ask the City to pay for that. People try to make governments socialize the costs and privatize the profits. This is taxpayer money having to pay for somebody's dream, and that isn't fair. To be able to build thousands of homes means building a sewage treatment plant out there, because there are no hook-ups. Our expansion cost over \$50,000,000, which was a loan from the State with zero interest. We probably won't be able to get those kinds of terms again. Taxpayers paid for that sewage treatment plant expansion.

Is it fair that Morro Hills should be paid for by the citizens of Oceanside? It isn't. It's against SANDAG's goals for the region and against our City's own best interests.

They've tried to get individual property owners to pay into this \$150,000, and that violated the law. You can't be forced to pay into that under Proposition 218. Since that didn't work, now they want Council to pay for the sewage study. It doesn't make any sense. The citizens deserve to know and be able to vote on whether there should be any growth where we don't have any services and that would cost huge amounts of taxpayer money to provide. People pay for their quality of life – trash pick-up, water, police and fire. It's not fair to have to pay for somebody else's dream.

She urged her colleagues to vote no and send this back.

**COUNCILMEMBER KERN** stated when we talk about a Water and Sewer Master Plan for the City, we should include the whole City. There is a goal to have agri-tourism, and if we're going to have that we're going to need the infrastructure to support it. Those wineries serve 100-200 people with their wine and restaurants, etc. Those are industrial buildings, and we're going to need the infrastructure. All we're doing here is studying it. We're looking at what our capacity is, what we can do and how we can bring sewer out there. He supports this because it gives us the information to make those decisions. We're focused on the \$148,000, but he'd like to focus on the \$1,200,000 for the full study because that's the one that really does benefit us and the Recycled Water Master Plan.

He's talked to quite a few people, including the new Director of Vista Irrigation District and the new Chief of Staff for the Supervisor. He arranged for them to go up to Fountain Valley and look at the RO plan there about recycled water. They recycle from their wastewater. All of the wastewater that comes from the Orange County Wastewater Authority goes through this plant, and they supply water back up to the Anaheim lakes, and other water is injected into the aquifer to prevent saltwater intrusion. He believes that will be the future of water in Southern California, capturing all of the water that we can.

We have Rainbow, Fallbrook and Camp Pendleton that actually send wastewater through our outfall pipe right now. Not one drop of water should go through that outfall pipe that we can recover. We talk about the cost of Metropolitan Water District's (MWD) water and the underlying cause of why people in Morro Hills are getting out of farming - it's the water costs. Maybe at the end of the day, doing this recycle plan, we can send recycled water back upstream to Morro Hills so farming and agri-tourism are sustainable. We need to study everything and see the whole plan before we make our decisions.

He **moved** approval [of a professional services agreement [**Document No. 13-D0081-1**] with Carollo Engineers of Oceanside in an amount not to exceed \$1,179,279, to update the Water, Sewer and Recycled Water Master Plans; approval of additional funding of \$148,655 for the optional task for the Morro Hills sewer evaluation; authorization for the City Manager to execute the agreement; and adoption of **Resolution No. 13-R0082-1**, "...authorizing application to the State Water Resources Control Board for a Water Recycling Facilities Planning Grant"].

**DEPUTY MAYOR FELLER** seconded the motion.

**COUNCILMEMBER FELIEN** needs a little more information. We seem to be having a rhetorical bait and switch and discussing some issues that aren't being voted on tonight. As he understands it, Page 2 of the staff report says to include an optional task within the Master Plan Request for Proposals to evaluate the sewer requirements necessary for the potential development and build-out in the Morro Hills area. That's referring to, based on the existing zoning ordinance as it exists today, if everyone in Morro Hills developed their property to the extent that they're allowed to, will septic tanks be sufficient. Is his understanding of that correct?

**MS. DALE** responded yes.

**COUNCILMEMBER FELEIN** clarified that what we're talking about is if people do what they're allowed to do now as it exists, not future development that may or may not take place or require a change in zoning. Based on the new laws and regulations for septic tanks, is it your opinion that if everyone in Morro Hills developed their property to their fullest extent using septic tanks, would we be in compliance with these new State and federal regulations?

**MS. DALE** responded that's part of the reason for the study, to look at that and provide an answer.

**COUNCILMEMBER FELIEN** stated when we discussed this before, the feeling was that the existing development could not take place under current law and likely be within the septic tank compliance. If we don't do the study, they're going to have a perverse incentive to be the first one to develop and put in the septic tank so you're not at risk of someone saying we can't have any more septic tanks and you have to wait until we have a sewer. Whereas, if we have the study and find out what the maximum capacity is before we trigger the need for a sewer system that benefits every property owner in the Morro Hills area. Do you feel the study benefits the City as a whole and provides information that benefits all of the residents as a whole for our entire sewer system?

**CITY MANAGER WEISS** doesn't know if there is a simple yes or no answer to that. In the absence of the study, at some point, we may have issues. Under the Regional Board requirements, bacteria is a contaminate. We have a bacterial problem in the San Luis Rey River. Is it a direct result of septic? We don't know, but that's one of the issues we are going to be undertaking in the future and probably spending a lot of money for testing and monitoring. Is it likely that all of Morro Hills can develop to the 2.5 acre lots and all have septic? Probably not. Part of the study is going to document that. Would there be a broader benefit? Possibly, but he doesn't know. That's part of the reason that the recommendation is at such a time as development occurs in Morro Hills. There should be a fee imposed on all of that new development to recover all of the costs associated with this. It's not being spread over the entire City, it's specific to the Morro Hills area.

**COUNCILMEMBER FELIEN** clarified it would be the people who choose to develop their property who would be paying the fee that reimburses the City as part of the overall reimbursement for the impact of development.

**CITY MANAGER WIESS** responded that's correct.

**COUNCILMEMBER FELIEN** stated then it's not a subsidy from the City or the larger ratepayers as a whole for specific property owners. It's the same thing that always works for everyone's property. If you're going to develop your property, you pay fees that reimburse the City for the fixed costs of your development. Then the monthly fees pay the monthly maintenance just like everyone else. It seems that this is a reasonable study that gives the City the information needed about the larger issue of what the future of Morro Hills is. What properties get developed and how they get developed is a separate issue that will be debated and voted on. People have passionate views on both sides of this issue. The overall study provides how we're going to get the maximum use out of our water resources and recycling water that in the long run could provide a benefit to preserving the agricultural resources of the Morro Hills area. He urged his colleagues to vote yes.

**DEPUTY MAYOR FELLER** stated the back-up says the City Council approved the current Integrated Water Utilities Master Plans in July of 2008. The Master Plans were prepared using a detailed analysis of the City's existing and future land use, projected population, etc. Is this something that's common in cities to project the future? Is it something where they do detailed studies like this one that we're

evaluating tonight?

**MS. DALE** responded it is common to do the master planning studies. Doing them at a frequency of approximately 5 years is normal for most utilities.

**DEPUTY MAYOR FELLER** would guess that the farms were at one time on septic. What you're talking about here is a comprehensive citywide study for \$1,200,000, and part of that is including Morro Hills for their needs. This probably needs to be assessed as to whether that's viable for the future. Science will probably solve all of those things anyway in the next 20 or 30 years.

We've used this kind of planning before, and he would guess that's probably why he supports this. Our water and sewer have all been studied, except for Morro Hills, prior to this point. Is that correct?

**JASON DAFFORN**, Water Utilities Division Manager, responded the water and sewer have been studied for the entire City on the Master Plans in previous years, but not the outlying farming areas.

**DEPUTY MAYOR FELLER** stated that's what this \$148,000 is being added for. It makes sense that we should study the full amount of development that's potentially out there. He doesn't think any of these farmers are thinking about doing this in the near future, but it gives the farmers all of the information they're going to need for the rest of their families' lives.

The definition of Smart Growth that we heard here is really just taking away people's freedom.

**MAYOR WOOD** stated doing a study over something as important as water is an important thing to do. But don't let some people pull the wool over your eyes. There is a bigger issue, which is what to do with the agricultural area in Morro Hills. They'd like to expand, and the only way they can do it is to have a bridge from Melrose Drive over the river and onto the other side. They can't get past their Environmental Impact Reports (EIR) for traffic or whatever to add 1,000 homes out there. Ever since then, we're seeing them trying to push through Melrose Drive, which will later lead to a bridge over to the other side so they can build more houses in the agricultural area of Morro Hills. That seems to have been the plan for the last 10 years. He's frustrated when you try to hide it from the public.

He doesn't mind a study for Oceanside that is good for everybody. Morro Hills doesn't want it. A small group from Morro Hills wants this because they want to develop out there. He's never in the 10 years he's been on Council had a developer come into his office and say they would let the City pay for everything and then, based on the results, decide if they're going to build a project. Usually someone purchases land and comes in with a project to see what it's going to take in permits. The City will say they have to put in traffic lights, roads, a sewer system and water. The developer does that, not the City. This is backwards, and he doesn't like it. It doesn't make sense and doesn't seem right.

If the study says we have to put a sewer system out in Morro Hills, it's just about the system. It's the plant. The plant is \$50,000,000 to \$100,000,000. The residents of Morro Hills aren't going to pay for that; the rest of the City is. Normally the developers have to pay for that. This is a way to say if it's possible let's let the citizens put something out there besides septic so we can get more new homes out there. That's wrong. He's not against the water study, but then they threw in this thing for Morro Hills. Nobody wants it. It's connected to the Melrose Drive Extension. They want to put 1,000 homes out in that rural area, and there are no services to them. Somebody is going to have to pay for those services, and that will be all of the citizens of Oceanside. If you want to put a sewer system in, it's a \$15,000,000 upgrade. That's just an

upgrade, but we have to do either an upgrade or a secondary system. It's not going to be paid for by a couple of hundred Morro Hills residents. It's going to be paid for by all of us.

He's not saying these people want to do something bad. They're just looking out for their property value. The Morro Hills group has sent many letters protesting this. Most of the people out there are against it. This is our last agricultural area. Some of the agricultural people are getting out because they can't afford the water, but that's not sewer systems. What we're looking at here is a long-time battle to try to get a few people who have land they're not making money on with agriculture have the rest of the City pay for a study that would only benefit them. Developers are supposed to pay to put services in if they have a project they want to build. Putting 1,100 houses out there doesn't pay for itself, unless somebody puts a bridge over that gets them past the EIR for traffic mitigation. It doesn't pay for itself if they have to put a sewer system in either. They want us to do it for them. This Council seems to be supporting outside developers more than they do the neighborhood and citizens.

**COUNCILMEMBER SANCHEZ** asked Ms. Green to come back to the podium to answer a question. There were some statements saying that if we don't include this study, it doesn't take into consideration possible future plans for agri-tourism. Ms. Green represents South Morro Hills Homeowner's Association, and she asked her if the people who are looking into agri-tourism are opposed to this study.

**MS. GREEN** responded yes. It's important to understand what you're getting for the \$148,000. She's read Carollo Engineer's proposal carefully. They say this is a cursory evaluation. It's a desktop exercise looking at soil types and geology and doing 35 percolations tests in an area of potentially 1,000 homes. If you go to the County to get your septic permit, you're testing every location. You will get very limited information from this study, and that information is not sufficient for doing detailed planning. It says that right in the proposal. This is a general study. It's not going to give you any information for what the threshold is for septic in this area. It's not going to answer the questions of what you can do in Morro Hills. It says clearly in the proposal by the consultant that additional analysis would be required to support detailed planning. It's not going to give you pipelines or facilities. It will not have any information that will be helpful for a Master Plan Update. That information won't come until the landowners decide what their development plan is.

**MR. DAFFORN** responded she is correct. The consultant put together the proposal, and it's based upon the 35 samples and 20 additional borings throughout the area that will have to be identified. That is the major cost to the study. The more borings and percolator tests that you do, the more the price increases. There has to be a point where you decide what the cut-off is. This is a very general review of the soils and geology and to determine what is potentially available for septic systems in that area based on the guidelines from the Department of Health.

**MS. GREEN** has the guidelines from the Department of Health. The new State regulations are, for subdivisions, that in an area like ours where there is less than 15 inches of rainfall a year, it's one unit per every 2.5 acres. That's on minimum zoning. If you follow the existing zoning and policies, then your land size for your parcel is sufficient for a septic system. It's a general study that isn't going to provide detailed information on what the threshold for septic is. The only way to get the study to be useful for an update is to wait until you have a development plan. You have to lay out how you're going to serve the wastewater needs in that development plan. That information is useful and can go into an update.

There are already landowners who have subdivided parcels that are ready to develop and have followed all of the rules. There are other small landowners with 7 or 10 acres that are already served by septic that may want to subdivide and put another home on their property 20 years from now. They'll pay for their septic. Why should

they pay an additional fee for development by somebody else to do this study that says we might need sewers in Morro Hills. This study will not provide anything on infrastructure that's going to be useful for a Master Plan Update. You do these updates every 5 or 10 years, and most of these people aren't ready to develop yet. They want to farm as long as they can. You have time for the proper planning to be done to give the information that's actually appropriate to put in a Master Plan Update.

**COUNCILMEMBER SANCHEZ** wanted to make sure that when we vote, it's based on correct information. It's clear that there are a couple of property owners who would like to develop their land. If they do, they should pay for it. Every person who goes to the City is told at the counter what the fees are and what they have to pay for. Nobody gets a pass. She heard some statements about how "we" want to develop. It's not "we"; it's not the City. All Oceanside has in terms of property out there is a water tower. Everything else is in private ownership. This is not "our" plan to develop.

This is not going to get us anything. It's them getting a foot in the door to have us pay for this. Then there will be more and more money that is coming from the taxpayers for a private development plan. There is no law that says you get to have 2.5-acre lots. It says that's the minimum. There isn't a law that says if your land doesn't support septic, then the City must furnish you a sewer hook-up. That will cost a whole lot of money. They've tried talking to other water districts to see if they can get water there, and they can't. Rainbow actually buys into ours. This is not right; it's unfair.

She asked the maker of the motion to remove the \$148,000 from the motion. She would like to support the rest of the report on our water. This started as a study on how we can be sustainable in terms of our water and sewer. It was not meant to pay for somebody's private dream property development. She asked Councilmember Kern if he will remove that from the motion.

**COUNCILMEMBER KERN** agreed to remove it in the spirit of compromise. The \$1,200,000 is the big hit here and we need to have unanimous approval on that and on the State Water Resources grant request.

He **modified his motion** to approval of the professional services agreement with Carollo Engineering in the amount not to exceed \$1,100,000 to prepare the Water and Sewer Recycled Master Plan and the adoption of a resolution authorizing application to the State Water Resources Control Board to obtain the Recycled Water Planning Grant to offset the cost of the Recycled Water Master Plan.

**DEPUTY MAYOR FELLER** stated you're doing sewer Master Plan planning throughout the entire City, is that correct?

**MR. DAFFORN** responded yes.

**DEPUTY MAYOR FELLER** is not willing to concur as the second.

The **modified motion died for lack of a second.**

**COUNCILMEMBER KERN** stated then we'll stick with the original motion.

**COUNCILMEMBER FELIEN** asked, regarding the \$148,000, what are we going to know after the study is done that we didn't know before the study.

**MR. DAFFORN** responded the study will determine, being a cursory review of a very large area, based on the geology, what the soils will be able to sustain. At the end of the day, whenever a homeowner has to put in a septic system, they will still have to perform percolator tests specifically on their site in order to verify that the soils on their site match what was in the study.

**COUNCILMEMBER FELIEN** asked what we are accomplishing with this study then. He was under the assumption that this study would provide for the needs of the City as a whole. One of the residential critics is saying we're wasting our money, and he's not hearing anything from staff that tells him any different. He believed we were doing a study that would then allow us to build on something, but he's hearing that's not happening and we're throwing money away. Are we doing something of value for the City or not?

**MR. DAFFORN** responded yes. What you end up getting is a general understanding of what the soil types and conditions are in the area. But like any soil testing, they vary throughout. In any soil testing you have to take into consideration that they are approximately \$1,500 each, and we're getting 55 of them between the two. At some point you have to decide how much money we're willing to spend. If there is a determination that it can only sustain a certain amount of septic systems, then from that point, for additional homes, if there were half at 500, then the study will evaluate what's necessary for our treatment and collection system and what treatment improvements are necessary to sustain those new homes.

**COUNCILMEMBER FELIEN** clarified then the study will provide some type of threshold that we'd know that we're not going to be able to go beyond as far as allowing additional septic tanks in the area.

**MR. DAFFORN** responded that's the intent.

**COUNCILMEMBER FELIEN** hears a lot of hedging on Mr. Dafforn's part. He's not getting a good feeling that this is well-spent money. These are technical issues beyond his level of expertise, so he'd like to be reassured that his money is being well-spent.

**CITY MANAGER WEISS** stated in the actual proposal for the Morro Hills portion, the sewage that cannot be handled with septic is going to be modeled. There will be a general system development provided that will indicate the pipes that need to be built to handle that additional sewer flow and the evaluation of the capacity in the City's system to handle that additional sewer. Whether that's 100, 500 or 1,100 homes, they're going to do it under a low-density and high-density range. The percolator tests are important to establish that threshold. Anything beyond that is going to have to go into some type of sewer system, which would be looked at as part of the study.

**COUNCILMEMBER FELIEN** stated another issue here is whether the development pays for itself or is subsidized by the City. What we heard was if someone chooses to develop their property, they're going to be assessed the impact fees, which reimburses the City for these very types of costs and studies that we're doing. It's a self-supporting process. It doesn't impose a burden on the other ratepayers of the City. People who want to farm in Morro Hills forever aren't going to be impacted by any additional fees related to other people who decide to develop their property. We have this debate on every development that comes before Council. Why do we keep getting this demagoguery against growth, trying to falsely claim that it's subsidized by people that it is not subsidized by.

**DEPUTY MAYOR FELLER** called for the question.

**COUNCILMEMBER KERN** seconded the call for the question.

**Motion to call for the question was approved 3-2, Wood and Sanchez – no.**

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

**CITY MANAGER ITEMS**

27. [City Council: Update on City's 125<sup>th</sup> Anniversary  
A) Report by David Nydegger, Oceanside Chamber of Commerce  
B) Discussion  
C) Recommendation – information only item]

**Item was not heard**

[Recess was held from 7:35 PM to 7:42 PM]

28. **City Council: Quarterly Budget Update**

**TERI FERRO**, Financial Services Director, stated as of December 31, 2013, which is mid-year, the General Fund, based on the budget that the Council amended in the first quarter, has a surplus of \$526,000. Looking at what revenue has come in, we're at 38% of our revenues for mid-year, but that's typical. Taxes usually come in around January. Our expenditures are at 49%. We're looking good.

A computer graphic showed the broad categories of where we are with our property taxes, sales taxes, permits, use of money, etc. showing that we've brought in 38%.

On the expenditures side, a computer graphic showed the various departments. The actual includes encumbrances as well, which are commitments for purchase orders that have been committed but not spent yet. There are several departments that have an asterisk next to them showing that they are over 50%.

For the City Clerk's office, they have an encumbrance for equipment that they haven't spent yet. In addition, there were some payouts for the previous elected official that was not budgeted. The Finance Department has almost \$800,000 of purchase orders out for the Oracle upgrade that the Council approved, but it has not been spent yet. The non-departmental section has a contract with the Humane Society that was encumbered and sold, but has not been spent yet. If you look at what the cash out the door is, none of these have exceeded 50%.

The Fire Department has over \$500,000 in purchase orders that have not been spent yet, and just a little over 50% cash out the door has occurred. There is a concern about the overtime, and the Fire Chief will discuss that. Public Works has about \$988,000 worth of purchase orders out there. Overall, the General Fund has spent about 49% at mid-year.

Each quarter there are revenues that we are concerned with that are not meeting their target and are kept on watch. Parking citations are currently at 49%. We're going to continue watching that. Part of it is cyclical, and part of it is that there was a vacancy in an officer position resulting in not as many tickets being written. The Centre City Golf Course reimbursement is less than 1% of what we expected to receive. The intergovernmental category is only at 21%. Overall it's a small portion of the budget, but we're still watching it. Ambulance billing is at 22%. If you recall, back in September we awarded a contract to Whittman Enterprises to take this function over and outsource it. They became fully operational by the end of December. They are comfortable that all the bills have been sent out, and now the revenue will start coming in. There was a lag in getting those monies in.

There are second quarter adjustments. The good news is the revenues are going up \$2,200,000. The bittersweet is \$2,200,000 is one-time, and we can't expect to see it again. \$1,448,000 of that is the residual property tax that we received from the County as part of the Successor Agency dissolution. The bad part is that the City was

holding just a little over \$5,000,000 of Housing money. We were required to send that to the County. In turn, they disbursed it to all of the taxing agencies, so we got \$1,400,000 back. \$800,000 is a miscellaneous one-time reimbursement from the County. For the past 4 years, they have overcharged us on the property tax administration fee. There was a ruling in the City's favor, so we got that back.

The remaining categories total \$620,000. That's additional money we're getting. Conversely there are other revenues that have decreased \$620,000. We're looking at breaking even. We've got 2 one-time checks that will help beef up our coffers, but don't expect to see those monies again. In addition, there is a \$12,000 adjustment request for the Code Enforcement budget.

Regarding the golf course, **DOUG EDDOW**, Real Estate Manager, stated the golf course consists of the Oceanside Municipal Golf Course and the Centre City Golf Course. The golf course was originally projected at the beginning of the budget year to generate \$250,000 in profit, not just revenue. Because of the current state of the golf course industry, it is continuing to decline. Toward last year we thought it was going to pick up, but it has continued to decline, based on the overall economy, as well as the competition offering better golf courses for similar prices. We need to readjust that revenue. Oceanside Municipal Golf Course is projected to generate a profit of \$80,000. Unfortunately, Centre City Golf Course, which was reflected on the reimbursement schedule, will probably result in a net loss of \$40,000. Overall, that would result in a \$40,000 profit for both golf courses.

We're still looking at ways to reduce the deficit at Centre City. One of those is entering into an agreement with Ashworth Group to take over the golf course. He feels he can do that, but he's still in the due diligence phase to determine how he can do it. If we continue down this road, at some point in time, based on the current decline in rounds and increase in costs, the Centre City Golf Course could result in the requirement of a subsidy to operate both of the golf courses.

**DARRYL HEBERT**, Fire Chief, stated it's never fun to come before Council and admit that there's an issue in your budget. As you all know, in the last 4 years, with our economy, the Fire Department has been hit and had some difficult times. It's been reported that our budget is over-expended in the overtime area. The Fire Department runs on a constant staffing model. We have to constantly keep people in the stations and on the floor responding to emergencies. There are times where unforeseen incidents occur where there are vacancies. People retire or leave for other organizations, and that creates vacancies that have to be filled with overtime. There are also issues that occur, like wildland fires, outside the City that are reimbursable, but because of the State's struggles it takes a long time for those monies to come in. Therefore, the people that go on those campaign fires are also on overtime because of the backfill for our City.

There are other issues such as injuries. Last night, we had a significant fire in our City, and one of our firefighters was burned. He's doing well, but it is a risky business.

It appears, based on the best estimates we could come up with, that our overtime budget is going to be short about \$150,000. There are two options with this. Option 1 is to ask for an increase in the overtime account of \$150,000, due to the rising revenue from our firefighter/paramedic/ambulance transports that have recently taken place in the downtown and South Oceanside area from suspending the boundary drop with Carlsbad. Option 2, which no Fire Chief ever wants to give, is to close one firefighter/paramedic/ambulance between the hours of 7:00 PM and 7:00 AM for the remainder of the fiscal year. As a Fire Chief, he recommends Option 1.

Public input

**JIMMY KNOTT**, 127 Sherri Lane, stated we have had major retailers leave the City. Are we tracking these closures, because they're having an impact on our sales tax revenues. That has a direct impact on our budget.

For the revolving fund indicators, it's showing an indication that the visitation to Oceanside is dropping off. That area needs to be corrected.

If you have under revenues an amended budget of \$117,000,000, and we have the year-to-date of the second quarter \$44,000,000, and you cut that first one in half, you are not \$526,000 ahead; we're 12% short.

In Attachment A, you have an item under the revenue that says 249 Stagecoach Transfer Fee. He asked what that is?

Under Table 8, years ago there was a proposal to not mix Enterprise Funds with General Funds. Once again, we're mixing them. We need to keep that separation.

**TIMOTHY SCOTT**, 775 Harbor Cliff Way, is here tonight as a Firefighter/Paramedic and Treasurer of the Oceanside Firefighter's Association Local 3736. The Oceanside Firefighter's Association is here to protest the idea that closing down an ambulance for any time frame is an acceptable solution to assist the City in closing a financial gap. We want to remind Council and the citizens that your firefighters have taken an oath of protection, and with that we will lay down our lives to protect yours. You will receive the best and most advanced care in a timely manner, which is congruent with current national standards, laws and policies that are built and implemented to meet your best interests. On top of that, we would like to remind Council, as elected officials, you have also sworn an oath. You swore to protect Oceanside, provide for and make sure the family needs are met. Tonight we challenge you 5 leaders to remember that oath and stand by it, along with Oceanside's bravest. If this ill-fated plan to cut a firefighter/paramedic/ambulance for any amount of time is carried through, citizens' lives will be placed at a greater risk, the risk of death versus life.

Tonight Council is talking about reducing our medical transport capabilities by 25%. That means a quarter of the City will have to wait longer for a paramedic transport to the hospital. The American Heart Association and the National Stroke Association say that time is muscle. That means that the longer you wait to get treatment, the more tissue dies. Paramedics are able to slow that process down, but are never able to stop it. The only things that can stop that process is advanced medical care.

The Oceanside firefighters have a long-held tradition of being the best and most advanced fire department that we can be. This has also included our medical delivery system. They are not only the first to institute advanced paramedics in San Diego County, but train our personnel on the use of advanced techniques, including telemetry to the most advanced cardiac labs in the County. This increases the chance for survival.

We're asking the Council to keep the best interests of the City in mind, not put lives at risk or show little forethought to the health and safety of its citizens. Let's take steps forward and not backward.

**MARK CAMPBELL**, 3332 Morning View Drive, is a 17-year employee for the City and is currently a Fire Captain with the Oceanside Fire Department. He's a husband, father, coach and Board Member with the Oceanside Firefighter's Association.

The Oceanside Fire Department ran over 17,900 responses in 2012. Of those, we have 4 ALS Paramedic/Firefighter Ambulances that took over 11,800 calls. Roughly 40% of those calls were between the hours of 7:00 PM to 7:00 AM. He urged Council to go with Option 1 and fund the paramedic/ambulance to stay in service and be available

to the citizens and his family.

**JOSE McNALLY**, Vista, is representing the Oceanside Firefighter's Association. He's a 25-year employee of Oceanside. We have been depicted as greedy bully union gurus, and that's so far from the truth. We are here because we had a duty to act to preserve and protect our citizens. We only have limited time. Statistics clearly show that if you reduce our ambulance staffing by 25%, there are going to be catastrophic consequences, like the City of San Diego suffered in 2010 where they lost 2 lives as soon as they started browning out stations. This is not just about any ambulance, it's about definitive treatment. It's about getting that patient to the right location in a timely manner. We're not just paramedics in that ambulance, we are firefighter/paramedics. He urged Council to choose Option 1. We can work out the financial stuff.

Public input concluded

**COUNCILMEMBER KERN** asked Director Ferro to explain the license and permits at 68% when we're only halfway through the year. Is that a good thing? Are we getting more permits and licenses?

**DIRECTOR FERRO** responded our building permits are coming in higher than we expected. We're trying to work with staff to see if we can identify trending. She cautioned that it is a good thing, but overall licenses and permits total \$1,500,000 of the \$116,000,000 budget. It's good; but it's small good.

**COUNCILMEMBER KERN** stated it's a leading indicator that we're going to get more property tax later on. He asked at what point do we evaluate the Centre City Golf Course and decide it's no longer a viable option.

**CITY MANAGER WEISS** responded we're going to be back to Council in 3 months for the next quarterly update. He's hopeful that before that, we will have either the outline of an agreement with an alternate user for that property. If not, we'll be coming back to Council to look at what the other options are. Hopefully, within 3 months we'll have a better understanding about what Ashworth wants to do with the property. If they take it over, there are going to be some opportunities, and we'll have to look at the economic impacts. If not, we'll have to look at what the options are. There's only so much you can cut maintenance costs before you start seeing even more reduction in rounds. The bigger issue is not just our golf courses, but all of them. There is a significant impact to the golf industry and a reduction in rounds to all of the courses.

**COUNCILMEMBER KERN** doesn't think we need to subsidize golf. There's a problem here. If we shuttered it today and put a fence around it, there's a cost.

**MR. EDDOW** stated the last time we estimated the cost to shut down the golf course, it was around \$70,000 just to keep it clean and keep transients from entering, etc.

**COUNCILMEMBER KERN** stated if after the summer golf season we're still in this trend, we'll have to make that decision because we can't continue down this path.

Regarding the Fire Department, he understands some of the things that cause you to overspend your overtime budget. We're trying to implement part of the Tri-Data study as we go along. The only thing that encouraged him was the last speaker, who said they're going to work with the Chief and the OFA to get these costs under control. That's what we have to do. We have an anomaly in a way because we have money coming in from things not of our doing, but we've been running really close to the vest because we haven't had the income to support all of our services. He wants the best fire department that we can afford. That's the problem; what can we afford? He

doesn't mind supporting Option 1 for now. He would like to experiment with Option 2 on a limited basis, maybe one day a week to see what kind of responses we get. That's something the OFA and the Chief can work out.

What is the Fire Department's solution to solve some of the overtime problem? You are the department, so you need to work with the administration and the OFA to get this under control. This comes up every year. Maybe you aren't giving us a realistic budget. Find out what overtime costs are historically and factor that into your budget. We need a realistic budget so we don't get halfway through the year and have to put money into that account. Hopefully, we're coming out of the recession, but for the last quarter of last year the economy actually contracted. If that continues, we're going to have to come up with some idea of how to supply fire services at a cheaper cost.

Everybody wants services. The \$150,000 that we're going to allocate to Fire tonight is \$150,000 out of the General Fund that can't go toward libraries or something else. It is absolutely important and has always been one of our priorities, but we can't put public safety up there so high that we start cutting everything else. We need to get across to every employee in the City that they need to work with the management on keeping these costs under control. They're becoming higher and higher every year.

Hopefully, within 90 days we can come back with a framework of a plan. He'll support Option 1 at this time. Some of the other Tri-Data stuff can actually be implemented over time. When we did the Matrix study for the Planning and Building Departments, it was a 3-4 year implementation. We have to protect the citizens, but we also have to protect what the citizens pay in tax dollars.

**CITY MANAGER WEISS** stated at this point we're just looking for direction. If there is a majority of the Council looking at Option 1, then we will adjust the budget accordingly with the action this evening.

**COUNCILMEMBER KERN** asked the City Manager to come up with some ideas on how to offset that \$150,000 in overtime in the future. He doesn't want to be here next year having the same discussion about overtime budgets. If it comes back next year, he's going to want to look at Option 2.

**DEPUTY MAYOR FELLER** asked if we're mixing General Funds and Enterprise Funds.

**MS. FERRO** responded no. The chart Mr. Knott was referring to is an information only chart. It's not mixing money.

**DEPUTY MAYOR FELLER** doesn't think we can subsidize golf, so he hopes there are solutions with Ashworth. Deputy Mayor Feller gave staff the information for another person who thinks he has a solution as well.

It's good news to be sitting here with a surplus and something that's going to go into our reserves for a rainy day. Government is created for public health and safety, and that's the only thing we should be about. We're a big city with big city needs. Services are a premium in providing for the public health and safety. He's had discussions with the Fire Safety Board, and they're willing to work with the Fire Department to solve all of the needs. We want to provide as much service as we can afford. He hopes the Fire Department can work together to do that. He supports the \$150,000 in one-time overtime billing. Is it an ongoing dollar between now and the end of this year?

**CITY MANAGER WEISS** responded that's the estimate that staff has identified as the change in transports. As we look forward and evaluate the service options, whether or not the boundary drops program is reinstated or not will be something that would affect those numbers again. At this point, he doesn't think that there will be any

change. He expects it to continue into the future, but it depends on other issues surrounding the boundary drop and other development that occurs along the Highway 78 corridor.

**FIRE CHIEF HEBERT** stated we are looking at several different options. The Local has a lot of new Board members and they have been very interactive and helpful. We are working together. They have the information. Their statistics are right, and he's encouraged by their assistance.

**DEPUTY MAYOR FELLER** would encourage Fire staff to get with the City Manager and have the discussions. You can't continue to have that kind of overtime. We really need to look at that.

**COUNCILMEMBER SANCHEZ** moved to direct staff to pursue Option 1, which is to increase the funds to the Fire Department by \$150,000.

This is not a luxury; this is public safety and people's lives. This feels like we're scolding a child who did something wrong. We have really great employees in the Fire Department who put their lives on the line every day. There is no way she wants to take an ambulance out of service and reduce our ability to respond by 25%. She has family and friends here, and she doesn't want to put any one person's life at risk. Which ambulance are you going to take out of service? Which neighborhood is going to volunteer having their ambulance taken out of service?

How do we control costs? Hire more people? That's not going to decrease costs, so we need to provide this. This is a basic service we provide for our citizens. We're talking about \$150,000 and the Council just approved \$150,000 for a sewer study for a private developer earlier this evening. We approve millions of dollars in change orders on the Consent Calendar without batting an eye. Instead of acting like we're punishing an employee who works hard, is away from their family for periods of time and provides the kind of service to our City and residents, we should be honoring these people. They have not done anything wrong.

**MAYOR WOOD** seconded the motion.

**COUNCILMEMBER SANCHEZ** stated at to the golf course, she had a chance to talk to John Ashford last week, and she would like to give him a chance. This is a dream for Mr. Ashford, so let's see what he can do. We're not doing any better.

With regard to the Fire Department, **COUNCILMEMBER FELIEN** doesn't think we're at the point where we need to be looking at brown-outs or reducing services. In proportion to our overall budget and the normal variances we have, \$150,000 isn't the end of the world. We need to look at the issue of the ratio of straight time versus overtime. The formula you use isn't unique to the Fire Department. Every factory manager and restaurant owner deals with that issue. In return for voting for Option 1, he would like a commitment as part of the budget process for the upcoming year, that we're going to do a thorough review of our current formula to make sure we have the optimal mix.

He'd like to see the math on this. It comes down to whether it's cheaper to pay overtime or to pay the fixed benefit costs of adding new employees. Also, what is the strain on the employees themselves because of having to work a certain amount of overtime, even if it's theoretically optimal from a financial standpoint? The other side of that, as it relates to this, is that obviously there are going to be surprises that happen every year in the Fire Department. In the last few years it seems like all of the surprises have been on the up side. There should be years where you have down side surprises as well as years with upside surprises. Based on a formula and experience, they should even out, but it seems we don't even out. Maybe we're not getting realistic overtime numbers to put in the budget. Maybe we should factor in a buffer and in the long run it

could build up a reserve for this. We also need to factor in the impact on the employees between straight time and overtime.

He thanked the Fire Department for their great service. The feedback he gets is overwhelmingly positive relating to the performance of the employees. This is a management issue and not an employee issue. We need to resolve that and appreciate any help from the rank and file for suggestions to improve efficiencies.

Regarding golf, we can't be subsidizing golf. There's the trade-off of the expense of closing the golf course, so we have to work our way out of that issue. The amount of money we're dealing with is within the normal variance of a budget our size. He looks forward to the City Manager's suggestions to work these out. We're going to maintain the services at the current level and get the management issues resolved.

**MAYOR WOOD** agrees that we can't subsidize the golf course. We have a very large area in a prime location. It's considered a park, but nobody can use it unless they're playing golf. He's not happy about having only a golf use at that location. There has to be a better solution for that.

Regarding the Fire Department, he spent 31 years in public safety, and Fire and Police Departments run on overtime because it's cheaper than hiring somebody full-time. Most people are unable to predict what kind of overtime will be necessary this year or next year. Our City is expanding, and they're responding to more calls. That causes the overtime to go up. In the sense of our budget, \$150,000 is not a lot.

By moving one of the fire stations out east, we're not going to have to respond to Vista calls as much. In December a letter was sent out saying you're stopping ambulance service to Carlsbad. It was a one-way street, and it's understandable.

Public safety is a number one priority. We had a workshop, and the citizens said don't cut police and fire. He doesn't want to have to explain to a citizen why an ambulance didn't get there on time, and there was a death or a problem. We need to keep that fourth ambulance.

**Motion was approved 5-0.**

**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.

23. **City Council: Consideration of an appeal of Planning Commission Resolution No. 2012-P49 approving Development Plan (D12-00015), Regular Coastal Permit (RC11-00002), and Tentative Parcel Map (P12-00002) for the demolition of three residential units, construction of a three-story duplex and establishment of two condominium residential units on a single lot at 1513 S. Pacific Street; and adoption of a resolution denying the appeal and upholding the Planning Commission decision approving the project – Burgess/Journigan Residences – Appellant/Applicant: Chris Burgess (this item is continued from January 2, 2013)**

**CITY CLERK BECK** stated this item was previously heard on January 2, 2013, where public input was given and the applicant had the opportunity to speak. The public hearing was then closed. The item is being brought back tonight for Council discussion only.

**MARISA LUNDSTEDT**, City Planner, stated by way of background, the project site is located at 1513 South Pacific Street on the west side of the street. It is located on a coastal bluff in the South Oceanside neighborhood. A computer graphic was used

to show the site. The zoning is RT (Residential Tourist). The existing development on-site is a one- and two-story triplex development. There is residential tourist to the south and open space designated areas to the north. The proposed improvements on-site are the demolition of the existing structures, as well as the proposal to construct a 3-story duplex.

On October 22, 2012, the Planning Commission conditionally approved the project, and required modifications to avoid building and deck encroachment seaward of the coastal stringline and to insure compliance with the permitted height provisions in the Zoning Code. The project applicant appealed this decision on October 26, 2012. The basis for the appeal consisted of 3 items.

1. Location of the stringline. The Planning Commission determined to prohibit the building and balcony encroachments beyond the stringline setback.
2. Removal of a roof trellis. The Planning Commission found that the addition of the trellis supported additional floor space and would not be consistent with the Zoning District height regulations.
3. Although not an appealable item, the applicant requested adding additional findings for the revetment discussion.

A computer graphic was used to show the stringline exhibit that the Planning Commission based their decision on. The City's stringline is shown to connect from 1601 South Pacific on the south parcel in the northwesterly corner, to the north to the Stroud residence. The 2 end points were determined by communication with Coastal Commission staff in 2006, a 2007 Coastal Commission resolution and communication in 2013.

The Planning Commission determination was to prohibit building and balcony encroachments beyond the stringline and was based on 4 items: consistency with the Coastal Act, Section 3251; consistency with the City's Local Coastal Program (LCP); consistency with the General Plan in terms of architectural compatibility; and to follow through on consistent prior actions by the Planning Commission, which was largely to discourage unwarranted seaward buildings, balconies, decks and other projections beyond the stringline and the need to prevent a series of out-of-character projects along the coastline, which would build upon one another and affect coastal views.

The item for appeal was brought forward to Council on January 2, 2013, and was continued to today to allow City staff to consult with the Coastal Commission staff and evaluate new information, which specifically was a missing segment of the stringline map. During this time, the City underwent a surveying mapping effort. We engaged a certified surveyor to document the exact location of the stringline. We again relied on the guidance from Coastal staff from 2006, 2007 and 2013.

Lastly, City staff and the applicant met with Coastal Commission staff recently. The purpose of the meeting was for the applicant to explain why their proposed stringline differed from the City's stringline. At that meeting, Coastal staff affirmed the City's position on the stringline exhibit.

A computer graphic was used to show an exhibit by the City's certified surveyor, which shows the stringline to follow the western façade of the condominiums on the south at 1601 South Pacific Street, connecting the northwest corner to 1507 South Pacific Street to the north, which is the Stroud residence. The graphic is consistent and a more refined version of what the Planning Commission based their determination on.

A computer graphic showed what the potential encroachment past the stingline would be, as proposed by the project applicant. The upper levels would encroach

anywhere from 7 to 9.5 feet past the stringline with decks and habitable space across the stringline. The lower level would encroach anywhere from 3 to 5 feet.

From a regulatory context, the 1986 Zoning Ordinance is relied upon. Provisions there state that buildings or structures shall not extend further seaward than the line established on the stringline setback map. However, there is a sentence at the end that says appurtenances such as open decks, patios and balconies may be allowed to extend seaward of the stringline providing that they do not substantially impair the views of the adjoining properties. The Planning Commission did evaluate this entire Code Section and felt that the proposal from the applicant would potentially impair views of the adjoining properties.

In summary, staff's conclusion remains consistent with the information presented to the Council on January 2, 2013, which is that the project as conditioned by the Planning Commission is consistent with the requirements of the Zoning Ordinance, the land use policies of the General Plan and the policies of the LCP. Specifically, the project does meet applicable development standards for the Zoning District as well as for architectural compatibility. Staff recommends adopting the resolution denying the appeal to the Planning Commission conditions on Resolution 2012-P49 and affirming the conditional approval of RC11-02, P12-02, D12-15.

**COUNCILMEMBER SANCHEZ moved** to adopt the resolution denying the appeal and affirming the Planning Commission's decision to conditionally approve the subject development and adopt the findings established in Planning Commission resolution 2012-P49.

We continued this hearing to get clarification from Coastal Commission staff. They have indicated that they agree with staff's prior understanding of what the stringline is. They've already indicated that this would not be consistent with our LCP and; therefore, there is nothing else we can do.

**MAYOR WOOD seconded** the motion.

**COUNCILMEMBER KERN** stated we have a firm stringline now. Before we move on, he asked the applicant to come up and bring everyone up to speed on this.

**LARRY TAYLOR**, Taylor Group, represents the applicant, Chris Burgess. At the January 2, 2013, appeal hearing on this, there was an agreement beforehand that eliminated any discussion by the applicant with respect to the stringline so he thinks it would be proper that they have a few minutes to talk about that.

A computer graphic was used to show the site and surrounding area. He pointed out what he believes to be the stringline and what the City shows as the stringline.

In the staff report, one of the reasons explaining why the hearing was continued was to give staff time to evaluate information that was provided a few days before that hearing. A supposed "lost" stingline exhibit was shown. That exhibit should be used to assess the intent of the stringline. Any surveyor who says they can measure distances off this exhibit is not being straight.

Regarding the history of 1507 South Pacific Street, the Planning Commission originally approved that project with the 91-foot stringline, not 89 feet. On appeal to the Coastal Commission for reasons not related to the stringline, Coastal staff said the western stringline was set at 91 feet. The design of the house was approved at 89 feet, so they didn't propose to build all the way to the stringline. They added a special condition that said the stringline is at 89 feet and required that to be shown on the plans.

We received a letter from Planning staff at the City that says the stringline is at 91 feet. It also says that a Coastal staff member disagreed with the staff's location of the stringline for this lot by saying that the stringline continues in a straight line following the western edge of the condominiums for lots to the south. City staff on this project, which is a few doors to the north, did not agree with Coastal staff. They went with what the evidence seemed to show on that project, which was where the old building was on that site. If Coastal staff's opinion as expressed in that letter was true, the stringline would be about 9 feet back from where the 89-foot line is and about 11 feet back from what City staff approved on the project.

We met with Coastal staff on Monday. In that meeting Coastal staff said they aren't going to recommend a less conservative stringline than City staff recommended. If Council chooses to accept our interpretation and approve the project with that stringline, Coastal staff can appeal the project. He can't predict if they will or won't.

We're asking to change one line in the resolution. Don't use the northwest corner of that building, use the southwest corner because that's a point everybody can agree on. Approve the appeal in regard to eliminating Condition #7 from the Planning Commission resolution that says you can't go past the stringline. We're not going to build the building past the stringline; we just want to use the real stringline. The project does include balconies that extend 4 feet beyond the stringline, but those are allowed. There aren't any findings in the staff report or Planning Commission resolution that said this project substantially impairs private views from neighbors, so it should be allowed.

**COUNCILMEMBER KERN** thinks that's the only issue that was left hanging. If we do what the applicant asked and allow you to build your habitable area up to the stringline, you can have a 4-foot balcony past the stringline, which is allowed, and then you can fight it out with Coastal. We brought this back in a hurry because you wanted to get started in a hurry. Once you get down the Coastal, it's going to be a while.

**MR. TAYLOR** stated we can't control what Coastal is going to do.

**COUNCILMEMBER KERN** is sure one of the neighbors will appeal this. If your request is for us to approve it up to your stringline and then 4 feet past it, and you're then willing to fight it out with Coastal, that's fine with him.

**MAYOR WOOD** stated when this came up at the last Council meeting he asked them if they were sure they wanted to come forward with this. He's been told by Coastal staff that if we don't enforce these semi-minor regulations, they will take it out on us in our big projects and hotels. He's not going down that path, and that's why he seconded the motion. They are a very powerful organization, and it will cause you a lot of work and time, and potentially cause us grief in the future for major projects. No matter how the vote goes, Coastal is going to take you on.

**COUNCILMEMBER KERN** stated even if you're successful, you're going to be delayed a minimum of 6 months, and maybe even a year. That's time and money. He supports private property rights. He understands stringline issues because it's a public interest where the stringline is. In this process it seems like it's been an arbitrary decision. We've already moved the stringline once.

**CHRIS BURGESS**, applicant, stated they say that where we have placed the stringline is impacting public views, and there is no basis in that. They haven't proven anything. We've come to this point, and we feel that's where the stringline is.

**COUNCILMEMBER KERN** stated if you want to fight that out with Coastal Commission, he will support your fight. It's your fight, your land and your project.

**DEPUTY MAYOR FELLER** stated if you stand where that stringline is, you can't see anything to the south just because of what's hanging off the back of 1601. That's a

significant item when you're talking about blocking views. If you cross Buccaneer Beach going north, there's a whole complex that's visible from the stringline that's proposed. The views are not blocked at all. He supports the process they're going to have to go through with Coastal. You should be able to add the decks as long as they comply with our suggestions in our plan.

**CITY ATTORNEY MULLEN** clarified you have a motion by Councilmember Sanchez, that was seconded by the Mayor, to deny the appeal. He would recommend voting on that, and then if need be someone can introduce a second motion.

**COUNCILMEMBER FELIEN** asked if the Coastal Commission agreed with our interpretation of the stringline or were they insisting on that interpretation of the stringline.

**MS. LUNDSTEDT** responded the Coastal Commission staff agreed with the City's location of the stringline.

**COUNCILMEMBER FELIEN** clarified they're accepting our interpretation but they're not insisting on that interpretation.

**MS. LUNDSTEDT** responded they're accepting the City's position on the stringline. For clarification, the City's location of the stringline was based on earlier guidance from Coastal Commission staff.

**COUNCILMEMBER FELIEN** stated it seems to him that the straight stringline, without the angle between the 2 farther points, makes sense. Ultimately the Coastal Commission can choose to disagree and impose whatever decision they choose. If the applicant wants to go the hard way instead of the easy way, that's his choice to fight for the extra 2 feet. He supports the balcony extending beyond the stringline.

**Motion failed 2-3, Kern, Feller and Felien – no.**

**COUNCILMEMBER KERN** stated it's the applicant's right to fight this out with the Coastal Commission, and he's going to grant him that right. He **moved** to uphold the appeal and allow the applicant to build his livable area up to the stringline. We will make the change from the northwest to the southwest corner and allow him to build the balconies and patios beyond the stringline by 4 feet.

**GEORGE BUELL**, Development Services Director, has concern with respect to a reinterpretation of the stringline. That is a technical issue. We've been working with that and have hired a surveyor to establish a surveyed location throughout the length of the City. If we get into a lot-by-lot reinterpretation of where the stringline may or may not be, then it becomes very complicated over the course of time.

**COUNCILMEMBER KERN** stated if we had that survey to begin with, we wouldn't be having this conversation. Evidently people have been working on the assumption of an existing stringline that some of the people interpret differently. In some of the back-up material, he noticed we moved it once already. That was staff. The survey is going to be good because it needs to take the interpretation away from staff. We need to have hard numbers and locations so when the next person wants to build there, we can show them the surveyed stringline. Then we won't have to do this again.

**DEPUTY MAYOR FELLER** seconded the motion.

**COUNCILMEMBER SANCHEZ** clarified that we're going against our own staff's technical study about where the stringline is. We're saying the reason is that we want to give this guy the opportunity to fight the Coastal Commission, which means fighting ourselves because this is our own LCP. In order to change it, we're going to have to do

an LCP amendment. We're going to go against our own laws to give these guys a hope that the Coastal Commission will again violate the law and give them their Coastal Development Permit. It makes no sense. This is about public use, character and upholding and being consistent with our LCP. You don't base it on whether your neighbor says it's okay. That's not how we do development in Oceanside.

She will be appealing this, along with several other people, because this violates our laws. We have laws to have uniformity. You knew up front that the Coastal Commission and City staff disagreed with your interpretation. You're going to waste all of this money and end up being denied. You're going to waste your time and valuable Coastal staff time. That also means that something we might want to have processed will take even longer because we're passing the buck here.

This is something that came up during Coastal Commission meetings with the cities. The cities were saying they wanted to have their projects processed in a timely manner. She told them that unfortunately she's on a Council that passes the buck. They get contributions from developers and, therefore, they're going to say yes to anything, regardless of whether or not it's consistent with our laws or whether our neighborhoods and residents want the project. We were elected to follow and uphold the laws of the Country, State and City. This is such a waste of time.

**CITY MANAGER WEISS** clarified the intent of the motion is you want to approve the project as proposed by the applicant, with the location of the stringline as proposed by the applicant, and allow up to a 4-foot extension of a deck/patio beyond the stringline.

**COUNCILMEMBER KERN** responded that's correct.

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

24. **City Council: Consideration of a call for review of Conditional Use Permit (CUP 12-00009) to allow for the establishment and operation of an auto towing yard on a 24,436-square foot portion of a fully developed 4.57-acre site located at 1833 Oceanside Boulevard, within the Fire Mountain neighborhood; and adoption of a resolution upholding the Planning Commission decision approving the project – Roadway Auto Towing – Applicant: Manuel Martinez**
- A) Mayor opens public hearing – hearing was opened.
  - B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Mayor Wood and Deputy Mayor Feller reported contact with staff, public, and being part of the appeal process; Councilmembers Felien, Sanchez and Kern reported contact with staff and public. Councilmember Kern has been by the site.
  - C) City Clerk presents correspondence and/or petitions – none.
  - D) Testimony, beginning with:

**RICHARD GREENBAUER**, Senior Planner, provided Council with an analysis and recommendation to uphold the Planning Commission's action to approve the project to establish an auto tow yard at 1833 South Oceanside Boulevard.

Applicant

**CORY MIHOLICH**, 2735 Cazadero Drive, Carlsbad, is the facility manager of the site and is at the facility every day. Roadway Towing is a well-qualified company. Before we signed a lease with them, we made sure to check out their existing operations. He was impressed with the cleanliness of their facility, quality of their customer service, their offices and especially their trucks. Roadway Towing has the nicest vehicles he's seen in the towing industry. They have the low emission diesel technology. He's happy to have them as a tenant for years to come.

Computer graphics were used to show various views of the site. There is no visibility of the actual business from Oceanside Boulevard. Roadway would not bother any businesses or residences as they would have a straight shot into their site. They are over 500 feet from the closest residence.

The Engineering Department reviewed the project and made 2 recommendations in order to comply with CEQA. He would personally work with Roadway Towing to make sure that we maintain a thorough list of best management practices to insure that we mitigate any potential pollutants that could be entering storm waters, etc. They proposed that we put a soil waddle around the exterior fence of the site to catch any possible contaminants that could have slipped past us.

The site has a covered carport with a raised curb around it to make sure that oils and contaminants are kept in there, even under rain and storm conditions. He showed pictures of how the site drains under these conditions. Landscaping was done pursuant to the recommendation of the Planning Commission.

A sound engineer has been to the site and determined that noise is not an issue. We are in compliance and will not be bothering the nearby residences that are approximately 700 feet away from Roadway's front fence and, at the closest, 450 feet from their back fence.

This site has previously been used for trucking. It used to be a lumber yard, and for the last 14 years, El Camino Rentals has used the space. The previous tenant left about 2 years before we signed a lease with Roadway and actually serviced vehicles on the site. Roadway Towing will only be parking vehicles on the site.

He would like to do more landscaping and add common area trash cans. The City mentioned meeting trash regulations, and he is aware of enclosing trash dumpsters behind a block wall, etc. The Planning Commission previously decided that the project meets or exceeds all zoning ordinance and land use policies of the General Plan. It is exempt from CEQA because we are a Class 1 existing facility. It is also exempt because it's less than 1 acre. In 2008, at the last site assessment, it was thoroughly torn apart and proven to be compliant for every environmental concern.

Roadway Towing is a good business. They provide services that the community needs. Towing can be very important to public safety as well if a vehicle is blocking traffic or overturned on the freeway. They are close and would respond more quickly.

#### Public input

**ELIZABETH J. GRAFF**, registered lobbyist, 3528 Sea Ridge Road, stated the approval of this project is an example of an action that is not consistent with the City's ongoing application of its General Plan policies. Usually when someone comes to town with something like a towing company, they're told they're undesirable and directed to areas where they aren't visible or close to existing residential, and where they can be placed inside buildings. This rationale has been used with other towing companies in locating them. Findings inconsistent with the General Plan are part of the resolutions used to approve or deny projects in Oceanside. For example, when NK Towing was approved by the Planning Commission in October of 2011, their finding cited the fact that their building would be located entirely within an existing 8,000-square-foot building, and they continued to say that the site improvements would significantly improve the visual image of the property and positively contribute toward improving neighborhood values.

Roadway Towing was not subject to the same guidance that other similar uses have been subject to. They were welcomed to a spot next to Loma Alta Creek in the Fire Mountain area in an open setting. Their screening plan is black vinyl slats, and they

presented an enhanced landscape pallet after the Planning Commission hearing. She's not sure they ever presented a landscape plan.

The City Council can reverse the Planning Commission's decision approving Roadway Towing by citing information that it does not meet the General Plan policy requiring wide industrial uses to be inside a building, which has been consistently applied over the years to tow yards and similar uses. It's also proposed for the Fire Mountain neighborhood, which has as one of its goals the retention of a rural and rustic nature. An auto storage yard and towing operation is different from the existing heavy equipment yard in level of scope and activity. Vehicles stored there will vary in nature of disrepair and maintenance and arrive at unpredictable hours. The amount of suddenly impacting noise events cannot be controlled.

**AN UNIDENTIFIED MALE** works for a tow company in Oceanside, but his comments have to do with the incorrect information in the staff report. Regarding the hours of service, with a PSA (Purchase and Sale Agreement) you're required by the law enforcement agencies to have that vehicle available to the customer 24-hours a day. They may need releases, but if they have them, then they are supposed to have the ability to come get it. There are also concerns with water pollutants coming in there. The existing business is a rental facility that maintains their equipment in very good order. You're intentionally bringing in damaged, leaking vehicles that have pollutants that are going to exit the vehicle. It's hard to mitigate that control, even with the services out there right now. This is being established next to an existing continual creek that has provided problems for the City in the past. Even if the runoff does come off that into the storm drains, where do those storm drains outflow to? Most of them come back to the local creeks and then out to the beach. That's a concern.

In their statement, they said there would be revenue enhancement for the City. The only real revenue enhancement would be in the licenses. The revenue from any law enforcement tows or storage of the vehicles would be from the existing community that's already here. What you gain here you'll be losing somewhere else. The net gain is the business license fee.

**NADINE SCOTT**, 550 Hoover Street, agrees with everything Ms. Graff said. She was also at the previous hearing for NK Towing. City staff was quite adamant in the application of the land use and zoning policies that these operations must be indoors. They talked about it at length, and the gentleman from that hearing went out and got a building where everything is enclosed. He has been doing everything right.

This group is going to do everything wrong. Apparently, one of their yards has been suspended from CHP tows. One of the co-owners is Evan Khati, and he's a convicted human traffic smuggler. The guy wants to come into town and pay to play, but he's not going to be paying our Board of Equalization fees because his corporation is in Escondido. We're going to monkey around with some royalty figure, and we'll be lucky if we get the money.

This impedes the views from Fire Mountain that they're guaranteed in the land use.

NK Towing is a legitimate employer with 70 employees, many of whom live in Oceanside. That does benefit our City. This is not going to benefit our City.

She received a phone call this afternoon and apparently CHP will not allow a contract with someone who does not have interior storage in a building. These are all negative factors. She has nothing against the owners of the property, they're terrific people, but this is not the kind of tenant the City should be approving. At one time, they were talking about barbed wire on top of their fences to keep people from getting in to get their cars. That's visual blight from the neighborhood of Fire Mountain, which is guaranteed beautiful rural views.

The noise is an issue. It's going to go 24 hours no matter what they say. We do not need these intensive uses in the Oceanside Boulevard corridor. She lives in the Oceanside Boulevard corridor.

The unequal treatment should be reason enough to keep these people out of our City. The Oceanside Boulevard Vision Plan was quite clear that we want less intensification of industrial uses. She asked Council to deny this project.

**JIMMY KNOTT**, 127 Sherri Lane, lives near this site and agrees with what most of the people have said. He takes umbrage with Mr. Milolich's comment that nothing has been done with the Oceanside Boulevard Vision Plan. He is on that committee, and 50% of the people on that committee offered to Council to establish a development commission, and that has yet to be acted upon. We want to make sure everything fits in that plan. This does not quite fit into it. We want to have something more progressive and more interested in the future of business. Towing will be necessary as long as we have vehicles, but what is the future vision of towing? Mr. Milolich was diminishing a lot of the things we have worked on for months. What was presented seemed like an interim usage. Nothing was said about working with the residents or the businesses in the shopping center there. There are a lot of questions that have been presented and need to be answered.

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

**CITY CLERK BECK** stated he was advised earlier this week that there was no rebuttal on this particular item, only presentation.

**CITY ATTORNEY MULLEN** responded yes, this is actually a call for review and not an appeal, so it's in Council's discretion to give them the 3 minutes.

#### Applicant

**BILL MILHOLIC**, 2735 Cazadero Drive, Carlsbad, is one of the trustees that own the property. The Planning Commission passed this resolution unanimously after we came back the second time. The first time it did not pass and they asked for more landscaping and clarification about the storm water runoff. We clarified all of that and have done a decibel test, and it passed with flying colors. We take water samples twice a year, after the first storm. It's cost him more than it should, but that's what they want so that's what he's doing.

OshKosh was one of his former tenants, and they were a military contractor who supplied the armor on the vehicles before they went to war and also refurbished them when they came back.

You cannot see the cars in this yard behind the fence and landscaping. The water drains away from the creek. He went through this Conditional Use Permit (CUP) about 10 years ago, and our water drains away from the creek and toward the street, where it's supposed to. About 3 years ago he was called into this building to meet with a consultant that Oceanside hired for the Oceanside Beautification Plan. That gentleman asked him for \$100,000 to help pay for the plan for beautification of Oceanside Boulevard. He told that gentleman at the time that he has his own plans for his property, and the gentleman told him that his plans would not be approved. There's something wrong with that.

He would like to make improvements to this property, but right now he doesn't have enough tenants in there to make those improvements. He struggles to make payroll every other Friday and cannot pay \$100,000 to come up with an Oceanside Boulevard Beautification Plan.

When this came before the Planning Commission the second time, it was passed unanimously.

He started El Camino Rentals 38 years ago. We are recognized as the best rental yard in San Diego County. We know what we're doing. We checked into these people and there was one glitch on their taxes that was a clerical error and was taken care of. One of the owners was convicted of smuggling people into the Country illegally, but that was a long time ago. These are good people. We have rejected tenants who wanted to come in because we didn't think they were good enough.

**COUNCILMEMBER SANCHEZ moved** to deny the project based on the findings that this project is inconsistent with our General Plan regarding light industrial uses, especially with regard to visual blight; it's inconsistent with the Fire Mountain Planning Guidelines regarding community character; it is not consistent with our vision for Oceanside Boulevard; too much noise; and concern that this applicant was treated differently from a previous applicant for a tow yard at the same location.

Having listened to the previous applicant talk about the way he was treated, she is very concerned about having someone previously being told he has to cover it and landscape it and that he couldn't have it in this exact same location and directed to go somewhere else. We need to treat applicants equally and fairly. Knowing that one applicant with the exact same plan was rejected, she's not sure how this one got this far.

She wants to pursue our vision for Oceanside.

**MAYOR WOOD seconded** the motion.

**DEPUTY MAYOR FELLER** remembered back to 2001 when a young lady had a towing company and wanted to come into Oceanside in the Rancho del Oro area where there were no homes within a long distance. They were also told that everything has to be stored indoors, and that didn't pencil out for her. The gist of his objection to this is that we're not requiring enclosed storage, like we did with NK and previous applicants. It is something that has been in place for at least 10 years. He feels bad for somebody who has done all of the right things according to our rules, and then somebody else doesn't have to. He has no objection over the landowner. They're outstanding. He drove through the property and tried to see every angle. It's a great location. They would have already had a tenant in place for a couple of years now if not for the requirement that it be enclosed.

His objection isn't about line of sight or visual blight. He is inclined to deny this unless they come up with indoor storage.

**COUNCILMEMBER FELIEN** stated his main concern here is the issue of equal treatment. This seems to be a real stretch from what we required NK Towing to do and what we seem to be finding acceptable here. Does the City require tow lots to be indoors or not? If the answer is no, then why was NK Towing required to have an indoor lot?

**GEORGE BUELL**, Development Services Director, responded that over the course of time, staff has processed a number of CUPs for tow yards. Unfortunately, there has been an inconsistent interpretation of the Zoning Ordinance. With respect to the particular provisions that speak to outdoor storage in the particular zone, he asked staff to answer Councilmember Felien's questions.

**MR. GREENBAUER** responded that in reviewing this project, he understands that the previous one was done in a different manner, but it did meet the intent overall. The light industrial area allows for outdoor storage as long as it's screened. The enclosure component specifically stated within the General Plan is for the manufacturing

from raw material. That's the way it was interpreted. There were two different perspectives on that from staff, and that's what created the inconsistencies in how these were processed.

**COUNCILMEMBER FELIEN** asked if then NK Towing got put through the ringer because they happened to get the wrong staff member processing their application.

**MR. BUELL** wouldn't go so far as to identify a particular staff member, other than the typical checks and balances and the collaboration that happens among Planners. With the reduction in staff, there was an inconsistency. As a result of a reduction in staff, there is less time for collaboration, and it should not have happened.

**COUNCILMEMBER FELIEN** clarified that NK Towing could have an open lot. Didn't they go to pretty much this same location and were told it wasn't going to work? Now we have this application, and it's a different day of the week so today it works?

**MR. BUELL** responded this was very concerning to him. He was unaware of it until we got into the middle of this particular appeal that there had been some inconsistency. It is his understanding that the applicant for NK Towing moved from this site to the site where they are now voluntarily as opposed to something that was being compelled by staff.

**COUNCILMEMBER FELIEN** has been to NK Towing and it is an impressive site. It's all indoors and enclosed with landscaping that is very eye appealing for a towing company. This applicant is being held to a much lower standard as far as the visual impact of their operations. How do we resolve that? Do we just tell NK Towing that's too bad? Do we say that our policy is that we're going to have enclosed tow yards?

**MR. BUELL** responded in this case Council could provide direction to staff as to how you would view this type of use in this particular zone.

**COUNCILMEMBER FELIEN** is uncomfortable approving this tonight. As a City, we need to resolve this issue. It's such a discrepancy with such a wide variance of treating 2 business applications with the same business intent so differently that we need to resolve some issues as a City before we're making any more decisions here.

**COUNCILMEMBER KERN** stated we're not here to talk about NK Towing. Were they treated unfairly? He thinks so and other people on the dais think so, but we can't say that we treated them unfairly so we have to treat everyone else unfairly. That's not a good reasoning. The call for review was on 2 issues and that's all we can talk about, the 2 issues that were presented. One was that the applicant is not required to meet standards or conditions for trash enclosures, landscape plans and solid waste fences as other projects in the same zone. The presentation he just saw shows they've met all of those requirements. This one has been handled.

The other one was that an open towing yard in this location is not consistent with various policies and land use elements. The back-up material has 2 pages explaining that it is. He doesn't think we can justify those findings. That's the only 2 things we're voting on tonight – those 2 findings.

The issue of whether NK Towing was treated unfairly is not the issue, and we shouldn't go down that road. He apologized that NK was treated unfairly and we do have to come up with some consistent plans because right now it's luck of the draw. What Planner you get determines what your project is going to be. We have to take that element out of the equation. We have to be consistent, but we can't do it on the backs of this project. He will vote against the motion. We're going down the wrong path.

He agrees that the inconsistencies are terrible. The previous item about the stringline got us in trouble because of the inconsistent determination of staff. We're going to have to come up with some plan to get these inconsistencies out of the system. That way when someone comes to put a business in Oceanside, staff can look at a book and see it's either allowed or not allowed, and CUPs are allowed or not allowed. That way we don't have things like this where the Planning Commission approved it unanimously, and then it comes to Council and all of the political aspects come in about how we treated a previous applicant. That is not the question here. The question is these 2 items, and he finds that there are no findings for either one of these items.

**CITY ATTORNEY MULLEN** stated we will have to come back with a resolution assuming this motion passes, that will document and put forth all of the appropriate findings.

**COUNCILMEMBER KERN** stated so we're going to make up findings to make it pass.

**CITY ATTORNEY MULLEN** responded no. We're going to draft a resolution based upon the discussion that took place on the Council dais.

**COUNCILMEMBER FELIEN** asked what the motion is we're voting on.

**CITY CLERK BECK** responded the motion is to deny the project.

**COUNCILMEMBER FELIEN** requested this be postponed to the next meeting.

**MAYOR WOOD** does not want to postpone this.

**Motion was approved 3-1**, Felien abstaining and Kern – no.

#### **CITY COUNCIL REPORTS**

15. **Mayor Jim Wood**

**MAYOR WOOD** announced that Luanna Erickson, the mother of one of our City employees passed away. She was very active in the community. Terry Bryant passed away as well. He was on many Boards and Commissions in the City.

16. **Deputy Mayor Jack Feller**

**DEPUTY MAYOR FELLER** announced that Gracie Phillips passed away as well. Randy Mitchell is in bad health. He was a former member of the Chamber of Commerce.

17. **Councilmember Gary Felien** – no report due to time.

18. **Councilmember Jerome Kern** – no report due to time.

19. **Councilmember Sanchez** – no report due to time.

#### **CLOSED SESSION REPORT**

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

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

January 30, 2013

Joint Meeting Minutes  
Council, HDB, CDC and OPFA

**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 10:09 PM on January 30, 2013, to a Council workshop on Wednesday, February 20, 2013, at 2:00 PM.

**ATTEST:**

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Zack Beck  
City Clerk, City of Oceanside