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

MAY 1, 2013

REGULAR MEETING 2:00 PM COUNCIL CHAMBERS

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

NOT OFFICIAL
UNTIL APPROVED AT SUBSEQUENT
MEETING BY CITY COUNCIL

Mayor
HDB President
CDC Chair
OPFA Chair
Jim Wood

Deputy Mayor
HDB Vice President
CDC Vice Chair
OPFA Vice Chair
Vacant

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

City Clerk
HDB Secretary
CDC Secretary
OPFA Secretary
Zack Beck

Treasurer
Gary Ernst

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

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

For this regular and joint meeting, the Council sat as all 4 governing bodies [Council, HDB, CDC and OPFA] simultaneously but took action as the respective agency for the jurisdiction covered by each item. Council titles only will be used for brevity throughout the entire meeting.

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB), Community Development Commission (CDC) and Oceanside Public Finance Authority (OPFA) was called to order by Mayor Wood at 2:02 PM, May 1, 2013.

2:00 PM - ROLL CALL

Present were Mayor Wood and Councilmembers Feller, Kern and Felien.

Councilmember Sanchez arrived at 2:06 PM. Also present were 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, 2B, 3A, and 3B. [Item 2A was not heard]

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

CITY COUNCIL, HDB, AND CDC CLOSED SESSION ITEMS

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

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

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

Direction given (OCEA, MECO, Western Council of Engineers, OPOA Non-sworn); no reportable action

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

A) [CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION (SECTION 54956.9(c)) Initiation of litigation by City pursuant to Subdvision (c) of Section 54956.9: One case]

No closed session was held

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

Hirst v. Garcia, City of Oceanside
Superior Court Case No.: 37-2010-00101050-CU-PO-NC

In closed session, Council voted 5-0 to authorize an appeal should the City's post-trial motions not be successful

3. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR (SECTION 54956.8)**

A) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: 7.38 acres at Pala Road near Los Arbolitos Boulevard (APN 158-301-46); Negotiating Parties: City of Oceanside and Concordia Communities, LLC; Negotiator for the City: Douglas Eddow, Real Estate Manager; Under Negotiations: Price and terms for the sale of real property

Direction given; no reportable action [Councilmember Kern recused himself due to a potential conflict of interest]

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 the lease of real property

Items discussed; no reportable action

4:00 PM – ROLL CALL

MAYOR WOOD reconvened the meeting at 4:02 PM. Present were Mayor Wood and Councilmembers Sanchez, Feller, Kern and Felien. Also present were City Clerk Beck, City Manager Weiss and City Attorney Mullen.

CONSENT CALENDAR ITEMS [Items 4-8]

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

The following Consent Calendar items were submitted for approval:

4. City Council/Harbor/CDC/OPFA: Acceptance of Joint Minutes of the Small Craft Harbor District Board of Directors, Community Development Commission, City Council, and Oceanside Public Financing Authority of the following meetings:

March 21, 2012, 4:00 p.m.	Adjourned Meeting of the City Council
March 28, 2012, 2:00 p.m.	Regular Meeting
December 19, 2012, 2:00 p.m.	Regular Meeting

5. City Council/Harbor/CDC/OPFA: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)

6. CDC: Adoption of **Resolution No. 13-R0311-3**, "...approving the submission of an application for an allocation under the Mortgage Credit Certificate Program, an allocation of qualified mortgage bonds, electing to exchange said bonds for mortgage credit certificates, appropriating a deposit of $5617.22, an initial filing fee of $600, and authorizing execution of the application by the Executive Director", a program that provides home-ownership assistance to low-income households, through the California Debt Limit Allocation Committee (CDLAC) in the amount of $1,123,444

7. City Council: Approval of amendment 4 **[Document No. 13-D0312-1]** in the amount of $61,950 to the agreement with Lance, Soll & Lunghard, LLP, for the preparation of the Annual Street Report and Special District Reports and extending the term of the agreement for one additional year to provide audit services; and authorization for the City Manager to execute the amendment

8. City Council: Approval of assignment of rights and obligations under conservation easement for Ernest A. Taylor Estate subdivision map number 15334 **[Document No. 13-D0313-1]**; authorization for the Mayor to execute the assignment; and authorization for the City Clerk to record the assignment

COUNCILMEMBER SANCHEZ moved approval of the Consent Calendar [Items 4-8].

COUNCILMEMBER KERN seconded the motion.

Motion was approved 5-0.

GENERAL ITEMS

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

9. **City Council: Approval of a professional services agreement (PSA) and property lease agreement with REACH Air Medical Services of Santa Rosa for aeromedical services with an initial annual payment to the City in the amount of $772,000 required under both the PSA and the lease of a portion of the Fire Training Center at 110 Jones Road; approval of five new positions under the program; and authorization for the City Manager to execute the PSA and lease upon receipt of all supporting documentation**

DARRYL HEBERT, Fire Chief, stated this is a proposal for a public/private agreement with REACH. He used computer graphics to review Oceanside Fire Department statistics, causes of trauma incidents in Oceanside, air transport considerations for the Oceanside Fire Department, and information on trauma centers in San Diego County. Since Tri-City is not a trauma center, Oceanside uses Scripps La Jolla. Palomar is also a trauma center, which might be a little closer geographically, but since they have such a large catchment, they've determined that Oceanside would be better suited for Scripps La Jolla. A typical helicopter transport would take off from the Fire training center, which is near the airport, then travel down the riverbed and up the coast to Scripps La Jolla.

We are looking to partner with a company called REACH, which offers air medical services. It was founded in 1987 by Dr. John McDonald. Based on what he's read and heard in talking to other organizations, this is a real family-oriented company. He believes that based on reading the history of the founder, who served in the Navy, was the founder of the trauma system in Santa Rosa and has a lot of experience dealing with para-medicine and trauma-type injuries.

REACH also provides helicopter and fixed-wing airplane transport for critically ill patients. They have bases throughout California. Their fire department partnership is in Upland, California. They've been involved in that for the last three years. The heliport will be at 110 Jones Road at the Fire Training Center. There's a portion of the training center that sits to the north, adjacent to the airport. It's not around residences; it's in the industrial area. The flight paths are ideal. It's a good area for a heliport, especially with the partnership.

Another computer graphic was used to show the training center where the proposed heliport would be, the primary approach, and the primary departure. The primary departure would take place over the large vacant area where the buses are. It would come in over the buildings of the North County Transit District maintenance shops for the approach. The Humane Society and the residential areas that are to the west and south wouldn't be affected by the approach or departure. They plan on putting in over $248,000 of improvements with asphalt. They also plan on putting in crew quarters where the crews would be housed.

The benefits we get from partnering with this company is that they would provide the following: the airship, including maintenance and fuel; jet fuel brought to Oceanside Airport; the pilots; the flight nurses; the Medical Director, which we've asked to be out of Tri-City Hospital, our local hospital where we transport in roughly 30-39 patients per day; reimbursement for the leasing of our facility, crew quarters and storage; reimbursement for administrative management of the program; and reimbursement for positions, which would include all costs. We don't actually have to hire firefighters. We could take the reimbursable moneys and use the current staffing to staff the helicopter.

Other benefits would include: faster service, based on it being in our City; shorter turn-around times; first responders return to service more rapidly because of the shorter turn-around times; reduced response times, our engine companies would be freed up quicker since REACH is at the site, and doesn't have to fly in and we don't have to wait for them; free clinical education for our personnel; and a command platform,

which could be used for wildland situations in the riverbed when we'd want to look at where the fire might be heading. We'd send a helicopter up and would command it at that point. If something did happen, we could make it available. He can't see using this a tremendous amount, but it's just an extra asset that we don't currently have in our City.

REACH is going to put in $248,000 of permanent improvements to the site. We'd have direct access to the air medical staff, which we don't have today. We'd have more local control that would greatly reduce weather restrictions, based upon their estimates of the helipad itself. We're probably going to have a ceiling of less than 300 feet. The good thing about this is that there are times when the weather is good here and not at Palomar, or vise-versa. Most of the time the helicopter can take off in lower ceilings more than it can land in lower ceilings. Having a helicopter here is a benefit for us.

It will also serve other North County departments. It provides competition for the current provider, and there is no fiscal impact to the City. They are also offering a membership program and revenue sharing. A computer graphic was used to show the areas throughout the U.S. that members can receive air transportation if injured. They would cover the cost of the air ship that flies you to the hospital. They are also willing, in the contract, to give 5% of each membership back to the General Fund. He asked Council to allocate that toward the El Corazon project so we can get the public excited about this. They get a little something, and it also helps a need we have for the El Corazon area.

This is an outstanding opportunity for a public-private partnership. He received a recommendation from the Police and Fire Commission, and he is recommending it.

Public input

LARRY HALL, Mercy Air, 1670 Miro Way, Rialto, stated Mercy Air has been serving this community for well over 20 years. In that time, we have served the community without any impact except to the direct user, meaning we bill the patient only. With new leadership coming into this region, we met with the Chief and other members of the board to introduce ourselves. If the citizens of Oceanside feel that this is in their best interest, Mercy Air would like the opportunity to develop and offer a model that would be consistent and fair and allow Council to decide what is in the best interest of the citizens of Oceanside. When we met, there were no issues with Mercy Air, so we were wondering why we weren't afforded the opportunity to present a model to the public.

JOE GARDESKI, 1597 Ridgeway Street, stated as a businessman in the private sector, you'll rarely see him make an appearance at a City Council meeting. He does feel compelled to offer a few points of consideration today in favor of the agreement proposed by the Fire Department with REACH Medical Services. First, our City has an exceptional Fire Department that looks out for the residents of Oceanside, and we can trust their judgment. In addition to effectively handling fire-related and emergency response services to the community, in recent years the Fire Department has improved its transparency, public outreach and educational efforts within the community to the credit of our Fire Chief and his chain of command.

As a result, he and his wife were inspired to become more deeply involved with the Oceanside CERT (Community Emergency Response Team) volunteer organization. Through CERT we are now better prepared to provide initial support for ourselves, our families and our neighbors during wide-spread emergencies or disasters, while first responders are busy tending to more critical issues. Through this involvement we have come to better know our City and develop a high level of trust in our Fire Department and its leadership.

Secondly, Fire Department experience should account for a lot when considering their proposal. In 2008, the Fire Department responded to almost 16,000 service calls and, four years later, this has grown to almost 18,000. Most of those are emergency medical services responses. This tells him that our paramedic/firefighter personnel live in a real-life, on-the-job classroom and probably have experience and training second-to-none. As a resident of Oceanside, who is he going to listen to when a recommendation is made regarding emergency air medical services but the voice of experience - our Fire Department.

Thirdly, and perhaps most important of all to the community, the agreement would elevate the level of air medical support in his opinion. The staff report cited 269 aero-medical transports in 2012 to local trauma centers. If he or one of his loved ones was seriously sick or injured, he would want to know that the paramedic climbing aboard that helicopter to tend him while en-route to the trauma center was one of our own Fire Department-trained paramedics. That's a confidence factor. He would also want to know that the Medical Director was personally selected by the Fire Department, that a helicopter was based nearby within our City at a Fire Department site, and that the helicopter, by being based at the Fire Department site, might have more flexibility in getting airborne under low ceiling conditions rather than be grounded until the ceiling lifts. The agreement provides these benefits.

He asked that Council approve the air medical services solution that will be available when needed, faster to respond and deliver, and operate under a more seamless umbrella of Fire Department coordination and care. If the financial case is positive or even marginal, then the question for Council is not why should we approve the proposal, but why didn't we have the chance to approve it sooner?

KEN CROSSMAN, 499 Lupine Way, current Chair of the Police and Fire Commission, conveyed the Commission's unanimous approval and recommendation that Council adopt the proposal presented by Chief Hebert. Fortunately for us, the Chief was present at last month's Police and Fire Commission meeting. He made a lengthy and very professional presentation and recommended approval. After some discussion, the Commission agreed with the Chief. Of concern to the Commission was the service to the community. Currently, air support for medical purposes comes out of Palomar or Gillespie. Response time can be 20-30 minutes or longer. To have a medical helicopter based in Oceanside will benefit the citizens, release first responders much more quickly, and transport those seriously injured and critical people to the appropriate medical facility.

The Chief has assured him that the cost to the City would be cost-neutral; it would not cost us anything. He strongly encouraged Council to approve the Chief's proposal and recommendation. It would benefit the City and the citizens of this community quite well.

MARK DONAHUE, 124 Canyon Creek Way, stated as things stand right now, he opposes this decision. He's an Oceanside resident and also a flight paramedic and supervisor for Mercy Air in Riverside County. If he was in Council's position, he would expect that they would be somewhat skeptical of his decision to speak on this objectively, so he wants to address that up front. He doesn't own a single share of Air Method's stock. It's not because he doesn't believe in the company, it's because he can't afford it. He works in a different county, so if both San Diego bases were to close it wouldn't affect him one way or the other; his job is secure. The bottom line is that he has no vested interest from a financial or business standpoint, which ever direction this goes.

He stands before Council as a concerned husband and father. He thinks the Chief made a very persuasive speech, as did the other speakers, but the one piece that he hasn't heard is, what about the patient? That's what concerns him. Council's

decision has a tremendous impact on the livelihood of his wife and best friend for 15 years, Katie, and his two daughters. That's what this is all about. He identifies mostly as a father, not so much as a flight paramedic. He absolutely loves that, and it's why he's here. The only thing he cares about is, in the event that his wife or daughters were gravely ill or injured, that they receive the highest level of care out there. He doesn't think that threshold has been met. There hasn't been any apples-to-apples comparison yet that he's heard anybody discuss. At the end of the day, that's what the helicopter is there for.

It appears as though the cart has been placed ahead of the horse in this case. He's not certain that anybody in this room can say that REACH is going to provide better clinical care than Mercy Air, because there has not been a comparison. That's the big piece that's been overlooked here. He not saying he opposes it. If someone were to come in and deliver a better product for his wife and daughters, he would welcome them with open arms. That threshold has not been met yet, so he doesn't feel that an informed decision can be made.

Fortunately, we're in a position where we can slow things down, make that apples-to-apple comparison, and let the cards fall where they may. He admires the Chief's innovative spirit; however, if it turns out that REACH is not delivering as high of quality patient care, then is it really worth it? The bottom line is that the helicopter is being utilized for the most critically ill and injured patients. We owe it to ourselves and our loved ones.

We need to insure that Oceanside citizens are receiving the best clinical care possible. As far as some of these other resources, they are still available out there. Just the other day there was a helicopter flying above his house announcing that there was a gentleman of special needs. The resources are out there.

LARRY BARRY, 3973 Brown Street, agrees with Mr. Donahue that we don't have enough information. One of the things is the City involvement and this partnership that gets him scared. Chief Hebert has done these presentations before, but he leaves out a lot of important things that we need to know, such as if we're going to be hiring an Oceanside fireman to be on the air crew. That's something he doesn't want to see. He respects these men. He's a businessman of fair business practice. If they can deliver a product then great for them.

Why go out of Jones Road when we have an airport? There's plenty of space and access. He lives by Tri-City hospital. When life-flight comes in, sometimes they're on a holding pattern. The wind blows the trees in his back yard. They are loud, and it's going to make a difference. There's a dog park there and some flammable pieces of property. Why do we have to have it on the Jones Road Training Center when there's a Fire Department right there?

No Oceanside firemen should be linked to this. Let it be a free market and a private enterprise. We'll help out with the land, airfield and a hangar, but let them be a private entity. He wants to see a private industry make a profit. They're going to make a ton of money off insurance policies. Don't put it on the people of Oceanside, where we have a fireman on this, and somehow we're connected. Let them be a free enterprise and keep the Fire Department out of it.

He was in the Marine Corps for nine years as an air traffic controller. The VFR (Visual Flight Rules), regarding landing when the ceiling comes down, starts to drop in the fog layer. We live near the ocean; we're going to have a lot of fog layer. Helicopters don't fly well in the fog. We have an airstrip, and the City makes money off that airfield.

JOAN BRUBAKER, 1606 Hackamore Road, thinks this is great. She has great

praise for any paramedic in Oceanside. She believes it will not only serve the citizens or people that meet up with a bad accident here in Oceanside, but there's going to be more motorcycle accidents because people are deserting their automobiles in favor of the more economical motorcycle. It is an accepted fact that the accidents and injuries are increasing.

This will put Oceanside more on the map. It will not only be a good service to the citizens and people that have an accident while in our City, but keep in mind that the 241 toll road is moving ahead. The way the project looks, it will empty into San Clemente, but we're going to get a greater volume of traffic, which opens up the opportunity for more accidents.

If it's not costing the City anything, we should not refuse an opportunity like this.

DOROTHY BEER, 5233 Alamosa Park Drive, stated as a resident in Oceanside for 31 years, she's seen this City grow and prosper. She is currently the Oceanside CERT Program Manager of training. In this training capacity over the last three years, she's taught hundreds of civilian emergency preparedness classes under the watchful eye of your Fire Department. Riding in a paramedic unit has greatly altered her view about the fragility of life and the desperate measures these men take to preserve it. We all understand that in an emergency, time is critical.

She is in favor of Oceanside establishing a medical helicopter to be stationed here in the City. Chief Hebert has carefully presented the myriad of reasons why this would benefit our citizens. The conversation this afternoon is academic and intellectual unless you've experienced it first-hand. The sights, sounds and smells become permanently seared in your memory. She's witnessed dozens of paramedic assists in her neighborhood, on City streets and on freeways. However, twice in her 31-year teaching career she's been aware of life flight assistance. In both cases, response time was the most important factor to the panicked victim. For school staff and parents, it was a suffocating, unending wait for those paramedic teams to arrive. Those ticking minutes were an eternity. Arriving first responders offered hope to horrific situations. No matter how skilled these men were, additional help was required, and transport occurred to Palomar Airport.

She wondered how long it would take to transport an incident from Oceanside to that airport. She asked a dozen friends to drive from various points around Oceanside to the Palomar Airport, trying to factor in variables such as the Fire Department's ability to use lights and sirens. Assuming usual traffic, she concluded that it was an average of 12-14 minutes to reach the airport under optimum conditions. We then took the same identical routes to reach the Fire Training Center. The average time was 6-8 minutes for us. By her observations, response time to our own emergency transport helicopter would have been cut in half. She calls this the 6-8 minute life advantage.

When all of this is said and done, it really boils down to Council's vote. They swore to serve and protect us, and they decide our fate. A yes vote affirms that Council is willing to offer at least a 6-8 minute advantage for life to every man, woman and child in this City. She'd hate to think of the alternative.

Public input concluded

COUNCILMEMBER FELLER stated this is an important issue for our City. He agrees with the speakers that nothing is more important to this issue than the service it provides to our community. He doesn't think Mercy Air or REACH is going to hire any unqualified people. He asked Chief Hebert if the ambulances are transporting 30-39 patients per day.

CHIEF HEBERT responded that's to Tri-City Hospital. Roughly 29-39 patients a

day go to Tri-City Hospital.

COUNCILMEMBER FELLER asked how many calls are handled per year.

CHIEF HEBERT responded roughly 17,900 for the year 2012.

COUNCILMEMBER FELLER stated that's probably more than 50% of all our calls. He asked if all calls they received are going to Tri-City Hospital.

CHIEF HEBERT responded the majority of our non-trauma patients.

COUNCILMEMBER FELLER understands, but asked if around 50% of the calls his guys go on are transports.

CHIEF HEBERT responded pretty close.

COUNCILMEMBER FELLER is very supportive of the REACH Program. He had experience with his father, who was saved by the paramedics that arrived first. He's very supportive of the program. He doesn't think Mercy Air provides any less of a type of service. He can't support the use of City employees as part of the program. The current air provider doesn't use them. He believes REACH would fall in that same line as they go forward. He doesn't see a valid reason to add City employees to the program.

He **moved** approval of the lease agreement only, and to direct staff to make the necessary changes to the lease so that this can be executed by the City Manager.

COUNCILMEMBER KERN seconded the motion for discussion purposes only.

COUNCILMEMBER SANCHEZ stated this is an absolutely wonderful project for our citizens. We think about emergencies and how critical those minutes and seconds are to maintaining life and the quality of life. A matter of a few minutes or seconds could make the difference between life and death, and whether someone is going to be so traumatically injured that they will require extensive treatment and may never be able to leave the hospital. These are all costs that are born by the citizens of Oceanside.

It's important to have such a service in the region and in Oceanside, which is the largest City in the north County. Oceanside has the most urban and dense areas, and the most calls for services. We have a significant number of roads, highways and travelers. The Fire Department responded to 17,991 emergency incidents during calendar year 2012. Of those, 269 needed to be transported by air to a local trauma center.

We need to be able to ensure that we do the best that we can afford for our citizens. Chief Hebert has brought us a proposal that will reduce scene times and response times, establish a helipad at the Fire Training Center, where REACH will do $150,000 in improvements, and we will have direct access to our aeromedical staff. Local control is so critical when you have to respond so quickly. She also likes the fact that we would have access to the helicopter for other critical times, like when there's a lost child. It is so critical to be able to respond very quickly to any emergency.

We would get free clinical education for our personnel. This program would provide funding for firefighters, paramedics and management analyst positions. As she understands it, we would not be hiring new personnel; it could be done with existing personnel. With respect to the criticism of having to pay for additional retirement funds/packages, that would not be the case. This project would provide administrative management funding, a Medical Director, a lease agreement for the helipad and membership program sharing. How can we say no?

She did listen to the gentleman from Mercy. She could tell that he has a bias, and she understands that. We've lived here and had our experiences with Oceanside Fire Department, and they are the best of the best. She can say without any qualifications that this the best service we could ever get. It is a public-private program where we have control by the Oceanside Fire Department. She appreciates Mercy. However, if we have a chance to do our own program and say no, and then Fallbrook or someone else in the region does it, and we lose this extremely critical ability to respond in less time, then how are we ever going to face our residents?

She just spent time in the ICU with her Dad, and got to see people coming in and out. She had a neighbor who didn't make it. Maybe if he had gotten much faster service, he would have survived.

She thanked the people who spoke on the CERT Program. They are preparing us for what could happen. She is not prepared for an emergency and feels relieved that there are people out there that will know what to do. That will make a difference between life and death and the quality of life.

There were some comments about letting the private sector make money and charging insurance. Those insurance rates go up, and we as a community have to pay higher costs for that insurance. That's not what we want. We want the most efficient and effective costs that we end up sharing with the community. Everything having to do with healthcare is something that each one of us ends up paying for in one way or another.

She fully supports what the Chief is presenting to Council. The motion, however, guts out the personnel, except for the Medical Director and nurse. She asked Chief Hebert if he can do this without having personnel.

CHIEF HEBERT would not favor doing it at our Fire Training Center with a private company unless the Fire Department was involved and managed it.

COUNCILMEMBER SANCHEZ stated his initial proposal was to provide funding for firefighter and paramedic management. She asked if he wanted to hire four or five.

CHIEF HEBERT responded the proposal gives him an option. It takes three people to staff the helicopter: one per day on three different shifts. They were providing enough funding to cover those positions, whether we hire them or backfill the other positions in the fire organization using the current staffing. It was enough funding to provide those positions.

COUNCILMEMBER SANCHEZ asked if this is truly cost neutral.

CHIEF HEBERT responded correct.

COUNCILMEMBER SANCHEZ clarified it will not cost us a dime to save additional lives.

CHIEF HEBERT responded correct.

COUNCILMEMBER SANCHEZ asked in terms of the motion, would he be withdrawing his proposal for this program.

CHIEF HEBERT responded he doesn't know if that would be his option. However, he would definitely have a conversation with the City Manager about the fact that he would not want to support it at the Fire Training Center if it was a private company. If it were managed by the Fire Department, which he has more control over,

that would be his desire.

COUNCILMEMBER SANCHEZ would have supported a motion to approve what he presented to Council, but she's not sure she knows how to vote on the actual motion. If she votes yes, then she's putting our Fire Department in a very difficult situation, and that's not something she wants to do. She doesn't need for them to have to deal with a private company that may not be able to cooperate or coordinate as well. When you don't have that control, it's like outsourcing. You need to have some control over emergency situations. You have someone receiving a call, and after that everything has to move quickly. To add other personnel concerns her.

CHIEF HEBERT stated that, as the Fire Chief, the proposal he put together is a partnership he believes we benefit from. Anything less than that, the Fire Department wouldn't benefit from.

COUNCILMEMBER SANCHEZ doesn't want this. She would have voted for it if it would somehow make things better, but she doesn't hear that it's going to make things better. She's going to have to vote no.

COUNCILMEMBER KERN clarified it is 269 transports out of 18,000 calls. We're talking about less than 1.5% of the total calls. Of those 269 that were transported, who made the determination to transport them?

CHIEF HEBERT responded the Oceanside firefighter paramedics.

COUNCILMEMBER KERN asked of those 269 calls, who transported them?

CHIEF HEBERT responded it would be the current air provider.

COUNCILMEMBER KERN clarified that's Mercy Air.

CHIEF HEBERT responded correct.

COUNCILMEMBER KERN asked of those 269 calls that were transported by Mercy Air, how many complaints did they file with Mercy Air about their service?

CHIEF HEBERT responded he wouldn't know that today.

COUNCILMEMBER KERN would appreciate if Chief Hebert could get that back to him. He doesn't expect the Chief to know all the answers; he's just asking the question. Saying he doesn't know is a valid answer.

CHIEF HEBERT would like to give a more appropriate answer. If he's asking if we've ever had complaints against Mercy Air, yes, we have.

COUNCILMEMBER KERN is asking about these 269 calls.

CHIEF HEBERT knows of two that we've had over the last year.

COUNCILMEMBER KERN agrees with Councilmember Feller. Our PERS cost is going to go up $4,500,000 on public safety alone in the next few years. That's not counting the new assumed rate of return or the new smoothing. He did his research and did not know that REACH is an acronym for Redwood Empire Air Care Helicopter. It's not owned by Dr. McDonald; it's owned by Bain Capital. He wishes that had been in the staff report because he feels it's a little misleading when the Chief says it's a family owned operation. It might be the Romney family since they own Bain Capital. Full disclosure from now on would be helpful.

Regarding the locations that REACH services, he did his own research. He talked to Upland and Stockton. Stockton does not use PERS employees. According to the Administrative Services Director in Upland, they have PERS employees, but she's trying to negotiate them out of the contract. Her strong recommendation is not to use PERS employees. Other than Upland and Stockton, what other cities use PERS employees on REACH helicopters?

CHIEF HEBERT deferred the question to the REACH representative.

DON WHARTON, Business Development Director, REACH Air Medical Services, responded none of those employees.

COUNCILMEMBER KERN stated so they have a service that can be handled. To answer Councilmember Sanchez's higher cost and efficiency question, the private sector is more efficient at lower cost. Going to a private sector provider is the reason that cities are finding ways to outsource, because PERS and healthcare costs are so expensive for the cities. It would actually be a higher benefit to the citizens of Oceanside if we had a private provider versus public sector involvement. Long term, it's a better or equal service. Mercy Air not only has a nurse and a paramedic, they also have a trauma doctor onboard. The level of service is actually a little higher with Mercy Air right now. They have a contract with UCSD (University of California, San Diego), so level of care is actually a little better. That is not to say that REACH doesn't provide very good care.

He asked Councilmember Feller to alter his motion for the City Manager to renegotiate the lease. With the savings they get from not using public employees, we may be able to get a better deal on the lease. That's the only reason that he was hesitant.

COUNCILMEMBER FELLER asked if there is a time frame on that.

COUNCILMEMBER KERN doesn't see any need for a timeframe. We're well provided for now. It's not like there are any gaps in service. Staff can negotiate with the City Manager and REACH and bring it back when they're ready.

COUNCILMEMBER FELLER agreed to **amend his motion** to include having staff renegotiate the lease for a lower amount because of the savings from not using public employees.

COUNCILMEMBER KERN, as the **second, agreed.**

CHIEF HEBERT stated that, in his experience as a paramedic in this City for 19 years prior to becoming the Fire Chief, there wasn't a doctor on Mercy Air every time it flew. There's a medical doctor that does fly as an intern occasionally on Mercy Air, but they're not on 24 hours. We need to make sure we understand that. The 269 traumas that we talked about were the only ones that were air lifted. Many others were ground transported because Mercy Air was not available. That needs to be clarified as well; there are times when they are not available. That occurs if the ceiling is too low; the weather conditions aren't right; or the fact that the ETA is too great compared to the distance of driving to the trauma center.

COUNCILMEMBER KERN would imagine the weather and the ceiling would be the same for REACH as it is for Mercy Air. Those are just restrictions of flight.

CHIEF HEBERT stated it's easier to take off in bad weather than it is coming in to land.

COUNCILMEMBER FELIEN has been intrigued by this proposal. He's been

open from the very beginning that his main concern is a proper calculation of the ongoing CalPERS costs. Since our City retirement fund had a surplus in 1999 to our most recent CalPERS report, our termination liability is $471,000,000 of unfunded pension liability. When you add the unpaid principle balance of the pension obligation bonds that we issued, we have already accrued over $500,000,000 in unfunded pension liability. Unfortunately, the accounting costs we were presented in comparing the personnel costs don't factor in that huge pension bubble and the ongoing expense it's going to have. We're still using pay-as-you-go cash accounting here, the same short-term accounting process that has gotten so many government programs in trouble. He could give a 100% guarantee that the pension costs that are listed here understate the unfunded liability by at least $100,000-$150,000. That wipes out the surpluses that are listed here, going up to $65,000 going out five years. That's when the 50% increases are going to kick in for CalPERS. That's just getting rid of the 2008 scamming that was used to manipulate the corridors and the smoothing and the averages, to pretend the recession didn't take place.

We haven't even begun to deal with the unrealistic assumed rate-of-returns, which are also going to require dramatic increases as they're lowered downward. These are going to be on top of the increases that we already have scheduled. We're woefully underestimating the pension costs. He's totally against eliminating private sector jobs to create more CalPERS government jobs. Since REACH provides a service as well as Mercy Air, and both use private sector employees, there's no problem with using private sector employees. If we can negotiate a lease on City property because a new business competitor wants to come in and try to provide a better service, that's fine. However, we have a pension bubble and it's going to be a pension crisis coming down the road in a few short years.

He's not going to support a program that adds more CalPERS employees, since they've not been responsible partners in providing honest pension accounting. He will support the motion as amended.

[Recess was held from 5:01 PM to 5:15 PM]

5:00 – ROLL CALL

Mayor Wood reconvened the meeting at 5:15 PM. All Councilmembers were present.

INVOCATION – Brad Lambert

PLEDGE OF ALLEGIANCE – Laurel Elementary School

PROCLAMATIONS AND PRESENTATIONS –

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

Presentation – Mayor's Business Member Spotlight

Presentation – Honoring the Generous Volunteer Work by North Coast Church, The Rotary Club of Oceanside, The Rotary Club of San Luis Rey, The Rotary Club of El Camino Real, and the Rotary Club of Carlsbad

Presentations were made

GENERAL ITEMS - Continued

9. **City Council: Approval of a professional services agreement (PSA) and property lease agreement with REACH Air Medical Services of Santa Rosa for**

aeromedical services with an initial annual payment to the City in the amount of $772,000 required under both the PSA and the lease of a portion of the Fire Training Center at 110 Jones Road; approval of five new positions under the program; and authorization for the City Manager to execute the PSA and lease upon receipt of all supporting documentation

MAYOR WOOD stated when this first came forward for air services, he listened to the Chief and did some calling around. He found that this is probably a good thing for the City. We asked all of the employees to think outside the box for ways to make Oceanside better, save money, or do things in partnership with other agencies and businesses coming to Oceanside. The Chief brought this forward, and it sounded like a good proposition. We listened to the pros and cons, and it really came down to public safety. That's what we're here for. We need to be able to get our families to emergency services as quickly as we can to save their lives.

Originally the Chief said he'd like to staff it with Oceanside paramedics. He wanted a partnership, with it being part of the Oceanside Fire Department. The air services said that it sounded like a good idea. We thought there would be no cost to the City, but it turns out there would be some retirement costs into the PERS system. However, the Chief indicated he would make it work with the staff he has, which means zero cost to the City. They would staff it with Oceanside paramedics on their time and days off. It's no cost to the City whatsoever, so how can you pass on that?

He asked the Chief why he chose this company. Mercy would do a great job, but he's never had anybody at Mercy contact him. He was disappointed in that, for a City as large as we are.

CHIEF HEBERT responded that primarily, the partnership they had with the Upland Fire Department was of real interest. That's been going on for three years. Even though we looked at this a while back, we waited to see how that partnership was going to turn out. We knew that the resource would be used differently than it is here, meaning that most of our flights would be trauma-type injuries, not inner-facility transports. REACH approached us with this model. It was a unique model; it was a partnership. It offered enough revenue to satisfy his concerns, which were to avoid burdening any more of the General Fund.

MAYOR WOOD stated the other question is the cost factor. He doesn't think the public understands. The original proposal had more Fire Department personnel being hired. The Chief changed it because he's trying to make this work.

CHIEF HEBERT responded we were asking for three firefighter/paramedics to staff the helicopter. Because the Councilmembers expressed a concern regarding the PERS cost, he can still do this with the current staffing we have today without any additional costs to the City. The numbers we factored in with REACH cover all those costs.

MAYOR WOOD wants to make sure people understood that. There are no more PERS costs other then what we already have, no cost to the City and no cost to the taxpayers. He looks at it as a benefit of public safety, not only the response to medical emergencies, but the use of the helicopter by REACH if we need it for some other reason in Oceanside. He thinks it's a win-win situation.

Every city in the State is on PERS. If he fired every employee in Oceanside, we'd still owe PERS. It's for the people that have left and are in retirement, so it's not like it's something that's going away. He understands it's going to be part of every city's life. This item is about public safety, a benefit to us and the City.

He agrees with the Chief that we have a particular facility down near the airport

that's all part of the North County Fire Training. You have a lot of fire departments coming in from other States to be trained. Oceanside stands out in the North County; they all come up here for training. If we're going to bring this into that facility, the Fire Department and the City should have some say-so, along with our partner, which will be REACH.

He would not support this motion. He thinks it's a positive thing. It comes down to money and the cost of PERS. If there's not going to be any cost to the City, then why not take it?

CHIEF HEBERT stated when the individual from REACH responded to a particular question he wasn't clear on the question. He wanted to clarify his answer based upon other PERS agencies.

MR. WHARTON clarified that we do have PERS employees currently with our Upland model. Our Upland model is the only public-private model, as we're exploring this partnership. Outside of that, most of us are aware that there are multiple agencies in California that have PERS employees who are serving counties such as Los Angeles and San Bernardino. They're exploring air rescue and potentially even air ambulance models. A lot of public agencies are in this position where they're looking for innovation and different ways of delivering not only the same service, but more importantly, how they can enhance the service.

He understands CalPERS. He's from Brawley, California, and serves on a Council in a small town. We're just as affected with these same issues. We're constantly weighing risk-to-reward; what are the benefits and what are the risks? There isn't a Councilmember that doesn't appreciate what that long-term liability is, but we have to make decisions today. We need to weigh that long-term liability versus what we're going to get as a service today. We can take what we're doing now and make it better. We can make a difference in one life, in one response, and weigh that out as we look long-term.

He's worked with Mercy Air in the past as an employee. Mercy Air and REACH spend a great deal of money and resources training fire departments all across California. If there's a way to integrate it so that we're actually one, a fire department integrated with a REACH aeromedical service, that synergy, safety and efficiency will not just impact one life, but hundreds on an annual basis. How does that weigh on what the future liability is? We would not be here as an organization proposing this if we did not feel, as a partner, that we can take what's currently being delivered and vastly improve that.

MAYOR WOOD doesn't support this motion as it stands. If we take a vote and three vote for it, it's not what he or the Chief wants. The City will be going back to the table and negotiating with this company about what they're going to do. He doesn't want to lose this to another City. This project is no more a cost to the taxpayer than what we have today to get this service. The only difference on the Council seems to be whether the Fire Department is going to be involved in it. It's no cost to have the Fire Department at that second level that was brought up to us. This is a good thing, but he's not sure he wants the air services here using the Fire Department facility without the Fire Department's control or input.

COUNCILMEMBER FELLER asked Mr. Wharton if the service can be the same without the partnership if they're stationed here.

MR. WHARTON responded the two services, Mercy Air as well as REACH Aeromedical, are proven models. The question is, can it be better? With an in-system integration and the amount of resources we spend as a private organization training public organizations, we have an opportunity to bring that together. We have personnel

on the ground who understand the local area and know the weather trends, what the protocols are and the location. These things become tremendous advantages and ultimately even safety advantages for us as air crews. Integration and crew resource management is something you hear a lot about in our industry. This could be part of a great effort toward two entities coming together to improve crew resource management.

COUNCILMEMBER FELLER asked if they could actually hire our employees on their days off and get the same thing.

MR. WHARTON responded conceivably, but quality of life is such a question mark. Maybe it doesn't achieve that same type of synergy and integration that he's trying to share with Council.

MAYOR WOOD sees it this way: when someone has an emergency and is transported to the helicopter, it would be nice to know that the person in the helicopter is another Oceanside fireman. For communication purposes they're on the same page. Most people going to the trouble to be a paramedic are going to move on to a better job. Is that true?

MR. WHARTON responded that tends to be true. It might come from the aviation side of the house, but it does tend to be true.

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

10. **City Council: Adoption of resolutions initiating the proceedings for the FY 2013-14 annual renewal of the Oceanside Lighting District, Assessment District No. 2-1991, setting a public hearing for June 5, 2013, at 5:00 p.m. to confirm the assessments; and provide direction to form an overlay lighting district in the Rancho Del Oro neighborhood**

DOUGLAS EDDOW, Real Estate Manager, stated the item is broken into two components. The first is the annual renewal of the assessments for the Oceanside City-wide Lighting District. We have to adopt certain resolutions that initiate the proceedings, adopt the engineer's report, declare an intent to levy the assessments and set a public hearing date for June 5, 2013. The assessments remain the same as last year for fiscal year 2012-2013. The services will be basically the same.

The second item has to do with getting direction from Council to form an overlay lighting district for a portion of the Oceanside City-wide Lighting District. That is for the area known as the Rancho Del Oro area. It ties into the Villages of Rancho Del Oro Master Homeowners Association (HOA) area as well.

The property management company had asked the City to replace the streetlights there because they were not of a similar standard as the other streetlights within the City. The City said they did not have that responsibility. The HOA then sued the City. The City received a favorable judgment from the Superior Court in February saying that the City was not responsible to replace those streetlights. The City, in an effort to try to create a funding mechanism for the residents of the HOA, want to get direction from Council to look into forming an overlay lighting district, which could create a revenue stream to pay for the replacement of the streetlights. In the second item we're looking for direction from Council to proceed with looking into the formation of that. This includes hiring an engineer to determine the cost and prepare the necessary resolutions to bring the item back for initiation of the proceedings.

MAYOR WOOD stated we've gotten so many emails on this over the last couple of years about fixing the lights. We took legal advice from our City Attorney because of the circumstances. A lot of the neighbors don't know all of the details, or maybe their

HOA didn't explain it. He asked the City Manager to highlight some of the background leading up to this. He's worried that if we say to this particular HOA that we'll fix their problems, does that mean we'll do it for every other HOA in the entire city?

CITY MANAGER WEISS responded that, as part of the information we've prepared for the court proceedings, within the Rancho Del Oro Specific Plan area the City approved the use of decorative materials for their streetlights, as well as some of the other street furniture. Those decorative features were known to have a service life that was significantly less than what city standards would have been. Our standard streetlights are concrete; these are made out of metal. There were street maintenance agreements executed between the City and the HOA, as well as within the CC&R's of the development, that provide for the HOA to essentially be responsible for the cost to provide the replacement materials as they wear out and for the City to install them.

The management company for the HOA has been very insistent that they bear no responsibility in regards to replacing those lights. Even though the City prevailed on that court judgment, the fact remains that the lights can't get replaced. We haven't had a lot of cooperation from the management company to look at additional options to replace those lights. We did make several offers to compromise, which were not received very well by the management company. With this action we're not forming anything; we're just going to start that process. There will be more than adequate time for other public opportunities to address Council. If Council does see going forward with the formation process, it will result in all of the residents within the Rancho Del Oro neighborhood being able to submit ballots in favor or opposition to the additional assessments.

MAYOR WOOD asked why we took down certain lights.

CITY MANAGER WEISS responded we have ongoing inspections of a number of those lights. Some of those were deemed to be unsafe. Several actually fell down, and the rest have been removed by City crews. We inspect the ones that are rusted significantly to the point that we think they'll be a safety hazard. We recently removed another 32.

MAYOR WOOD wants people to understand that it was the choice of the HOA to put these particular lights in as part of their MOU (Memorandum of Understanding) with the City. They lost in court because they had agreed that they would replace them. Now we're in a situation of public safety that we're concerned about. We can't do it for every HOA or just for one. We're trying today to look at what the lighting district might be for that particular location; what the costs would be and what it would take to get those lights in. He asked if it's about 600 lights.

CITY MANAGER WEISS responded the total number within the public streets is approximately 640.

MAYOR WOOD asked what the average cost of a light is.

CITY MANAGER WEISS responded we got original estimates of around $3,500. That includes the lights, fixtures and installation costs. Until we go through a process and actually put it out to bid, we won't know for sure.

MAYOR WOOD wants people to understand we aren't being mad; we should help the neighborhood.

Public input

JOHN HACKER, 1364 Enchante Way, is a civil engineer. He's had homes in Oceanside for 30 years. He's been in private practice for 50 years in Palm Desert. Over

the years he has done hundreds of parking lots, and we've used these lights. As an example, he did the engineering on the Kingdom Hall in Rancho Del Oro 20 years ago. He has the light standard papers that he submitted. He read the note stating they should keep a close eye on any exposed metal once the paint has worn thin. The metal is vulnerable to rust. Apply a fresh coat of paint every five years to keep the light pole rust-free. If they had done this and maintained the light poles, the lights would not be in the condition they are. They should have been installed on raised concrete. Some were put in correctly and some incorrectly. The ones put in correctly have weathered the storm.

A few years ago, he had a similar problem on one of his projects. He wrote a report on what they could do. The management should go in right now and repair those lights. The ones that can't be repaired should be replaced. The homeowners group has failed us in not maintaining the lights. It wouldn't have been that expensive. In the last ten years he's contributed $12,000 to their fund. Where it's gone he doesn't know, but there was money there. It is not the City's responsibility to do their work.

JIMMY KNOTT, 127 Sherri Lane, stated a few years ago there were public meetings held for a City-wide lighting district. The public met with staff, and ideas were exchanged. Nothing has really happened from that, but the public had a lot of valid ideas, one of which Camp Pendleton took advantage of. That was using LED (light-emitting diodes) solar lighting. They applied for Federal grants and got them. He let the City staff know that the funding was there. Yesterday he met with staff and let them know that funding is still there from SDG&E, PUC (Public Utilities Commission) and the Department of Energy. There is funding available if applied for.

The lights we're talking about deteriorated. You could actually push in on them because they were collapsing in on themselves. They needed to be replaced because they were a public hazard. This is not in just one area. There are other lights throughout the City that need attention and other areas that need lighting. This needs to be looked at, not in just one area, but as a City-wide problem. He encouraged Council to take a broader look at this.

Public input concluded

COUNCILMEMBER SANCHEZ asked if there is information about whether or not there are funds for these special streetlights that are solar powered.

CITY MANAGER WEISS responded we have a program in place, a contractor selected and a plan in place to replace all 8,400 lights throughout the City with LED fixtures. There are State and federal programs available. We had originally received tentative approval back in February for the loan through the State program. That loan has been suspended, originally to July and now we're looking at December or January. The minute those funds become available through the State, we have an application on file with them, and it should be approved. Our goal would be to bring it to Council right away. Our goal was to actually start replacing the fixtures this summer, but without that loan program we will not be able to do that.

COUNCILMEMBER SANCHEZ is surprised that other neighbors and residents from Rancho Del Oro are not here. Hopefully they are listening at home. If not, how are we going to get the information out? This is a public hearing and it's done via the internet as well as by newspaper. She asked if there is a way to also do a notice in some kind of billing so that people are aware of this.

CITY MANAGER WEISS responded we did send a letter to all residents within Rancho Del Oro letting them know of this option. We did not have the specific date for Council's action, but that letter did go to all residents in Rancho Del Oro. If Council acts to initiate this process, there will be a point where every resident will be provided notice

of additional opportunities to come before Council and also to express their opinions on whether or not they want to assess themselves for the improvement. At some point everyone will be again receiving additional information.

COUNCILMEMBER SANCHEZ stated the public hearing is set for June 5th. She asked if there's a way for residents to give their ideas about this on the website or by calling. Are there different ways for residents to communicate their desires on this?

MR. EDDOW clarified the item for June 5th is the City-wide lighting district annual renewal. The second item is to move forward and pursue an overlay lighting district, so it will take longer and will not be heard at this time.

COUNCILMEMBER SANCHEZ asked how long it will take. Part of this request is to spend $47,500 on an engineer to come up with a plan for consideration.

MR. EDDOW responded until we meet with that assessment district engineer, we won't know the exact timeframe. We're going to do it as quickly as possible.

COUNCILMEMBER SANCHEZ asked if he could make a guess.

MR. EDDOW won't venture a guess at this time.

COUNCILMEMBER SANCHEZ moved approval of [adoption of **Resolution No. 13-R0314-1**, "...directing the City Engineer to prepare a report on the fiscal year 2013-2014 renewal of the Oceanside Lighting District, Assessment District No. 2-1991", **Resolution No. 13-R0315-1**, "...approving the City Engineer's report regarding the 2013-2014 fiscal year renewal of the Oceanside Lighting District, Assessment District No. 2-1991", and **Resolution No. 13-R0316-1**, "...declaring its intention to levy and collect assessments within the Oceanside Lighting District, Assessment District No. 2-1991, for fiscal year 2013-2014 and setting a public hearing on the proposed assessments"]. She's sure this way we'll get some responses back and additional input to determine whether or not the residents want to go this route.

MAYOR WOOD seconded the motion.

COUNCILMEMBER FELLER stated in the backup information and the letter sent to all the residents, it says members have been assessed for the repair and eventual replacement of the streetlights. In the Villages of Rancho Del Oro HOA Annual Report from 2001, which is 15 years after these villages were founded, there's a place in their annual reserve for streetlight fixtures, to paint and replace is 20%. The current replacement cost at that time was budgeted at $118,000. Four years ago, he saw an annual statement that had $700,000+ in it for streetlight replacement within the HOA. Whether they've incorporated it into their $2,000,000 reserves or wherever it is, it seems to be missing. He asked what the offer was before the law suit.

CITY MANAGER WEISS responded they had offered to split the replacement costs for the lights that were removed on a 50-50 basis.

COUNCILMEMBER FELLER asked if they would not speak to us.

CITY ATTORNEY MULLEN responded part of City's proposal was also that the HOA would, as stated in the maintenance agreements in the CC&R's, take responsibility for the remainder of the lights, and that was rejected.

COUNCILMEMBER FELLER asked if our offer was to split the cost of the replacement of the lights that were down.

CITY ATTORNEY MULLEN believes it was the 132 that were removed. In

response to Councilmember Feller's earlier comment, we did have substantial discovery in the litigation about the actual amounts that were collected by the HOA for streetlight replacements, but we won summary judgment in the matter before discovery was completed. We have some documentation about what was being collected, but before the depositions were completed we won judgment in the case and weren't able to finish that process.

COUNCILMEMBER FELLER knows that his Aide has responded to several hundred emails and letters in various forms. He's read them all, and they were mostly form letters. He would encourage the people to pay attention to their bills and how this comes about, because we have to come up with some settlement/arrangement that makes sense. As far as lights in every neighborhood, not every neighborhood wants lights. Fire Mountain and Morro Hills don't want streetlights. He will support this.

CITY MANAGER WEISS commented that we are at a point where we've exhausted every effort to try to work with the management company to resolve the matter. This would be, from our side, the last step in trying to find some solution to work with the residents to replace those lights. As we go through this process, it may turn out that the residents aren't interested, in which case there would be very little left for us to do at that point.

COUNCILMEMBER KERN asked the City Attorney if we're looking to eventually have the Prop 218 hearing or is it a protest vote. Are we looking for whether they need to vote positively for or against this?

CITY ATTORNEY MULLEN responded that eventually Council will need to take a couple of additional procedural votes. Tonight is giving general direction to staff to move forward with some preliminary steps. There will be two different meetings where Council will have to take some procedural votes. Ultimately, it would conclude in a Prop 218 voting by those who are to be assessed.

COUNCILMEMBER KERN stated they'll have plenty of opportunity. It's going to be a process, with at least two more opportunities for the public to weigh in. Hopefully they will pay attention. He's been receiving the same emails with the form letter. When he responded with a copy of the City Manager's letter and what we tried to do, a lot of the homeowners wrote back saying thank you, they didn't know. One thing that does need to be replaced is their management company. Ultimately that's where the problem is, but he can't do that. The people within the association need to ask those questions, and if they're as diligent at sending those form letters as they are at questioning their management company, they will come to a solution.

He commended the City staff for finding a path to a solution for the lights. If the people want lights we can get them lights, but they're going to have to step up and pay for it. We'll have plenty of opportunity to discuss this. Keep those cards and letters coming in. He would like for everyone to respond so we can get the information out as soon as possible. The more people know about what happened and how it happened, the better chance we will have to come to a resolution on this. Probably not before the end of the year, but we will come to a resolution on it.

COUNCILMEMBER FELIEN is the only Councilmember who lives in Rancho Del Oro, along with the City Manager. We're both personally affected and have seen both sides of it. One of the first actions as a Councilmember that he recalls is when we discussed this issue in Closed Session, and the City made what he thought was a very generous offer, even though we were under no legal obligation to do so in order to settle the issue and avoid the court case. It was irresponsible for the homeowners association to move forward with a case that was thought to be at the time, and proven in court, to have no legal merit. The homeowners association further doubled-down on a bad legal argument by accusing the City of criminal misconduct. The City won on that

stand as well. They had the right to recover significant costs as part of that process, which we've chosen to waive in an attempt to put this issue behind us and move ahead. Sadly, these legal cases delayed a settlement for two years.

The residents of the area now need to decide whether or not they trust the City to replace the streetlights or whether or not they want to rely on their homeowners association. He would like to make sure the City doesn't spend $47,000 until we get a feel for that, because most people in the community don't realize that this is where we're at now. We now need to find a solution for those of us who live in the community to resolve this issue. When he was a candidate for City Council and this issue was coming up, he met with City staff and the City Attorney and got an excellent review of the case as the City saw it, to try to get an understanding of it. He also contacted the management association to set up a meeting with them so he could get their view of the case and why they felt they had a reason to sue, but he was given the brush-off. The management company has not been friendly as far as trying to explain their case. Since being elected, he has not been contacted once by the homeowners association to explain why they felt the City as a whole should cover this issue. It was all resolved in court in the City's favor.

Once the City made an offer and it was turned down, the Council as a whole had no choice but to not settle the case and establish a bad precedent as part of bad case law that would forfeit the City's rights down the road. The City made the right decision. We won on the merits of every single issue. It certainly showed that the decision to resort to legal action was reckless and irresponsible on the part of the homeowners association. The decision in the court was so lopsided that the only lawsuit left is for legal malpractice against the attorneys who told the homeowners association they had a case.

He encouraged everyone in Rancho Del Oro to communicate with Council and also the homeowners association as to whether or not they prefer the homeowners association to be the lead agency in replacing the lights and having it done through our assessments, or whether they want the City to be the lead agency through an overlay district. Either way works and solves the problem, but we need to hear from people.

CITY ATTORNEY MULLEN wanted to note for the record that he did have communications with the Fair Political Practices Commission on behalf of both the City Manager and Councilmember Felien, who live in the area. They did give us their opinion that, given the facts and circumstances, because we're dealing with the maintenance of existing infrastructure, this action in front of Council did not present a conflict of interest.

Motion was approved 5-0.

MAYOR AND/OR COUNCILMEMBER ITEMS

21. **Request by Councilmember Sanchez to direct the City Attorney to draft an ordinance to prohibit smoking in outdoor dining establishments in the City of Oceanside and return to Council for introduction of said ordinance within 30 days**

COUNCILMEMBER SANCHEZ stated we had a more thorough presentation before, and we have a five-minute one today. Summer is coming, and this is a time when every restaurant in town is going to want the ability to have outdoor dining. For some of our restaurants, it'll be a first impression. She knows that families, especially if coming with kids or anyone that is a non-smoker, will not want to sit outside if they're going to be breathing in smoke. They're going to want to enjoy their food and the experience of being in Oceanside in the best way, and that is with the clean air we have here in Oceanside.

GENA KNUTSON, Program Manager for Vista Community Clinic, is also a member of the North Coastal Prevention Coalition. She thanked Council for moving forward with smoke-free outdoor dining, restaurant patios and bar patios, protecting the health of all Oceanside residents and those that visit this beautiful City. Oceanside has a lot of tourists here, as well as Camp Pendleton with a lot of families that come out to visit the soldiers. A lot of people come to Oceanside to enjoy the beautiful weather and some of the outdoor dining. The last time we were here, we presented the benefits of a policy. We also had the Smoke-Free North County Youth Squad present signatures they had collected, totaling about 844 in support. We had about a two-day notice to get the kids here, and they came. They're all very interested and invested in this issue.

JOE KELLEJIAN, Business Manager, has a residence in Oceanside and is here representing the American Lung Association. He encouraged Council to look at a smoke-free dining ordinance.

He asked Oceanside to join the other 111 cities in California that also have smoke-free dining. As he mentioned the other day, 88-92% of the people in San Diego County and State do not smoke. There's a percentage that are smokers but don't smoke in patio dining because they don't want to offend anybody and care about secondhand smoke, which is now a class 1 carcinogen. Please make this a health, safety and welfare issue for the people of Oceanside and those who visit our great City.

DANNAH HOSFORD runs the Smoke-Free North County Youth Squad. Everywhere a cigarette goes, death follows. We want to encourage Council to take the steps. Tobacco is still the leading cause of preventable death in the world. She thanked Council for moving forward with smoke-free outdoor dining, to keep residents safe, and not let us dine with death.

MR. KELLEJIAN announced Monday is the 22nd Agriculture District meeting. The American Lung Association and Coalition will be presenting the 22nd Agriculture District with their smoke-free star award, because this year they are going smoke-free.

Public input

CHRISTOPHER WILSON, 770 Harbor Cliff Way, stated that he smokes. However, this is something that he supports because there are people who don't have a choice; they are the workers in the restaurants that have to serve customers and are forced to breath in secondhand smoke. Were there not that consequence, he would say this is something that should be left up to the business owner. He realizes as an adult that his actions do affect other people. Anything that will help keep people's work environment safe and make the entire environment safer for families and children wanting to enjoy eating outdoors is a good thing, so he supports this.

Public input concluded

COUNCILMEMBER SANCHEZ moved to direct the City Attorney to draft an ordinance to prohibit smoking in outdoor dining establishments in the City of Oceanside and return to Council for introduction of said ordinance within 30 days.

MAYOR WOOD seconded the motion.

COUNCILMEMBER KERN can't support this. He's had discussions with Mr. Kellejian in the past. He thinks it's more or less about freedom. The restaurant owner should make that decision of whether or not he wants smoking in the outside dining portion of his establishment.

Later this month, on the 21st of May, he's contemplating going over to Stone

Brewery in San Marcos. Twice a year they have a cigar night, where for a price you get a couple of good cigars, eight small glasses of beer and gourmet dining. He would like to have that available in Oceanside. He'd like to see Stone Brewery down here have a cigar night where they can do the same thing. Having the option to have those events in Oceanside is commendable; he thinks people will do that. He doesn't want to take away from those restaurant owners that choose to do that.

They also have the choice not to do it. If they feel it's in their best interest not to have outside smoking in their dining areas, he's all for it. That's their freedom of choice. The idea of eliminating somebody else's freedom may sound commendable because of the issue, but eventually the issue may come back to something that you want to do. Limiting the size of soft drinks sold to the public or not allowing plastic bags are examples of society making those changes. One of these days you may be on the other side of this issue, where somebody is going to try to take away your freedom because of a very good cause. He's had these discussions with classrooms full of students for a long period of time about where that ends. The last thing you want to do is have the heavy hand of government dictate how to live your life where it doesn't affect other people.

There's a choice. If you go to a place and it has outside smoking, don't eat there. There are other dining areas. Voting with your feet by going to a restaurant that doesn't allow it will probably send a message to a restaurant that does allow it. He looks at this with a different point of view. It's very commendable, but he smokes cigars. He doesn't smoke in the house at home. He smokes on the golf course. If we make this ruling today, what happens to the golf course? There are a lot of people that go to the golf course and sit out on the patio after a round of golf. They have a drink and a cigar while talking about the round of golf. He's very concerned about how wide and deep this ordinance may be. He doesn't mind discussing it, but at the present time he would rather discuss it more before we start giving direction to staff about writing an ordinance. He will not be supporting this issue.

COUNCILMEMBER FELIEN is torn on this issue. He thinks Councilmember Kern brings up some excellent points regarding personal freedom and the cause of businesses making their own decisions. He also considers that his wife is very sensitive to cigarette smoke. When they go out, if someone is 50 feet away she can smell it and is affected by it. He's going to support moving forward with the writing of the ordinance, but in the meantime he would want to hear from business owners who have outdoor dining and get their input on how this issue would be favorable or unfavorable to the impact on their business as they see it. He would also want to hear from other residents of Oceanside. He'd like to have the City Attorney review the other ordinances in other cities to see if they're extremely tight or loose, or if they have provisions for special smoking events. He's willing to look at this.

As a society, we're slowly moving forward to being mostly smoke-free. In the past, every bar had a spittoon. It went out of style, and there are no spittoons anymore because public morals have changed. What's acceptable and not acceptable is changing. His personal opinion is that going towards a smoke-free environment is good for the long-term, but he wants to hear back from the businesses that will be directly impacted by this.

COUNCILMEMBER SANCHEZ stated Oceanside does have smoke-free beaches and parks, and she doesn't see this as inconsistent with that. She is a very big supporter of the Constitution, especially the First Amendment, freedom of speech and all of our freedoms. However, one smoker will interfere with the freedoms of other people around them. For her it is the greater good. The freedoms that count are of the greater community. We already have prohibitions on smoking by youth. When she talks about families and not subjecting them to smoke that is very harmful, this is consistent with the notion of not having smoking allowed in outdoor dining areas.

She hopes to get support. This is critical to the health and safety of our residents. Her understanding is that our restaurants are embracing this. The kids did our job for us; they got over 800 signatures on petitions. They actually targeted and went out and talked to restaurant owners. The young folks that came to her convinced her that this is something we've got to do. She hopes Council passes this, and we come back in 30 days.

CITY ATTORNEY MULLEN has pulled all of the ordinances in the County. The Vista Community Clinic provided a model ordinance. It's been slightly tinkered with in different jurisdictions. He looked at Carlsbad's, which is the most recent City to adopt it. He could certainly be back here at the next Council meeting for the introduction of an ordinance, but he asked whether Council wanted this to apply to eating or drinking establishments. That's how Carlsbad's ordinance applies. The second question would be what type of public outreach Council would like staff to be involved with. He heard Councilmember Felien indicate that he wants to hear from the public. He asked if it's Councilmember Felien's expectation that staff go out and meet with the public or just a notice of the public meeting for introduction within 30 days.

COUNCILMEMBER FELIEN wanted to make sure we put out the word through the Chamber of Commerce, MainStreet Oceanside or other business organizations through the normal channels, to say this is coming up and please step forward if you want your voice to be heard. One thing he thought about incorporating is whether or not to have a time limit, so before 9:00 PM or 10:00 PM it's smoke-free, but after 10:00 PM when the kids are home in bed maybe it could be that smoking is optional.

CITY ATTORNEY MULLEN responded the draft ordinances that he's seen throughout the County don't have that provision. What he could do is draft the ordinance, provide it to the Chamber of Commerce and ask them to distribute it to interested members.

COUNCILMEMBER SANCHEZ asked if Carlsbad added the provision.

CITY ATTORNEY MULLEN recalls their ordinance was generally supported by the industry. He watched the public hearing, and it applied to eating and drinking establishments outdoors.

COUNCILMEMBER SANCHEZ's understanding is that at the main facility of Stone Brewery, smoking is not allowed.

Motion was approved 4-1, Kern – no.

CITY MANAGER ITEMS

22. **City Council: Consideration of a $60,000 loan to the Star Theater and direction to staff**

CITY MANAGER WEISS stated during Council's April 17th meeting they had heard from representatives from the Star Theatre asking about City assistance for replacing their marquee. They had indicated they were interested in a $60,000 loan from the City. Council had directed staff to put it on the next available agenda, which is this agenda. Council has a brief memo outlining the potential loan terms, which would be roughly seven years at 3% interest.

BILL IMS, 2023 Caleta Court, Carlsbad, stated he addressed Council a couple of weeks ago about the issue. We did get some press out of that, which was pretty exciting. There are two sides to every question to be debated, and particularly tonight, he can see some of the difficult questions Council is faced with. He would like to make

this easy for Council by directing his comments to a couple of things he has heard. Part of it is a history lesson. One of the items he heard was why we would want to give this money to the Star when we could use this money to solve the gang problem. He also heard about the Star getting a $300,000 forgiveness of debt sometime in the past.

As for the $300,000, in 1987, 1988 and 1989 the Star Theatre still had 986 seats in its auditorium, but most of the people who attended were watching seedy movies. As you may recall, that was kind of the dark-side of the Star. They were showing blue movies, adult movies and R-rated movies, certainly not the thing you want directly next to City Hall. The Star theatre was virtually unavailable to anybody unless they met with the City's requirements. The City said they would like to have a performing arts center as the only type of business in that building. Poinsettia Center for the Arts was looking to develop a location. They were planning to build in an area, which is now close to the Forum in Encinitas. They ran into the Star, and it was already built and ready and had a tremendous theatrical program for both children and adults. The City said if we would buy this building and put this business in, and if we were still operating five years from now, we would get $300,000 back.

The building itself was $900,000+ and then $350,000 needed to be used to change the interior, because we had 980 uncomfortable seats. They had to put in a performing arts stage, which was much larger than what would be required for a movie screen, and then they had to put in these great seats. They did that and spent $350,000 refurbishing it. The Star has been a genuine diamond in the community of Oceanside. It is recognized County-wide and even people from Orange County and San Clemente and everywhere come down to see our shows or perform in our shows. It has met all of its commitments. Within the first five years it was still operating. We're twelve years operating now and are one of the very few community theaters which operates in the black.

The Star Theatre without a doubt has been performing quality shows, and people appreciate that. We do it well. We're dealing with a building that was built in 1956. The good thing about the theater is that the maintenance required to keep the building going has been paid. We keep doing the things that are required, but we would leave the things that are more décor until after we took care of the essential items. We just refurbished our lobby. We took care of the green room and made some improvements so that the adults and kids have privacy when changing into their costumes.

Now we've got this sign, which for twelve years has been very ineffective. It hasn't operated to its capacity. It certainly is anything but energy efficient. We've had two major sign companies come out to tell us what it would cost to refurbish this sign. Not to replace or change it, but just to bring it back to how great it was in 1956, except with all of the things that make it operate efficiently and cost effectively, so that it works the way it's supposed to work. We had two bids, and they were both in excess of $100,000. That's a lot of money to raise.

As we reported to Council two weeks ago, we had $45,000 which was raised by contributors. Many of these people don't even live in Oceanside, but they recognize that the Star truly is a gem along the North Coast area. We obviously want it repaired right, and we want it to look good. We think Council should want it to look good, too. As of today we have $47,600, so the dollars are coming in. We can raise the money and get it done, but not in time for our important 125th celebration of the City of Oceanside. As the people come and visit City Hall, they're going to be passing by a half-lighted sign that looks more like the Bates Motel than what a great operating theater should look like.

We'd like to have this done and are well on our way to making sure things happen. We are not looking for a handout. We are not looking for Council to spend;

we'd like you to lend. Put your faith in the Star, and it will continue to be the successful entity that it has been. We have paid off the debts we've had and met our contract obligation with the City, and the City has met its contract obligation with us. Now we just want to brighten up the City.

The benefit of the Star Theatre is more than the artistic district, which historically enhances a City. It's all about our children. Today we had these wonderful children from Laurel Elementary playing the recorders. When you have kids getting involved in things like that, that are meaningful and usually in the arts, they don't wander off to gangs looking for other ways to be accepted. Over time in the past twelve years, we've had thousands of children in Oceanside that get involved in theater. Academically and wholesomely, people who are involved in the arts do so much better. They perform better in school; they develop great self-esteem and they go on to have wonderful lives.

We recently had a child who joined the Coast Kids, which is one of our two performing groups. He was homeless and had no parents who cared for him at all. He came to the Star Theatre and within two years he had a leading role. He's now at Mira Mesa College. This is a student who would have been a great candidate for a gang, but he came to an area much more meaningful than he would have had without the arts.

This Friday we are starting a two-week performance of Beauty and the Beast. We have 80 children on that stage. Most of them are residents of Oceanside, and 50% have never been on a stage before in their life. You will see them in years to come as they progress to other roles. This is such an important part. When people come to our City and go down Coast Highway, they see the Star Theatre with half the marquee working. Let's spruce up the area. Let's encourage other businesses to get involved in Oceanside. If Council can't do it, he will raise it. However, he'd really like to raise it in time for the City's birthday celebration.

COUNCILMEMBER SANCHEZ stated the last time this was presented to Council, the Mayor suggested some conditions like including youth from the schools. What was that?

MAYOR WOOD thought it would be nice if they involve some of the youth from blighted areas. Solicit from Libby Lake, Crown Heights, etc. Some of those kids would like to be involved and be asked.

COUNCILMEMBER SANCHEZ has attended the Oceanside International Film Festival and some other things as well. Feeding the Soul Foundation has been using it and raising money for our kids and other kids in the region. It's a wonderful venue. They seem to be giving access to the community.

She **moved** approval for consideration of a $60,000 loan to the Star Theatre and direction to staff. She believes that staff can come up with terms. Mr. Ims said this is not a handout, they just need it faster. It would be great to have a brand new marquee. It's a great venue, and she's glad that we still have it.

MAYOR WOOD seconded the motion.

COUNCILMEMBER FELIEN asked who currently owns the property.

MR. IMS responded the property is owned by the Poinsettia Center for the Arts. It's a non-profit organization. Oceanside is our home and where we operate.

COUNCILMEMBER FELIEN asked if there are any existing liens on the property.

MR. IMS responded yes. Initially when the property was purchased, there was about a $600,000 lien plus the $300,000, which by contract the City agreed to forgive if we were still in there. We presently owe approximately $384,000.

COUNCILMEMBER FELIEN asked what the value of the property is.

MR. IMS responded there have been two appraisals. There was an appraisal done by a bank when we refinanced. Because they weren't working with theaters, it was $2,000,000 or $3,000,000. The last detailed appraisal we had was $7,500,000. It might have been $7,200,000. That was about five years ago.

COUNCILMEMBER FELIEN is concerned because he's hearing there's a short-term issue, but the information we have says you're requesting a seven-year loan. From the circumstances he's hearing, we should be talking about months rather than years. With the building itself apparently having so much net worth, he doesn't understand why they can't get a $60,000 loan against the building if they're operating in the black. The interest would probably be a little higher than 3%, but the larger issue is if we're going to be offering a loan, we're going to have people lined up out the door from every non-profit agency in the City asking for loans to upgrade their facilities. As you're aware, we had a lot of discussions earlier this evening based on the long-term financial challenges the City is going to have to face. To your credit, the organization seems to be in pretty good shape, so he's not sure why the City needs to be involved.

MR. IMS responded there certainly is huge equity in the property, but when you have a non-profit and operate a community theater, just about all of them do not operate in the black. Most community theaters require city assistance every single month to keep going. Ours has not, as you know. We do quite well, but it isn't a profit center; it's non-profit. We have three employees and only one is full-time. It's incredible that we've been able to do so much with that. Accordingly, when a bank wants to make a loan, they want to see that there's sufficient income coming in to pay that loan. Banks have been in a lot of trouble in the last five years. They have guidelines, which a non-profit theater does not fall into. They would not do a loan to the non-profit organization itself. With respect to the comment about 3% interest, right now that's probably close to 40-50% higher than what you're getting on your money today.

He's going to make it happen some way, but he would just like the City to be involved. This is dressing up the City. This is a very special occasion for us. The amount of good we do for children is phenomenal. We all want the City to look its best, and this is a way Council can help us achieve that goal. It's helping the City more than helping us. He would love Council's support on it.

COUNCILMEMBER FELLER stated in 1998 or 1999 Jim Heiser rebuilt the lobby and bathrooms. It was showing good movies that he was impressed with. We did think long and hard about the forgivable loan of $300,000 to pay against the $950,000 they bought the theater for. We have spent $300,000 on that building already, and that's where he's stuck. Is it possible that we could use reserves for one year and have that money back in a year? Is it something that we could think about if in fact they're trying to solve this before the 125th birthday? If we can make arrangements to have that money back by June 1st of next year, he would be okay with it.

COUNCILMEMBER KERN asked if they've exhausted the private sector as far as loans.

MR. IMS responded yes we have.

COUNCILMEMBER KERN asked if it wasn't for this self-imposed deadline, would they need a loan. It sounds like they're doing a very good job fundraising.

MR. IMS responded he's going to get the job done. He is a volunteer with this organization and several others in Oceanside and sees the tremendous results. He understands the tough position Council is in. To partly answer Councilmember Feller's question of having a deadline of one year, if he were a banker he wouldn't lend that money to a non-profit. If we had the surplus money we could easily do it. We are going to raise money. If Council can't do it, he'll understand, but we would not be able to pay it in a year. The only reason for the seven years was for a reasonable amortization, which we would have no problem paying. We would try to pay this off in 2-3 years.

COUNCILMEMBER KERN has a hard time because it's a precedent-setting event for other non-profits to come forward and say we gave it to the Star Theatre for lights. Why can't they have it for a kitchen or other improvements because they also do good work. He knows they do good work, but doing good work and putting lights on a building are two different items for him. He asked how far in advance they are booked at the theater.

MR. IMS responded we are booked out all through 2013. We have already booked substantially through 2014. Remember, it's a non-profit, so we offer an events location at a very nominal cost compared with other facilities.

COUNCILMEMBER KERN stated what he's getting at is that having new lights or not doesn't affect their bookings. If we go down this road, we will have to face this with somebody else who says the Star got money for lights. He can't philosophically support it at this time. He understands and appreciates everything they do. We know what the non-profits do in this community. They are the life-blood of the community, and they support people without the means and access. Giving access to theater to kids is very commendable, but he thinks there are better causes than lights. That's his hang-up.

MAYOR WOOD sees the difference from all these other non-profits. Things are tough. $60,000 for the average citizen is a lot of money, but for a City it's chump-change. They wanted to lighten up the main street by having the billboard and marquee working for our 125th. It's the timeframe. If you keep raising money you will get it fixed, but not for the 125th. Knowing that they'll pay it back, he looks at it a little differently. They've been there for twelve years. A lot of places have come and gone in the entertainment live performing arts. They've stayed there and helped all the children and the community.

They're saying they would like to light up the main street in Oceanside for the 125th and are asking for a loan for this. They would probably pay it off before seven years. If it brightens up the downtown right next to City Hall's parking lot and it looks good, in the big scheme of things for $60,000 he supports it. As for opening Pandora's Box, we do it every day. It's tough, but we've had to tell a lot of non-profits no over the last few years.

In the scheme of things, to brighten up downtown Oceanside with lights for our 125th is reasonable. They're going to pay us back with interest. What people are getting on their money now is about 1.5%-1.7%. They're doubling it for us and will probably pay it off long before seven years. He supports this for the reasons they gave.

COUNCILMEMBER FELLER asked if they're saying they can't do it in a year.

MR. IMS responded no. It would be impractical so he doesn't want to encourage Council to do that. It just wouldn't work.

COUNCILMEMBER FELLER was dead-set against doing anything coming into

this. He was trying to get to something that would work in the short-term. He feels like the City owns 30% of that building, by having given $300,000.

MR. IMS asked if he could say something to that point. He thinks it's a very critical thing to mention.

COUNCILMEMBER FELLER stated it's not changing his mind.

MR. IMS stated it's the other people he's concerned about.

COUNCILMEMBER FELLER stated maybe the people will hear it and see it in the newspaper and the money will come flowing in starting tomorrow.

MR. IMS stated he wants to make it clear that the $300,000 was a part of the transaction to which the City agreed to. The City said if you will come to our City and put on a live performing theater and are still operating in five years, we will return or eliminate that $300,000. That wasn't a gift to us for anything; it was part of the deal. We've met our contractual obligations more than double in time. He wanted to clarify that.

COUNCILMEMBER FELLER stated they sought us out.

MAYOR WOOD stated we gave $1,000,000 to the Art Museum, and that was performing arts. They're similar. It wasn't a loan, we gave it to them.

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

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

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

Advance written request to reserve time to speak: None

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

FANITA SEILER, 4709 Rose Drive, spoke of an incident with her mentally ill son and Oceanside Police Department. She asked Council to pay Tri-City Hospital to take people with mental illness. There are so many people, even in the military. They're coming back from war and they hear voices.

MAYOR WOOD clarified Council doesn't have any control over Tri-City Hospital, but there's also a local County Mental Health. He suggested she see the City Manager for more information.

GENERAL ITEMS - Continued

11. **City Council/OPFA: Adoption of a resolution, acting as the legislative body of Community Facilities District No. 2000-1 (Ocean Ranch Corporate Centre), authorizing the issuance of Special Tax Refunding Bonds Series 2013A in a principal amount not to exceed $27,000,000; and approving certain documents and taking certain other actions in connection therewith**

MICHELE LUND, Treasury Manager, is requesting authorization to issue refunding bonds for the 2002 Ocean Ranch Corporate Centre Community Facilities District Bonds, which are more commonly known as Mello-Roos bonds. Because of the current low interest rate environment, we will be able to refinance the bonds to achieve annual tax savings for the property owners within the district. The 2002 bonds were

issued in December of 2002 for the purpose of financing the public infrastructure within the Ocean Ranch Corporate Centre, located north of Oceanside Boulevard and west of College Boulevard. A total of $12,200,000 in bonds were sold at that time and currently have an outstanding principal balance of $11,600,000 as of March 1st.

The remaining interest rates on the bonds range from 5-1/8% to 6-3/8%. The bonds are currently eligible to be called on September 1, 2013. Based on recent analysis that the City had performed, the City would issue on behalf of the district $11,800,000 in bonds, with an estimated all-in true interest cost of 4.2%. That's made a net present-value savings over the life of the bonds of $1,600,000, or 14%. This equates to approximately $125,000 in annual debt service savings per year. The actual savings will be determined at the time of bond pricing, which we expect to happen in mid-May with an anticipated closing date of mid-June. The bonds will be sold on a public offering basis by Stifel Nicolaus.

COUNCILMEMBER FELLER clarified that we would save approximately $125,000 a year.

MS. LUND responded yes.

COUNCILMEMBER FELLER moved approval of [adoption of **Resolution No. 13-R0317-1**, "...authorizing the issuance of its Special Tax Refunding Bonds Series 2013A in a principal amount not to exceed $27,000,000 and approving certain documents **[Document No. 13-D0318-1**, **Document No. 13-D0319-1**, **Document No. 13-D0320-1**, **Document No. 13-D0321-1**, **Document No. 13-D0322-1**, and **Document No. 13-D0323-1]** and taking certain other actions in connection therewith"].

MAYOR WOOD seconded the motion.

Motion was approved 5-0.

12. **City Council/OPFA: Adoption of a resolution, acting as the legislative body of Community Facilities District No. 2001-1 (Morro Hills Development), authorizing the issuance of Special Tax Refunding Bonds Series 2013A in a principal amount not to exceed $22,000,000; and approving certain documents and taking certain other actions in connection therewith**

MICHELE LUND, Treasury Manager, stated the bonds that we're going to ask for authorization to issue are refunding bonds for the 2002 Morro Hills Community Facilities Bonds. This is the residential Mello-Roos district towards the back-eight, the Arrowood community. Again, we are looking to achieve tax savings for property owners within that district. The original bonds were issued in November of 2002 at $9,900,000. They now have an outstanding principal amount of $6,800,000 as of March 1st. The remaining interest rates on those bonds are from 5%-6.2%. The bonds are also currently eligible for call on September 1st. Based on the analysis that we have done, the City would issue on behalf of the district the $6,800,000 in bonds, and the estimated true interest cost of those are 4.17%.

The net present-value savings over the life of those bonds is $1,100,000, or 14%. The savings would be about $90,000 in annual debt service per year. These bonds will be sold by Piper Jaffray on the open market and in the same timeframe as far as pricing and closing, of mid-May and June.

BRIAN FORBATH, Bond Counsel, added that on Morro Hills there are also some 2004 bonds that are outstanding. If the interest rates are such that it's economical to refund the 2004 bonds as well for significant savings over 5%, the resolution authorizes bonds to refund those bonds as well. Right now it's borderline and not quite likely that

it will happen. If the market does shift in our favor, the resolution provides us the authorization to do that.

SCOTT SMITH, Financial Advisor, stated we've been studying this on a weekly basis since early January. The market has stayed fairly stable, but it has remained right on the edge. The expectation is that it's not going to happen.

COUNCILMEMBER FELLER asked if she's talking about $124 per year savings to each home.

MS. LUND responded yes, to each property owner.

COUNCILMEMBER FELLER asked it's another $100 if the 2004 part goes through.

MS. LUND clarified that's if we meet that 5% minimum threshold on the net present value savings. Right now, we're looking at the market, and it looks like we're not going to. Those bonds are callable in 2014, so we will be back. We do have the opportunity if the economics make sense to do it on an advanced refunding basis. We will be coming forward by early 2014 with Improvement District Bonds for Morro Hills, which is another set of bonds that were issued to build the elementary school. Those will be refunded in 2014 and be callable at that point. We will revisit the 2004's, so there is opportunity for more savings within the next year.

COUNCILMEMBER FELLER thinks this is probably good for the residents out there. He **moved** approval of [adoption of **Resolution No. 13-R0324-1**, "...authorizing the issuance of its Special Tax Refunding Bonds Series 2013A in a principal amount not to exceed $22,000,000 and approving certain documents **[Document No. 13-D0325-1**, **Document No. 13-D0326-1**, **Document No. 13-D0327-1**, **Document No. 13-D0328-1**, **Document No. 13-D0329-1**, and **Document No. 13-D0330-1]** and taking certain other actions in connection therewith"].

MAYOR WOOD seconded the motion.

Motion was approved 5-0.

CLOSED SESSION REPORT

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

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

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS – Continued

BRIAN CREWE, 3808-55 Vista Campana South, is an Oceanside resident and former Oceanside Senior Commissioner. He's also the past area governor of Toastmasters International and a member of Congress of California Seniors. He's been asked to speak on behalf of a group of Oceanside citizens who are concerned about a lack of representation at City Hall on behalf of 40,000 Oceanside seniors.

Our former unpaid Senior Commission was dissolved in 2011 by an ideological 3:2 split controlled by a City Council majority. Several San Diego County cities currently have senior commissions, which indicates that there is no substitute for experience. The Council should adopt a civility policy, which sometimes involves a lot of PR. Council needs to keep their eyes on the needs of the citizens of Oceanside and learn to compromise.

He will be concerned, as a senior, and pay constant attention to the five City Council members. By the time we get to 2014, we will have some kind of action as far as considering the old folks. There are problems for seniors that Council may not be aware of, but that need to be resolved wherever possible. He will be back to remind Council again and to ask what the Council is doing for Oceanside seniors.

TERRI LOVERRO, Oceana, is a Board member of the Friends of Oceanside Parks. She announced Heritage Park Day on Saturday May 11th.

LINDA WALSHAW, 151 Robby Lane, is Vice President of ACTION (the Alliance of Citizens to Improve Oceanside Neighborhoods). On behalf of the 42 Oceanside communities represented by ACTION, we would like to thank Mayor Wood and Councilmember Sanchez for their continued support of neighborhood issues and their commitment to always putting people first here in Oceanside. They have stood beside Oceanside residents to fight to keep rent protections for seniors and to prevent outsourcing of Oceanside's first responders, our harbor and our libraries. They stand with us to protect and preserve Oceanside's agricultural land, environment and quality of life for our future. They continue to fight for restoration of our City's parks, pools and recreational programs for our youth and our seniors.

She is sorry to say that the same cannot be said of our other Councilmembers, who continue to put the interests of outside builders and developers ahead of those of their own constituents. It is in no one's best interest to place a toxic landfill directly on Oceanside's main source of water at Gregory Canyon, yet they not only support it, but even spoke in favor of it at the Army Corps of Engineers hearing on the matter. They ignored the 15,484 voters who signed a referendum to stop Proposition E last year, and instead spent $200,000 of taxpayer money to hold a special election. They continue to push for the Melrose Extension, even though the project was rejected by our own Planning Commission since its detriments far outweigh any benefit. They continue to move forward toward development and installation of sewers in Morro Hills, even though development of this area would mean loss of North County's only remaining agricultural land. They support outsourcing of Oceanside's harbor, despite its excellent operating record and profits. They've suggested outsourcing Oceanside's ambulance service to a private for-profit company, which would mean higher costs to patients. They've considered outsourcing paramedics, firefighters and police, even though this would result in delayed response times and greater costs to Oceanside residents.

We are very grateful to Mayor Wood and Councilmember Sanchez for continuing to stand with the citizens of Oceanside against outside special interests of builders, developers and mobile home park owners.

JIMMY KNOTT, 127 Sherri Lane, stated he and the Vice Chair of the Integrated Waste Commission did some judging of art, science and engineering projects in front of the Community Center. They were children's works of Kindergarteners to pre-college high school students at the Green Fair "Create to Educate." The artwork from the kindergarteners was amazing. The scientific presentations were amazing as well. The use of recycled media was another model of what our students are doing.

We wanted to give a top prize to each of the students. They were all winners.

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.

20. **City Council: Adoption of a resolution making findings that the proposed cogeneration project to be installed by CHP Clean Energy, LLC, under a power**

purchase agreement will generate cost-savings; approval of the power purchase agreement with CHPCE La Salina, LLC, of Boston Massachusetts, for the construction, at no cost to the City, of the La Salina Wastewater Treatment Plant Cogeneration Facility project and subsequent energy purchase; and authorization for the City Manager to execute the agreement

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

JASON DAFFORN, Water Utilities Division Manager, stated we are asking Council to consider the La Salina Wastewater Treatment Plant Cogeneration Facility project. The cogeneration facility is proposed to be constructed adjacent to the digesters currently at the facility. The facility will take the gas from the digesters and generate power. The power will then be utilized onsite at the facility. The generator will also produce heat, which will be used by the facility to keep the digesters at the appropriate temperature, which will reduce our cost of energy through consumption of natural gas for our boilers.

A computer graphic was used to show some of the highlights of the project. This is our third private-public partnership. Two of them are the cogeneration facility and our solar facility at the San Luis Rey Plant. Our contractor has been able to acquire incentive funds for this project, which makes the final numbers to us very attractive. There was a deadline on the incentive program of April 6th. We were able to get an extension on that deadline for 30 days, so we have until Monday or Tuesday to present to them the executed agreement. As part of the contract, we have a 15-year term. At the end of the 15-year term, we have the ability to extend the contract to whatever length we feel appropriate, based on negotiations. If we don't want to continue with the contract, we can terminate the contract and have the contractor remove the facility, or we may opt to purchase the facility if we deem it appropriate.

At the end of the day, the whole purpose of this project is to save energy costs at the La Salina Sewage Treatment Facility. As part of this, he wants to affirm the findings of cost. In the agreement we have negotiated a 7.5 cent per kilowatt hour price for purchasing the produced power. This is in relationship to SDG&E (San Diego Gas and Electric), which we currently pay approximately 12.5 cents per kilowatt hour. That's half of our savings. In our evaluation we assumed a 3% escalation factor for SDG&E. At the end of the 15 years we'll have a net savings of approximately $625,000.

We are asking for adoption of the resolution and authorization to execute the power purchase agreement.

Public input

JIMMY KNOTT, 127 Sherri Lane, is a member of the Budget Committee of the Utilities Commission. They have reviewed this and endorse it.

Public input concluded

COUNCILMEMBER KERN moved approval [of adoption of **Resolution No. 13-R0331-1**, "...making findings for energy services contracting and authorizing execution of power purchase agreement **[Document No. 13-D0332-1]**", for the construction, at no cost to the City, of the La Salina Wastewater Treatment Plant Cogeneration Facility project and subsequent energy purchase; and authorization for the City Manager to execute the agreement.

COUNCILMEMBER SANCHEZ seconded the motion.

COUNCILMEMBER KERN thinks this is a good project. We talked about how we can reduce some of our overall costs, and this is a good deal. This was a 24-hour-a-day continuous operation. They presented the average cost for SDG&E, but at certain times their costs drop, like in the evening. He asked if there's a time when it will ever get below 7.5 cents, like a SCADA (Supervisory Controls and Data Acquisition) Program where it says when we're going on SDG&E power versus our own power. Or is it even relevant because they never get below 7.5 cents?

MR. DAFFORN stated it's a continuous operation at the facility, so we don't have the ability to manipulate the process itself. With the sewage treatment process, we like to keep it very consistent. The cogeneration facility will produce power at all times, so we will have the ability to absorb that in-house at the facility. As far as the rates, he would have to look at the bills to determine it, but there is a fluctuation. He's not sure what that is as far as the 12.5 cents per kilowatt hour.

MS. DALE stated we could get back to Council on whether it's a time-of-use meter, which would vary depending on whether it's a peak time for energy use or not.

COUNCILMEMBER KERN thinks it's probably a moot point if it never goes below 7.5 cents. When he visited Vista Municipal, they had this program almost like a mini-pump storage in how they distributed their water, depending on the pricing they get from their energy provider. When he heard about the difference in cost he thought maybe there was something they could do.

COUNCILMEMBER FELLER asked if the $625,000 is over 15 years, or about $40,000 per year. Is that right?

MR. DAFFORN stated that's correct. We anticipate roughly $21,000 annual savings from the SDG&E cost and another $20,000 of natural gas savings because of the production of heat. There are two elements there to add up to the $625,000.

Motion was approved 5-0.

CITY COUNCIL REPORTS

13. **Mayor Jim Wood**

MAYOR WOOD announced the Tourist Summit on May 2nd, at the Oceanside Museum of Art. He attended the joint City Council/Oceanside Unified School District Workshop. He announced the Libby Lake Community Resource Fair and Heritage Park Day on May 11th. He attended a play at the Brooks Theater called Parallel Lives. He thanked the Carlsbad Mormon Church for their time and effort in cleaning the Cemetery in front of the San Luis Rey Mission.

14. **Councilmember Jack Feller**

COUNCILMEMBER FELLER stated one of the staff members at SANDAG received a Notice of Preparation of Environmental Impact Report (EIR) for the Buena Vista Lagoon Enhancement Project. He announced there's a scoping meeting on May 9th at Buena Vista Elementary School regarding the lagoon and the expansion of the freeway. He attended the celebration for Pastor Michael Henderson, who celebrated 15 years at the Shiloh Church of God. He also attended yesterday's Tri-City Christian School groundbreaking for a new facility. They're going to build a new school for K-12. He announced the Tourism Summit and National Day of Prayer at Grace Community Church, both on May 2nd.

15. **Councilmember Gary Felien**

COUNCILMEMBER FELIEN attended the Boys and Girls Club open house at their renovated facility; the Friends of the Library high-tea fundraiser; the business visit to Federal Heath Signs; the joint City Council/Oceanside Unified School District Board meeting; and the Library Volunteer Recognition event.

16. **Councilmember Jerome Kern**

COUNCILMEMBER KERN attended the San Diego County Water Authority Board Retreat last Friday. They discussed how they will start their new strategic planning. They are going for a cost-of-service analysis with and without desalination factored in, so there will be two phases to that. They won some procedural issues at Superior Court in San Francisco against Metropolitan Water District. They're compelling Metropolitan Water District to disclose their cost-of-service analysis. Although the Metropolitan Water District said they didn't have to answer, the judge put it clearly that they will have to answer how they charge for their services. They're on a path to having $450,000,000 in their reserves by the end of this year, yet they still have a 5% rate increase on the books. They're capped at $450,000,000, so he doesn't know how they're going to justify going above that cap with a 5% rate increase for the rest of the region.

He attended the Friends of the Library high-tea fundraiser, in which they raised about $6,000 for the Library, and the Green Fair. He also attended the Gear Up Conference at MiraCosta College as the liaison to the Education Committee. He met with Dr. Vodicka, the Superintendent of Vista Unified School District, as well as two of their Board members and the City Manager to talk about their issues, at the behest of one of their trustees. They have 8,000 Oceanside students at Vista Unified. They're about a third of the size of Oceanside Unified in the number of students. They're working out a deal with the school resource officer, negotiating with the City Manager and City staff.

He attended the open house at Mission Vista High School in which they opened the Food Services building; the business visit of the Federal Heath Signs corporate headquarters; the Oceanside Police Department Explorer Program BBQ; and Oceanside Reads for Literacy.

17. **Councilmember Esther Sanchez**

COUNCILMEMBER SANCHEZ attended the Friends of the Library high-tea and the Dia de los Niños/International Day of the Child event. She announced the Buena Vista Lagoon Restoration Project scoping meeting on May 9th. The project almost got stalled, but Caltrans and SANDAG agreed to continue with the EIR. This project will have $200,000,000 available for mitigation for the I-5 widening. Because of its uniqueness, this project will take priority over all mitigation projects if this goes forward. This could mean $100,000,000 to Oceanside and Carlsbad.

She announced the Annual Oceanside Tourism Summit and Summer Kickoff on May 2nd at the Oceanside Museum of Art; the Tourism Cares Volunteer Project on May 9th at the San Luis Rey Bike Trail; the Spring open house on May 9th at the California Welcome Center; and the Elks Lodge presentation with the Oceanside Boys and Girls Club and Canine Companions on May 2nd.

She mentioned that the Libby Lake event on May 11th is so important. It will be attended by MiraCosta College faculty, who will be encouraging parents and kids to think about going to MiraCosta.

She mentioned that the Water Authority submitted its comment letter to the

Army Corps of Engineers regarding the Gregory Canyon Landfill. They gave some wonderful comments about how the EIR does not answer all of the questions, especially with respect to the probable contamination of our water source, the San Luis Rey River, along with the aquifer and the pipelines for the Water Authority.

INTRODUCTION AND ADOPTION OF ORDINANCES – None.

ADJOURNMENT

MAYOR WOOD adjourned this joint meeting of the Oceanside City Council, Community Development Commission, Small Craft Harbor District Board of Directors and Oceanside Public Finance Authority at 8:21 PM on May 1, 2013. [The next regular meeting is scheduled for 2:00 PM on Wednesday, May 15, 2013].

ACCEPTED BY COUNCIL/HDB/CDC/OPFA:

_____
Zack Beck
City Clerk, City of Oceanside

California

CITY OF OCEANSIDE

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

MAY 15, 2013

REGULAR MEETING 2:00 PM COUNCIL CHAMBERS

NOT OFFICIAL
UNTIL APPROVED AT SUBSEQUENT
MEETING BY CITY COUNCIL

2:00 PM - OCEANSIDE CITY COUNCIL (COUNCIL), HARBOR DISTRICT BOARD OF DIRECTORS (HDB) COMMUNITY DEVELOPMENT COMMISSION (CDC), AND 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
Jerome Kern

Councilmembers
HDB Directors
CDC Commissioners
OPFA Directors
Gary Felien
Jack Feller
Esther Sanchez

City Clerk
HDB Secretary
CDC Secretary
OPFA Secretary
Zack Beck

Treasurer
Gary Ernst

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

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

For this regular and joint meeting, the Council sat as all 4 governing bodies [Council, HDB, CDC and OPFA] simultaneously but took action as the respective agency for the jurisdiction covered by each item. Council titles only will be used for brevity throughout the entire meeting.

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB), Community Development Commission (CDC) and Oceanside Public Finance Authority (OPFA) was called to order by Mayor Wood at 2:03 PM, May 15, 2013.

2:00 PM - ROLL CALL

Present were Mayor Wood, Deputy Mayor Kern and Councilmembers Feller and Felien. Councilmember Sanchez arrived at 2:09 PM. 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(B) and 3(A)(i).

[Closed Session and recess were held from 2:04 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 (OPOA Non-sworn, OCEA, MECO, Western Council of Engineers); no reportable action

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

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

   B) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: Approximate 450-acre El Corazon site (APN 162-082-06, 08,09, and 51); Negotiating Parties: City of Oceanside, International Swimming Hall of Fame, and Sudberry Development, Inc; Negotiator for the City: Douglas Eddow, Real Estate Manager; Under Negotiations: Price and terms for the lease and/or sale of real property

   Items discussed; no reportable action

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

   A) CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION (SECTION 54956.9)

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

   Item discussed; no reportable action

4:00 PM – ROLL CALL

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

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

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

Advance written request to reserve time to speak: None

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

TYENA, youth, is a student at Martin Luther King Middle School and part of the King Kids for Peace Club. She thanked Council for helping to make Oceanside a great City. We are doing our part to make our school and community a kinder and more peaceful place to learn and live. We are powerful kids, and we are making a big difference. She thanked Council for supporting them.

JABRIA, youth, is also part of the Martin Luther King Kids for Peace Club. Everything we do is based on our peace pledge, which was recited.

CASELLA, youth, part of Martin Luther King Kids for Peace Club, stated the first line of our peace pledge says they pledge to use their words to speak in a kind way. She kindly thanked Council for our parks.

ABBY, youth, thanked Council for our awesome beaches and lifeguards to keep us safe.

MELISSA, youth, stated on behalf of all King Middle School students, thank you for believing in the kids. Kindness matters very much.

JILL McMANAGLE, Co-Founder and Executive Director of Kids for Peace, stated King Middle School is our second chapter of Kids for Peace in Oceanside. They've been working for a few months and were looking for another proactive way to make a big difference on their campus, the community and the world. We're happy Oceanside has a home base for Kids for Peace. You put positive action first, and that's what Kids for Peace is all about. We believe in giving kids a platform to make a positive difference, and that's what they're doing.

CONSENT CALENDAR ITEMS [Items 4-12]

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

The following Consent Calendar items were submitted for approval:

4. City Council/Harbor/CDC/OPFA: Acceptance of Joint Minutes of the Small Craft Harbor District Board of Directors, Community Development Commission, City Council, and Oceanside Public Financing Authority of the following meeting(s):

April 4, 2012, 2:00 p.m.	Regular Meeting
April 17, 2012, 2:00 p.m.	Special Meeting of the City Council
January 2, 2013, 2:00 p.m.	Regular Meeting

5. City Council/Harbor/CDC/OPFA: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)

City Council: Approval of amendment 1 **[Document No. 13-D0345-1]** to the percentage lease agreement with Pam Gonsalves, dba Oceanside Pier Bait Store on the Oceanside Municipal Pier, extending the term of the agreement through April 30, 2018, for a five-year minimum total revenue of $24,300; and authorization for the City Manager to execute the amendment

6. City Council: Approval of amendment 3 **[Document No. 13-D0346-1]** to the CPI Property Lease Agreement with Hobie Cat Company for a portion of the property located at 4925 Oceanside Boulevard, increasing the square footage of the premises and increasing the minimum annual revenue by $60,710 from $628,738 to $689,448; and authorization for the City Manager to execute the amendment

7. City Council: Approval of amendment 2 **[Document No. 13-D0347-1]** in the amount of $100,000 annually to the professional services agreement with Vavrinek, Trine, Day & Co., LLP, of Rancho Cucamonga, for accounting services, and extending the term of the agreement an additional two years; and authorization for the City Manager to execute the amendment

8. City Council: Approval of amendment 4 **[Document No. 13-D0348-1]** in an amount not to exceed $40,000 to the professional services agreement with Value Strategies Inc. of Carlsbad for training and support of existing financial applications; **(2)** approval of a three-year professional services agreement **[Document No. 13-D0349-1]** with Enterprise Technology Services LLC of Orange in an amount not to exceed $468,600 for hardware and software support for the existing Oracle, public safety and housing applications; and authorization for the City Manager to execute the amendment and agreement

9. City Council: Approval of amendment 2 **[Document No. 13-D0350-1]** in an amount not to exceed $100,000 to the professional services agreement with Parc Civil for additional as-needed project management services for the Water Utilities Department; and authorization for the City Manager to execute the amendment

10. City Council: Approval of a memorandum of understanding **[Document No. 13-D0351-1]** with SANDAG at no cost to the City, for the design, construction and maintenance of the Coastal Rail Trail Project, Phase 2B, between Oceanside Boulevard and Wisconsin Avenue; and authorization for the City Manager to execute the agreement

11. City Council: Adoption of **Resolution No. 13-R0352-1**, "...noticing a public hearing to amend the Oceanside Boulevard Underground Utility District," declaring the City's intention to amend the Oceanside Boulevard Underground Utility District to include Crouch Street and setting the date for a public hearing

DEPUTY MAYOR KERN moved approval of the Consent Calendar [Items 4-12].

COUNCILMEMBER SANCHEZ seconded the motion.

Motion was approved 5-0.

GENERAL ITEMS – none

MAYOR AND/OR COUNCILMEMBER ITEMS

23. **Request by Councilmember Feller for an update on Ivey Ranch Park and their status and activities at the present time**

COUNCILMEMBER FELLER thought this was an appropriate time to invite Tanya from Ivey Ranch to let us know what is going on there, what's been accomplished in the last few years and what's coming up. Ivey Ranch has been close to his heart for 25 years.

TANYA DANIELLY, Executive Director of Ivey Ranch Park, stated we are a care and recreational center in Oceanside and have been here since 1981. We are on City-owned property. Because the City has not only endorsed what we do, but has provided for it, she has come to give you an update on the things that we are doing.

In 1981 the grounds were leased to a group of parents that had children with special needs. The group decided to ask Oceanside for their support to have a facility that would provide care and recreational programs for their children. 32 years ago the

options for special needs children were very limited. You had the option of either staying home with your child or institutionalizing them. We did not have the integrated programs that we have today in our school systems, as well as the recreational activities.

Back in 1981 there was a 17-acre parcel that the City purchased from the Ivey Ranch Trust. Groups of parents pleaded with the City for the use of that land, which was granted to them in 1981. It started with 2 programs: toddler and preschool programs and before- and after-school care. In California you are considered a minor until your 22nd birthday if you have a diagnosis or are with special needs. Our children range from 18 months old through 22 years old.

In 1990, children started aging out of our program because California dictates that you cannot care for a child past their 22nd birthday. We started an in-home care. We were providing care until their 22nd birthday, and they then had the option to continue a relationship with Ivey Ranch, but with our home care providers coming to them.

In 1993, we gained a community garden. The Mission San Luis Rey had once hosted a community garden. They were getting ready to build their Serra Center and needed to move it. Since we had room, we adopted the garden. The feel of our 12-acre facility is very eclectic. It includes our cares programs, the garden and horses.

In 1995, we extended our programs to include summer camp, and in 2003 we began our equestrian program. 32 years later, we have 9 programs that we run. Our children range from 18 months old to adults and senior citizens. Our equestrian program has expanded into 4 parts: therapeutic riding; able-bodied riding; Horses for Heroes; and our camp program, which has transitioned into a horse camp.

Our Horses for Heroes program is specifically for our active duty military, as well as our veterans. It is a therapeutic component of physical and occupational therapist, psychotherapist, marriage/family therapists or psychologists.

Our focus remains on children with special needs and those from low-income families. We provide services to many. We are contract vendors and provide services for the State; County; YMCA childcare resource services; Regional Center of San Diego; Exceptional Family Services on Camp Pendleton; Wounded Warrior Battalion; and the Oceanside, San Marcos and San Diego Veteran's Administration.

Our leadership, staffing, volunteers and clients are overseen by a Board of Directors, which consists of 9 volunteer community members. There is one administrative position, Executive Director, who oversees 9 programs and 27 staff members. We are fortunate enough to have over 300 volunteers a year that donate over 8,000 hours to our programs. That kicks back to us almost $200,000 worth of services. Every month we see 150 clients in our 9 programs.

Computer graphics were used to show Ivey Ranch in the 1990's and now. The original ranch house from 1893 is used for our childcare. We have a lot of great relationships with churches and community volunteer groups that help upgrade our facilities on a regular basis. K-9 Companions is also on the Ivey Ranch property. When she began looking into the equestrian program, Council wisely asked her, once we had proven ourselves with 3-5 years of equestrian programming, to come back with a business plan and you would consider us attaining additional property to develop, which we have. In 2008, Council granted that lease expansion.

Our equestrian program started in 2003 with one horse and 2 riders. That program now consists of 20 horses and 114 riders a week. These riders range in age from 4 years old to 86 years old. They have mental, physical, development, social and behavioral needs, and are also active duty military and veterans.

We are now a premier accredited facility. Our equestrian center is the only center in the State that is duly accredited through both PATH (Professional Association of Therapeutic Horsemanship) and CHA (Certified Horsemanship Association). We are in the top 5% of centers nationwide that meet industry standards for safety, administration, programs and facility management.

Since becoming accredited, we are now in a position to be a teacher of teachers. We now host individuals who are interested in becoming instructors or further their education as instructors to become a higher level. We also host education series for the industry. Our education series is now bringing 10-40 individuals to Oceanside for 3-5 days, 4 times a year. We are also a mentor facility for equestrian programs that brings individuals from around the globe to learn, train and replicate our programming. Two weeks ago we were selected as the host facility for the 2014 California/Nevada/Hawaii and Regional Conference here in Oceanside. That will bring 100-150 individuals for 4 days next spring.

The City has been very supportive over the years. In 1981, you extended our initial lease. In 1997, you revised our Property Use Agreement. In 2001, the amended property use extended our lease to 2031. In 2008, the City gave us an additional 4 acres to expand our equestrian facility.

She thanked the City and Council for the support, endorsement and belief that we would succeed. We've reached a point where our accreditation shows, and we have people from around the world coming to see what we've done and replicating it.

In the fall we are holding our annual fundraiser at the ranch. It's the first Saturday in September, and it is our opportunity to showcase our facilities and programs. We host between 300-400 people for our fundraiser. The information is on our website.

COUNCILMEMBER FELLER pointed out that this has been a great partnership. We have somebody take care of a piece of property for us for nothing. It's a great addition to the community and a great respite for those parents who have developmentally disabled family members. This is a very worthy cause.

CITY MANAGER ITEMS

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

TERI FERRO, Financial Service Director, stated the quarterly reports have been getting better. We've been doing very well with revenues coming in and expenditures under control. In January, the Council amended the budget because we saw revenues were increasing. What started out as a $116,000,000 General Fund budget has grown to $119,000,000 and will continue to grow.

On the revenue side, we have brought in about 65%, which is typical as of March 31st. A lot of the revenues come in April, May and June. We have our franchise taxes, property taxes and sales tax due during that time, so we anticipate reaching our target. On the expenditures side, we have spent 73% as of the third quarter.

The Council had previously allocated reserves and surplus revenue to some of the programs, including some refinancing and debt prepayments, which is in accordance with Council Policy of how to use one-time dollars.

Our property tax revenues are at 60%, but we get a big payment in April. We anticipate an increase there. We're doing very well with our sales taxes; they continue to grow. We had a meeting with our sales tax consultant a week ago, and the trending is very good.

Our hotel taxes have continued to grow with the new businesses we have. The licenses and permits are a small portion of the overall budget, but we've brought in 92% so far, so we're continuing to see growth there. Building permits are in that category. A computer graphic was used to show General Fund revenues.

On our expenditures, almost every department is at 75% or less. A computer graphic was used to show the breakdown by department and by category as of the third quarter. We're on target for most of them.

We have one-time revenues of $626,000 from the residual property tax. The City Successor Agency had to make a payment to the County of a little over $2,000,000, and this is the portion we get back. We also have $4,500,000 from the sale of some property; those are one-time dollars that go into reserves and, according to Council policy, we'll be coming back at a later time to make recommendations on how to spend those one-time dollars.

Our hotel, franchise, sales and property taxes are all increasing. For the quarter we are making a recommendation to increase that revenue over $1,000,000, which is looking favorable when we go to the 2013-14 budget; we have included that consideration. There are other revenues where some went up and some went down and they mostly negate each other.

Overall, the revenue is going up $6,200,000. There are some requested adjustments on the expenditures to increase the budget $66,000.

Public input

JIMMY KNOTT, 127 Sherri Lane, did not see how much we have built up to pay back on our reserves. He also did not see the allocation for unfunded portion of PERS. Council has requested that in the past but it is not in this budget. He does not see a maximum optimistic and pessimistic budget.

Public input concluded

COUNCILMEMBER FELLER asked for an explanation of what the $869,000 in other miscellaneous revenue decreases would be.

MS. FERRO put that on the graphic as miscellaneous for summary purposes, but in the Council report there is a very lengthy detail of what it includes. For example, interest earnings have been decreasing; rents and leases for the municipal golf course have been decreasing; ambulance billing is shown as a decrease, but it's more of a cash-flow issue as we will not receive all of our revenue by June 30th but anticipate receiving it in subsequent months; reductions in the business license administrative fees; development plan application and check fees, etc. The significant issues would be the ambulance billing, which is timing. We anticipate receiving a one-time reimbursement for AB 678, which had to do with ground medical transport. We're not going to receive it this year, so we have to take it out of the budget. However, we will receive it next year.

COUNCILMEMBER FELLER wanted clarification so people don't think money is just going somewhere without a real cause.

CITY MANAGER WEISS stated there has been a reduction in revenue in our abandoned vehicle program. With the change in State law, during our DUI checkpoints we are seeing a significant reduction in vehicle tows and fees associated with that because we can't impound many of them anymore. There are certain restrictions now, so that revenue has dropped about $115,000 per year.

COUNCILMEMBER KERN stated it seems like things are finally trending in the right direction. The permits are a small part of the budget, but when we issue permits it means people are going to build things. Those will add to our property taxes, if not next year then the following year.

He asked if, in talking with our consultants, the sales tax projections are still trending up.

MS. FERRO responded they are still trending up, and the proposed 2013-14 budget shows an increase in there as well. We're looking at our general merchandise growing, and restaurants are doing very well. It's a trend because the younger generation likes to eat out and not cook. Those are good indicators, and we're definitely seeing an increase in our sales tax.

COUNCILMEMBER KERN stated we've been so pessimistic over the last few years that a little optimism is welcome. We need to be cautiously optimistic.

CLOSED SESSION REPORT

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

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

CITY COUNCIL REPORTS

13. **Mayor Jim Wood**

MAYOR WOOD announced that Operation Appreciation is happening on Saturday, May 18th.

14. **Deputy Mayor Jerome Kern**

DEPUTY MAYOR KERN attended Assembly Member Chavez's Open House, the safety and security meeting with school resources officers and security for the schools, the Libby Lake Resource Fair, the Heritage Park Friends of the Park fundraiser and played in the Dan Bessent Memorial Golf Tournament. He encouraged people to attend Operation Appreciation.

He went to Washington D.C. to talk to our Congressional delegation about water issues. It's vitally important that we get off Metropolitan Water District and become 50% water independent by 2030.

15. **Councilmember Gary Felien**

COUNCILMEMBER FELIEN stated the North County Transit District (NCTD) is moving forward with their plans to redevelop the Transit Center to reorganize how the buses move through there, as well as add some residential and commercial development in the area. They are trying to make it a better anchor for the community than it currently is.

Also moving forward is a study to create a quiet zone along the Coastal Rail Corridor. The study will cost about $400,000. The City will have to decide if we want to participate in that. The cost will be shared by all of the coastal cities. The bigger issue is the cost of creating quiet-zone-complaint crossing gates.

16. **Councilmember Jack Feller**

COUNCILMEMBER FELLER attended the Tourism Summit Kickoff at the

Museum of Art.

He announced Operation Appreciation on Saturday, the car show at El Camino High School on Sunday and the men's rally at El Camino High School.

17. **Councilmember Esther Sanchez**

COUNCILMEMBER SANCHEZ attended a workshop sponsored by the California Coastal Commission on agriculture and the Latinos for Water conference in Los Angeles.

She announced the North County LGBTQ Resource Center Annual Gala on Saturday, the VANC Resource Center Memorial Day on Monday and Vista High School's celebration of the arts performances on May 28th.

[Recess was held from 4:59 PM to 5:13 PM]

5:00 – ROLL CALL

Mayor Wood reconvened the meeting at 5:13 PM. All Councilmembers were present.

INVOCATION – Cantor Larry Kornit

PLEDGE OF ALLEGIANCE – American Legion Auxiliary Unit 146

PROCLAMATIONS AND PRESENTATIONS –

Presentation – Employee Service Awards
Presentation – American Water Works Association's Meritorious Operator Service Award to Robert Gutierrez
Proclamation – Crohn's Disease & Ulcerative Colitis Awareness Month

Presentations were made

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS – Continued

DAVID NYDEGGER, President and CEO of the Oceanside Chamber of Commerce, stated Oceanside is celebrating its 125th Anniversary. The City has 3 time capsules. He talked about the timeline of the 3 time capsules. He feels this would be a good time to bury another time capsule on July 3rd, which is when we're having our big celebration.

Next Saturday is Operation Appreciation. We'll be feeding about 5,000 troops there.

On July 13th we're having the City Celebrates 125th Gala, which is a black-tie event at the fountain area.

HOWARD LA GRANGE, Oceanside Bike Committee, reminded everyone that Friday is Bike-to-Work Day. He announced the sponsored pit stops along the way. He gave suggestions for safety when biking to work.

EMILIO MATEO, 1406 San Simeon Street, stated he is an ironworker and this City has been a beacon of fairness in this County. He would like to be able to earn his money here in Oceanside. There has been over $206,000 in work in the last 6 months that has gone to non-local workers. That amount of money has left Oceanside. By the end of these projects, it will be in the millions. He asked to be able to earn his money and have Council do something about that if they can.

RYAN BOWLER, 3900 Sherbourne Drive, is also an ironworker and Oceanside resident. He was recently out of work. H6e was discouraged to see all of the workers coming in from out of State and taking the local jobs.

JOHNNY SWANSON, 5118 Whitman Way, Carlsbad, stated for the last 6 months he's been out at the project watching the guys coming from Arizona to do the local jobs and take that money back to Arizona with them. Many of us don't have jobs because of out-of-state workers. These workers take the money they earn and spend it out of the State. We're asking the City to put local workers back to work.

VLADO BRYONOVICH, Oceanside resident, is an ironworker and asked Council if there is anything we can do to keep the money here with the workers and in the City.

JIMMY KNOTT, 127 Sherri Lane, read from an article from *Westways* magazine about Oceanside's 125th Anniversary celebration and noted that there was an entire page dedicated to Oceanside.

He announced that every Sunday, from June 23rd to August 18th, will be the Sunday Concert series in Heritage Park.

DIANE STRADER, Vice-President of the Eastside Neighborhood Association, stated we have been working diligently to get our neighborhood cleaned up. We've asked Code Enforcement to help us, and she thanked the staff members who have been so valuable in helping them. Code Enforcement came into the neighborhood and cited many of us for not cleaning up our yards. They have since cleaned up their yards, and it's looking very nice. She thanked Margery Pierce and all of her staff for doing that.

CITY MANAGER ITEMS - Continued

24. **City Council: Report on service gaps and update on neighborhood safety**

PETER WEISS, City Manager, stated at Council's March 27, 2013, meeting you had asked for staff to come back and look at identifying service gaps and provide some opportunities to fund community priorities. Since that time, Council also had a joint meeting with the Oceanside Unified School District (OUSD), which resulted in valid discussion in identifying some other opportunities. We've also received input from a number of neighborhood groups and residents. A comprehensive list of all of those was provided in a memo in the Council packet today.

Council had asked staff to evaluate those service gaps and allocate surplus from one-time revenues. A lot of that was provided in the input we received. We recognize that there is not enough money to fund all of the programs that we're looking at doing. It's been made clear that, although there are a lot of opportunities in the partnerships we have with a lot of non-profits, the school districts and other services providers, we are not in a position to be responsible for everything.

In the memo we've outlined the available funding. We have approximately $354,000 available, along with $43,000 in CDBG money that's available for capital projects. We have roughly $394,000 from the prior year that we identified as surplus. In the past, Council has used some of that money for the wi-fi in the resource centers, the pier planking, and a number of other service increments that Council has asked for and that are included in the draft budget.

Project REACH at Libby Lake is operating on a grant and that grant is expiring. They are looking for some gap funding to get through until they hopefully get a grant awarded next year. That would be a one-time cost of $80,000. We are also recommending, with the establishment of Lifeline in the Crown Heights neighborhood, some funding for the initial start-up for their staffing. We're recommending that as a

one-time fund as well.

We're recommending, with the $43,000 available from CDBG funds for capital expenditures, a strategic monitoring system that will be installed in locations throughout the community. We identified a number of locations for a much higher amount, but given the limited funding availability, we will prioritize those through the Police Department and in coordination with our IT Department.

That amounts to about $153,000. Council had also asked for a recommended funding plan to be able to fund certain programs for a 2-year period. We literally backed into the numbers for what we had identified as a staff need based on Council's input and discussions on those that were the highest priority.

We have an MOU with OUSD where we provide school resource officers. They indicated that they would like an additional resource officer. The cost for that would be split between the City and OUSD. We've identified that cost for the fully burdened officer, along with appropriate equipment and oversight.

Based on input we received from Council and the community, we identified expanding evening youth programs at the recreation centers that would include targeting the Balderrama area; Melba Bishop Park, doing nighttime basketball programs and expanding the hours; and initiating a Libby Lake summer youth program. We're only allocating the money at this point. We're recommending the funding as that for a 2-year program. We're looking to see if it's a program the City could provide through existing resources or expanding some hourly, extra help opportunities.

He has been contacted by the Boys & Girls Club, who are interested in providing some summer programs. We will evaluate those programs and put the money where it can best serve the community. We're recommending $2,500 to go to the Oceanside Community Safety Partnership for faith-based outreach, which hosts neighborhood activities. There is some additional money for Neighborhood Services to do youth education and incentive programs. We're looking at funding $3,000 for the next 2 years for the City's Police Explorer Program.

There are additional service gaps identified that we are trying to make progress on. Someone requested we find funding for field trips. We are actively in the process of soliciting donations from a variety of sources. Should we start receiving funding for those, we will make that available to certain neighborhood groups to participate in those activities. We have done a Take Back the Park event at Libby Lake Park, and another one is scheduled for June. Also a priority was to restore the Bookmobile Program. At the workshop there was a recommendation from OUSD for us to make that available for the Kids First program. We had started looking at a funding plan, and we will be bringing that funding plan and recommendation to Council in June, which would restore the Bookmobile service for a limited time.

Attached to the memorandum in the packet is a list of additional programs that were identified. Unfortunately, with the limited resources you have, to fund those and any further ongoing programs would require us to identify an alternate revenue source or make reductions in other cost centers.

STEVE REGALADO, Police Sergeant, oversees the Explorer Program. Currently we have 18 members. He asked 3 of them to speak on the program.

SYNDEY CHAVEZ, Explorer, was born and raised in Oceanside. This program has offered her a lot of opportunities in the 2 years she's been in it. This program has provided the skills to become a police officer, like commitment, dedication and leadership. With this program she has learned that she wants to become a police officer in Oceanside. She thanked Council for their support.

MARCUS WILLIAMS, Explorer, has been part of the program for approximately 5 months, and it has changed him. As a kid he always wanted to become a police officer but didn't know the different steps it would take to do that. This program has showed him discipline, leadership and dedication. He knows now all of the steps he will need to take and will take to become a police officer. He thanked Council for their support with this program.

DOMINICK LAPORTA, Explorer, joined the program because he always wanted to be a police officer. His father was an Oceanside police officer. This program opened his eyes about what police do. It gets us out in the community and helping with events. We get to see a lot of things. He has learned how to be a leader, and it means a lot to have Council support the program.

MAYOR WOOD spent 31 years in Oceanside Police Department. When you hire locally, the people know the City.

COUNCILMEMBER FELIEN stated as an Eagle Scout he is proud to see the police involved with the Explorer Program. He congratulated the Explorers for their future goals and commitment to our community. He is happy to provide whatever support he can from the Council to support the program.

Public input

JOSE ALPIZAR, youth, has a 3.8 GPA and has been attending REACH for a semester. REACH is important because it teaches kids to interact with other kids in a positive manner.

DAVID GARCIA, youth, attends El Camino High School and was one of the victims in the Libby Lake shooting. REACH has done many great things for him and other kids. He can see his friends being the Mayor of Oceanside or President of the United States because REACH had taught his friends so much. They will be successful. He thanked Council for helping them. The kids in this program are safe from the violence that has been happening.

JIMMY FIGUEROA, Project Coordinator for Project REACH in Libby Lake, is an Oceanside native and is very proud of these students. They have inspired and encouraged him. Project REACH is a preventative program with a preventative curriculum. We focus on academic assistance, employment and career readiness, healthy lifestyle and communication skills. It's become a safe haven for these students. We focus on gang prevention, teen pregnancy and drug abuse. It's a family. Project REACH has become a center of hope and encouragement. There are bright things happening in the program. He thanked Council for their support.

MARIA YANEZ, Program Manager for Youth Development Programs, Vista Community Clinic, 4700 North River Road thanked Council for the great partnership with Oceanside. Our Project REACH program has been in the back gate/Libby Lake area for many years and has served over 1,000 youth. Every year we have new and returning students to our program. They stay with us for a long time. We serve kids from 6th grade to 12th grade. The kids learn, and they see us as a beacon of hope. We try to open their eyes to the things outside of their neighborhood and show them what they can accomplish.

JIMMY KNOTT, 127 Sherri Lane, is happy that Council concentrated on the service gaps. What's missing is the issue of public safety. He urged Council to look at successful areas in Oceanside, like South Oceanside. We used to have huge problems in that area, but we meet regularly to address those problems. The crime is now almost zero. We work together and discuss the problems that we have in our community. We take a proactive stance and advocate for our community. We bring our issues to Council and tell you our needs. He would have liked the City Manager to explore public safety

cameras. When people realize someone is watching them, they're going to have second thoughts about something illegal.

SALVADOR LEAL ESTRELLA, 1896 College Boulevard, stated everyone seems to be pointing fingers about what's been going on the past 4 years, but all of us are responsible for what's going on. Everyone has to do work on this issue. The Libby Lake and Crown Heights areas are different from South Oceanside. They have mostly Spanish speaking families so sometimes they are not aware of what's going on. We try to communicate information to them. It's hard for them to come to a Council meeting and understand what's going on because it's in English. If they could understand, they could participate and not leave it all up to Council and law enforcement, etc. If we all do our part then Oceanside can be a great City and would flourish. Investing in children is the best thing you can do. It's hard to change someone after they've committed a murder or gone to prison. If we work together as an entire City, hopefully we'll see this violence deteriorate, and we won't have to beg for resources ever again.

Public input concluded

COUNCILMEMBER SANCHEZ thanked everyone for participating in the meetings we've had throughout the City to address this critical issue. Some of the speakers tonight have gone on to college and are giving back to our community. They are role models for all of us. There is no way that we could address every need we have in these challenged neighborhoods. We asked staff to come up with a plan that would address gaps. There are so many things she wishes we could do. Funds have been cut over the years, and there are less services to our kids.

The biggest issues are finding gaps after-school, 6:00 PM to 9:00 PM, summer, etc. These education incentive trips teach us all that there is a bigger world out there. She's one of those kids. She grew up in Eastside and decided to go to college outside of the neighborhood, and that opened up her eyes. That has made a difference in what she's been able to do with her life. We are, as a community, working on a resource fair in the fall at Laurel Elementary, working with MiraCosta. She looks forward to all of us working together.

She **moved** approval of the City Manager's recommendations. She asked if cameras were included.

CITY MANAGER WEISS responded yes. We are including cameras as part of this recommendation.

COUNCILMEMBER SANCHEZ stated this is most of what we would like to do going forward in addressing these critical issues. These are life and death issues.

She received emails asking about the Marshall Street Pool. She's been talking to staff about trying to find funding for that pool. Because of the Brown Act she isn't able to talk to the other Councilmembers outside of the dais, but we all want to make Oceanside the best place for our kids. Every child should be able to walk down the street in any part of our City safely and without fear. That is our goal.

COUNCILMEMBER FELLER seconded the motion.

COUNCILMEMBER FELIEN stated these tragedies that have happened in our community have torn at our hearts, especially since they involve children. Not everyone in our community has the same opportunities, and it's imperative to do whatever we can as a City to support programs within the budgetary constraints that we have. He thanked staff and the public for these recommendations. We had a meeting with the school district and everyone was committed to doing what we can to make our community a great place to live, with opportunities for all of our children to grow up and reach their full potential.

The two things that stand out in terms of the majority of the expenditures are Project REACH and the school resources officer. He asked for a more detailed explanation of what each of these programs are and how they will help address some of the issues we're trying to address.

BRENDAN MANGAN, Management Analyst, explained the Project REACH program is currently funded through CalGRIP. It was funded through June 30th, and they've stretched that funding through August 30th. We have no further funding identified for the program. We have a chance to apply for funding beginning in January of next year, but we can't take the chance that we would get that funding. It's possible they may tell us we can't apply this year because we've received the grant for three straight years. REACH is too critical of a program to lose. We will still apply if they let us. If so, that would enable us to do additional programming.

REACH is a prevention program that focuses on education and job skills. It gives the kids incentive to move forward and head toward a positive life. The prevention aspect helps with drugs, alcohol, etc. When we apply for these grants, the money is split roughly 50/50 with the Police Department, so the grants focus on suppression and intervention. With this grant, we'd focus on Libby Lake. We currently have one we received for $500,000 that focuses on Eastside and Crown Heights. REACH's participation improves our chance of getting the grants. They do best practices programs and that increases our chance of getting funding each time we apply.

FRANK McCOY, Police Chief, stated currently we have 3 school resource officers (SRO) with the OUSD. Those officers are placed at the high schools. They do several things in their positions, but one of the main responsibilities they have is providing intelligence for the Police Department as to activities at the school that may pour out to after-school issues or incidents. They are also a resource for the kids if there are any problems and issues they have from a law enforcement prospective. They feel more comfortable talking to a police officer that is there on a daily basis that they interact with. It also provides a sense of security at the school for students, teachers and the principal. They are a valuable resource for us and the school district. The officer that we're looking at adding would help out at the middle school level for OUSD.

COUNCILMEMBER KERN attended the meeting with the school district last week. The SRO's share information between the schools and the Police Department about what's happening in the schools. They share it with their colleagues so they know what's happening in the neighborhoods. Even though they are assigned to the high schools, they spend a lot of time on the middle school campuses because they're on call with the middle school Vice-Principal. Unfortunately, the middle school years are where we start to lose kids, so having an SRO that travels between the different middle schools will be helpful.

The only problem is that these are temporary funds. We've had the opportunity because we have some excess funds at this time. This is truly gap funding. He commended staff for applying for more grants and finding other resources through private or institutional funding for these programs. We're not out of the woods yet financially as a City. We're getting much better. Maybe, by having that gap funding, at the end of 2 years we may be able to perpetuate some of these programs. We'll get feedback from staff and the nonprofits about which programs work and which ones don't. That will be critical the next time we go through a funding cycle here.

He attended the resource fair at Libby Lake last week. It was very well attended, and the park looks really nice. The landscaping has been changed around and opened up to make it easier for police officers to drive by and see what's happening in the park.

Our joint meeting with OUSD is where a lot of these ideas came from. We directed the City Manager and the Superintendent to come back with ideas that we can actually implement. We need to meet at least once a year with OUSD and talk about what we can do and provide. They have basketball courts and gymnasiums that we can use if we can supply part-time personnel or interns to keep some of these programs alive. It's going to take a community to pull everything together. We're on the right track.

COUNCILMEMBER FELLER stated Project REACH is a one-time gap measure, as is Lifeline moving into Campfire Girls. So $153,000 is one-time costs. The ongoing cost is of some concern, but the presence of law enforcement in the schools is necessary now. The faith-based outreach is important to him because that's strictly a volunteer group. The churches are one of the more important parts of our community. They put in their time feeding people and helping in the neighborhoods. Are the programs we're talking about full; do they have waiting lists?

MS. PIERCE responded the program at the Crown Heights Resource Center has about 30 or 40 kids on the waiting list. That's why it's so important for them to open the Campfire facility as soon as possible. She doesn't know if there's a waiting list for the teen REACH program. The youth program in Libby Lake doesn't exist right now, but there is an after-school program that the Boys & Girls Club operates with about 120 participants. We're hoping and have heard rumors that there has been some funding allotted for them to continue with the summer program, which sounds appealing because they already have 120 kids that they're serving, and it could be a great continuation for them. There isn't a waiting list, as far as she knows, at the school.

COUNCILMEMBER FELLER stated one of the earlier speakers grew up in a rough situation and turned out great. In most of the success stories, there were parents pushing them to do better and stand tall. The parents are the most important tool here. They have to fill the gap. It's not the City's responsibility to be parents. We fill in with these programs. There are no good excuses for parents to not participate in their child's lives. We need to be a back-up for those people who might be missing parents in the home. If necessary, provide the education they need to be good parents. That will have a good outcome. We have other areas of concern, like Martin Luther King park, which is thug heaven. That place is a bad influence on children. There are lots of concerns about areas in our City, but the three we've mentioned tonight are the main ones.

Motion was approved 5-0.

[Recess was held from 6:53 PM to 7:02 PM]

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.

20. **City Council: Approval of a budget appropriation in the amount of $1,797,287 of unallocated HOME Program funds and $4,707,691 of unallocated Inclusionary (In-Lieu) Housing Funds to the Mission Cove Affordable Housing Project located along the 3200 block of Mission Avenue**

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

DAVID MANLEY, Neighborhood Services Division Manager, stated this project has been before Council on different levels over the past couple of years. Tonight we're asking Council to appropriate the funds that we have available from the HOME program and inclusionary in-lieu fees to the project. HOME requires that we have a public hearing.

Council approved the Disposition and Development Agreement (DDA) last year, which says over the next 5-year period this project will get the priority for existing Housing funds. Even with this action, there is still a small gap to be filled to get our first phases underway. Staff and the development team are looking at different resources, as they become available, to fill that gap of approximately $3,900,000. We're confident that we can find those resources prior to the anticipated ground-breaking, which will hopefully be in early spring.

He asked Council to appropriate the funds. We have the support of the Housing Commission on this.

JOHN SEYMOUR, National Community Renaissance (CORE), stated we've been in business for 20 years. We own, operate and manage about 10,000 units, including 2 apartment home communities in Oceanside. The Housing funds you are appropriating tonight are for housing, but that housing is going to include a 5,000 square foot family resource center, which we pledged to the City would be open for programming and resident services, such as youth development, science technology, free low-cost after-school programs, etc. These programs will lead to family self-sufficiency and growth and development of our youth, not only for residents on site, but also for the outside community.

If all goes well with the Planning Commission, we anticipate breaking ground in the first quarter of next year on the infrastructure, which is Phase A. We would then be able to apply for our tax-credit financing for Phase B, which is the first 90 units, the family resource center, the amenities and the 10,500 square feet of retail.

Our second family phase is 60 units with our subsequent tax-credit application. We would be delivering a pad to CORE for the vertical construction of their 138 units of senior and special needs with veterans.

MARY JANE JAGAZINSKI, Community Housing Works, stated this Council showed foresight years ago in seeing the need to provide additional homes for people who need it: younger families with children and seniors. You bought the land and had the dedication of doing it right, having a Vision Plan and working with the community. There is a need for homes for our veterans, young and old.

San Diego County is the number one county in the United States for returning veterans. There are about 27,000 returning veterans here who are going to need homes. A lot of them are not going to be able to afford conventional homes. Beyond that, there are 277,000 veterans already living in San Diego County. That puts us in the top 2 or 3 U.S. counties. Some of those veterans are seniors, and some of them just really need a home.

DENNIS NELSON, veteran, is a long-time resident of Escondido. He dropped out of high school and enlisted in the Navy. In his 4th year in the Navy he fell from some scaffolding and injured his leg, back and spine. He returned to Escondido and worked in factory and construction jobs. He slept wherever he could sleep for many years. He got injured on another job and was out of work. Escondido Interfaith offered veteran's assistance. He was living in their shelter and working on his health issues when he heard about Avocado Court, a low-income housing project in Escondido. He applied at Christmas and by February he was living there. The quality of life he now has is astounding. There are only 32 apartments, and the whole complex works together. The whole place is high quality and high tech. The opportunities are great there.

Public input

ELAINE SAUTER, 3216 Mission Avenue, lives at La Mision, which is across the street from this project. She read a letter about veterans returning from war and not being able to afford housing.

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

COUNCILMEMBER SANCHEZ moved approval [of a budget appropriation in the amount of $1,797,287 of unallocated HOME Program funds and $4,707,691 of unallocated Inclusionary (In-Lieu) Housing Funds to the Mission Cove Affordable Housing Project located along the 3200 block of Mission Avenue].

This project will get us a long way into what our requirements are in terms of providing for affordable housing. She's been visited by a couple of developers who have been talking about putting their in-lieu fees into this project to make this really happen. She can't say enough positive things about this.

MAYOR WOOD seconded the motion.

COUNCILMEMBER FELIEN stated under the funding in the back-up it includes $4,500,000 possible proceeds from the sale of Laguna Vista Mobile Home Park. Does that portion of the cash make the difference between this project surviving and not surviving?

CITY MANAGER WEISS stated whether they need it or not would be a question for the developer. However, Council had previously indicated that you were looking at some options in regards to the proceeds. Although the sale of the mobile home park did close, there are still some outstanding financial issues through the buyer and their bond that we probably won't be able to resolve and will come to Council for disposition of the money. Since there are no Council meetings in July, it will probably be in August. He cannot answer whether or not they absolutely have to have that money.

MR. SEYMOUR stated after the appropriations tonight we'll have a need of approximately $3,500,000 to $3,900,000. Once we get that in hand, we'll be able to commence Phases A, B and D, which is everything, with a pad delivered to Phase C. Phase C can't go unless there are additional funds. Of the $3,500,000 to $3,900,000 that is not yet identified, the possible proceeds from Laguna Vista Mobile Home Park would fill that gap. We're also viewing this project as a mitigation bank. Developers have off-site mitigation. We're a bank and you can buy into this project. After tonight there is still a funding gap, but we're going to be reducing costs and bringing in equity. Those proceeds would help get this project going sooner.

COUNCILMEMBER FELEIN stated the public may not know that we're currently fighting with the State over what the ending of Redevelopment means today and what it meant yesterday, etc. What we're being told on a minute-to-minute basis depends on what our options are as it relates to this project. We're trying to do various projects, including the parking lot downtown, the beach restrooms and the Mission Avenue improvements. We're trying to juggle all of these things based on what we're being told by the State. We want to try to make everyone happy. He wanted to make sure we aren't totally committed yet, and that people involved in this project are aware that we still have to sort all of this out. Hopefully, we can make everyone happy, but it depends on what level of cooperation we get from the State. He will support the motion tonight.

Motion was approved 5-0.

21. **City Council: Adoption of resolutions confirming the diagrams and assessments for FY 2013-14 for ten of the City's Landscape Maintenance Districts: Del Oro Hills, Assessment District No. 1-1987; Guajome Ridge, Assessment District No. 1-1989; Mar Lado Highlands, Assessment District No. 1-1988; Mission Meadows, Assessment District No. 2-1979; Peacock Hills, Assessment District No. 1-1977; Rancho Hermosa, Assessment District No. 3-1982; Santa Fe Mesa, Assessment District No. 2-1987; Sunburst Homes, Assessment District No. 1-1980; Sunset Hills, Assessment District No. 2-1982; Vista Del Rio, Assessment District No. 1-2001; and ordering the assessments to be levied for FY 2013-14**

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

DOUG EDDOW, Real Estate Manager, stated staff is recommending adoption of Resolutions confirming the diagrams and assessments for the above-mentioned assessments districts. These are 10 of the 11 districts. He will be bringing forward the 11th in the next item. This is the annual renewal in order to confirm and levy the assessments.

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

COUNCILMEMBER SANCHEZ moved [adoption of the following resolutions confirming the diagrams and assessments for FY 2013-14 for ten of the City's Landscape Maintenance Districts, and ordering the assessments to be levied for FY 2013-14:

Resolution No. 13-R0353-1, "...confirming the fiscal year 2013-2014 diagram and assessment for the Del Oro Hills Landscape Maintenance District, Assessment District No. 1-1987";

Resolution No. 13-R0354-1, "...confirming the fiscal year 2013-2014 diagram and assessment for the Guajome Ridge Landscape Maintenance District, Assessment District No. 1-1989";

Resolution No. 13-R0355-1, "...confirming the fiscal year 2013-2014 diagram and assessment for the Mar Lado Highlands Landscape Maintenance District, Assessment District No. 1-1988";

Resolution No. 13-R0356-1, "...confirming the fiscal year 2013-2014 diagram and assessment for the Mission Meadows Landscape Maintenance District, Assessment District No. 2-1979";

Resolution No. 13-R0357-1, "...confirming the fiscal year 2013-2014 diagram and assessment for the Peacock Hills Landscape Maintenance District, Assessment District No. 1-1977";

Resolution No. 13-R0358-1, "...confirming the fiscal year 2013-2014 diagram and assessment for the Rancho Hermosa Landscape Maintenance District, Assessment District No. 3-1982";

Resolution No. 13-R0359-1, "...confirming the fiscal year 2013-2014 diagram and assessment for the Santa Fe Mesa Landscape Maintenance District, Assessment District No. 2-1987";

Resolution No. 13-R0360-1, "...confirming the fiscal year 2013-2014 diagram and assessment for the Sunburst Homes Landscape Maintenance District, Assessment District No. 1-1980";

Resolution No. 13-R0361-1, "...confirming the fiscal year 2013-2014 diagram and assessment for the Sunset Hills Landscape Maintenance District, Assessment District No. 2-1982"; and

Resolution No. 13-R0362-1, "...confirming the fiscal year 2013-2014 diagram and assessment for the Vista Del Rio Landscape Maintenance District, Assessment District No. 1-2001"

DEPUTY MAYOR KERN seconded the motion.

Motion was approved 5-0.

22. **City Council: Adoption of a resolution confirming the diagram and assessments for FY 2013-14 for the Douglas Park Landscape Maintenance District, Assessment District 5-1981, and ordering the assessments to be levied for FY 2013-14**

A) Mayor opens public hearing- hearing was opened
B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Mayor Wood Councilmember Sanchez reported contact with staff. Councilmembers Feller and Felien reported no contact. Deputy Mayor Kern recused himself due to a conflict.
C) City Clerk presents correspondence and/or petitions - none
D) Testimony, beginning with:

DOUG EDDOW, Real Estate Manager, stated this is the assessment of the landscape maintenance district for Douglas Park. He asked Council to adopt resolutions to confirm the diagrams and to levy the assessments for Douglas Park.

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

COUNCILMEMBER SANCHEZ moved adoption [of **Resolution No. 13-R0363-1**, "...confirming the fiscal year 2013-2014 diagram and assessment for the Douglas Park Landscape Maintenance District, Assessment District No. 5-1981".

MAYOR WOOD seconded the motion.

Motion was approved 4-0 - Kern recused himself due to conflict of interest

INTRODUCTION AND ADOPTION OF ORDINANCES - None

ADJOURNMENT

MAYOR WOOD adjourned this joint meeting of the Oceanside City Council, Community Development Commission, Small Craft Harbor District Board of Directors and Oceanside Public Finance Authority at 7:30 PM on May 15, 2014. [The next regular meeting is scheduled for 2:00 PM on Wednesday, June 5, 2013].

ACCEPTED BY COUNCIL/HDB/CDC/OPFA:

Zack Beck
City Clerk, City of Oceanside

California

CITY OF OCEANSIDE

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

JUNE 5, 2013

REGULAR MEETING 2:00 PM COUNCIL CHAMBERS

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

NOT OFFICIAL
UNTIL APPROVED AT SUBSEQUENT
MEETING BY CITY COUNCIL

Mayor
HDB President
CDC Chair
OPFA Chair
Jim Wood

Deputy Mayor
HDB Vice President
CDC Vice Chair
OPFA Vice Chair
Jerome Kern

Councilmembers
HDB Directors
CDC Commissioners
OPFA Directors
Gary Felien
Jack Feller
Esther Sanchez

City Clerk
HDB Secretary
CDC Secretary
OPFA Secretary
Zack Beck

Treasurer
Gary Ernst

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

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

For this regular and joint meeting, the Council sat as all 4 governing bodies [Council, HDB, CDC and OPFA] simultaneously but took action as the respective agency for the jurisdiction covered by each item. Council titles only will be used for brevity throughout the entire meeting.

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB), Community Development Commission (CDC) and Oceanside Public Finance Authority (OPFA) was called to order by Mayor Wood at 2:02 PM, June 5, 2013.

2:00 PM - ROLL CALL

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

Felien. Councilmember Sanchez arrived at 2:05 PM. Also present were 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, 2a, 2b, 2c, and 3a.

[Closed Session and recess were held from 2:04 PM to 4:03 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 (OCEA, MECO, OPOA Nonsworn, WCE and Unrepresented); no reportable action

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

a) CONFERENCE WITH REAL PROPERTY NEGOTIATIOR – Property: 1.82 acres at intersection of North Pacific Street and Harbor Drive South (portion of APN 143-010-31); Negotiating Parties: Oceanside Small Craft Harbor District and Marina Del Mar Homeowners' Association; Negotiator for the District: Douglas Eddow, Real Estate Manager; Under Negotiations: Price and terms for an extension of the current lease

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

c) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – Property: Approximate 1.61 acres at the 300 Block of North Cleveland Street (APN 147-161-11); Negotiating Parties: City of Oceanside and Lyon Communities; Negotiator for the City: Douglas Eddow, Real Estate Manager; Under Negotiations: Price and terms for the sale of property

Items discussed; no reportable action

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

a) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Section 54956.9(a))

Macias v. City – Workers' Compensation Claim Nos. 2009000068 and 2010000393

Item discussed; no reportable action

4:00 PM – ROLL CALL

MAYOR WOOD reconvened the meeting at 4:03 PM. Present were Mayor Wood, Deputy Mayor Kern and Councilmembers Feller, Felien and Sanchez. Also

present were City Clerk Beck, City Manager Weiss and City Attorney Mullen.

CONSENT CALENDAR ITEMS [Items 4-19]

All items listed on the Consent Calendar are considered to be routine matters or formal documents covering previous City Council/HDB/CDC/OPFA instructions. 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 City Council/HDB/CDC/OPFA or the public through submittal of a Request to Speak form prior to the commencement of this agenda item.

The following Consent Calendar items were submitted for approval:

4. City Council/Harbor/CDC/OPFA: Acceptance of Joint Minutes of the Small Craft Harbor District Board of Directors, Community Development Commission, City Council, and Oceanside Public Financing Authority of the following meetings:

   April 18, 2012, 2:00 p.m. Regular Meeting
   April 25, 2012, 2:00 p.m. Adjourned Meeting of the City Council

5. City Council/Harbor/CDC/OPFA: Approval to waive reading of the text of all ordinances and resolutions considered at this meeting and provide that ordinances shall be introduced after a reading only of the title(s)

6. City Council: Approval of annual purchase orders for the purchase of equipment, supplies, materials, and services in amounts over $50,000 for the Information Technologies Division and associated funds; and authorization for the Financial Services Director, or designee, to execute the annual purchase orders for FY 2013-2014

7. City Council: Approval of annual purchase orders for services in amounts over $50,000 for the Financial Services Department and associated funds; and authorization for the Financial Services Director, or designee, to execute the annual purchase orders for FY 2013-2014

8. City Council: Approval of annual purchase orders for the purchase of equipment, supplies, materials, and services in amounts over $50,000 for the Water Utilities Department and associated funds; and authorization for the Financial Services Director, or designee, to execute the annual purchase orders for FY 2013-2014

9. HDB: Approval of amendment 4 **[Document No. 13-D0381-2]** in an average amount of $77,500 annually, to the lease agreement **[Document No. 13-D0382-2]** with Aloha Partners, LP for the premises located at 1325 North Harbor Drive (Monterey Bay Canners), extending the term of the agreement ten additional years through December 31, 2056; and authorization for the Administrative Officer to execute the amendment

10. City Council: Approval of amendment 1 **[Document No. 13-D0383-1]** in the amount of $62,210 to the professional services agreement with Dudek Engineering of Encinitas to provide final engineering and landscaping design work for the North Avenue Channel Protection project, located within Loma Alta Creek and along North Avenue; and authorization for the City Manager to execute the amendment

11. City Council: Approval of amendment 2 **[Document No. 13-D0384-1]** to the Memorandum of Agreement with the County of San Diego for Operation Stonegarden, continuing the grant for FY 2012, bringing funds in the amount of $100,000 to the City for reimbursement of approved expenses; approval to appropriate these funds to the Police Department; and authorization for the City Manager, or designee, to execute the amendment and all other required documents

12. HDB: Approval of a two-year percentage property lease agreement **[Document No. 13-D0385-2]** for a minimum two-year revenue of $15,455 with Monte C. Yearley, dba

Yearley Sailboats, for the premises at 1850 Harbor Drive North, Suite B, and adjacent concrete slab; and authorization for the Administrative Officer to execute the agreement

13. City Council: Approval of a three-year memorandum of understanding **[Document No. 13-D0386-1]** with North County Fire Protection in a first-year amount of $82,000 and increases to the second and third year as governed by the San Diego Consumer Price Index (CPI) rate, for technical services provided by the Information Technologies Department; and authorization for the City Manager to execute the agreement

14. City Council: Approval of a professional services agreement **[Document No. 13-D0387-1]** with John S. Meek Company, Inc., of Gardena in an amount not to exceed $125,000 to replace thirty-one steel pipe braces on the Oceanside Municipal Pier; and authorization for the City Manager to execute the agreement

15. City Council: Approval of a professional services agreement **[Document No. 13-D0388-1]** with Warehouse Solutions, Inc. of San Diego in the amount of $143,628 for the purchase and installation of a used mezzanine for the San Luis Rey Maintenance Building; and authorization for the City Manager to execute the agreement

16. City Council: Approval of the Local Project Participant Agreement **[Document No. 13-D0390-1]** with the Olivenhain Municipal Water District for the North San Diego County Regional Recycled Water project; adopt **Resolution No. 13-R0389-1**, "...authorizing the Water Utilities Department to accept grant funds from Olivenhain Municipal Water District as re-distributed funds to program participants from the California Department of Water Resources for the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006," $90,000 in grant funds redistributed by Olivenhain Water District from the California Department of Water Resources; and authorization for the City Manager to execute the agreement

17. City Council: Approval to accept $91,490 in grant funds from the Board of State and Community Corrections allocated to the City for AB109 Enforcement; approval to appropriate these funds to the Police Department; and authorization for the City Manager, or designee, to execute all award documents

18. City Council: Approval to accept funds in the amount of $18,000 from the Mar Lado Highlands Homeowners Association; and approval to appropriate these funds to the Mar Lado Highlands Landscape Maintenance District Operating Account

19. City Council: Authorization to award a contract **[Document No. 13-D0391-1]** in the amount of $88,852 to PAL General Engineering Inc., of San Diego for improvements on California Street for the Safe Routes to School, Lincoln Middle School/Palmquist Elementary School project provided Caltrans accepts their good faith efforts to meet the project's DBE requirements; and authorization for the City Manager to execute the agreement upon receipt of all supporting documents

COUNCILMEMBER SANCHEZ moved approval of the balance of the Consent Calendar [Items 4-19].

MAYOR WOOD seconded the motion.

Motion was approved 5-0.

GENERAL ITEMS

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

20. **City Council: Adoption of a resolution approving temporary road closures, parking and traffic-flow plans for the July 3, 2013 Anniversary in the El**

Corazon area, and for the July 4, 2013 holiday and for future July 4th holidays in the Beachfront Area

KEN GOW, Police Sergeant, stated we met with Parks and Recreation regarding the July 3rd fireworks portion of the celebration. They requested that we shut down a portion of Rancho del Oro adjacent to the El Corazon Senior Center, from which the fireworks show will physically launch. The parking lot for the senior center is not going to be open for parking, because that's in the danger zone for the fireworks presentation. It will be utilized as the command post for the Police Department and the Fire Department during the event. We were asked to shut down El Corazon between Ocean Ranch and Senior Center Drive, which is also known as Seagate Way on the eastside of the roadway. The roadway will be shut down beginning at 7:00 PM and is expected to be reopened completely by 11:00 PM.

The week prior to the closure we will have sign boards set up at Oceanside Boulevard and Mesa Drive at Rancho del Oro, informing the public driving through the area of the road closure on July 3rd, so that it won't be a surprise to anyone. A computer graphic was used to show the southbound detour. Coming southbound on Rancho del Oro they'll hit a full road closure at Ocean Ranch. All traffic will be diverted onto Ocean Ranch, over to Corporate Center and then back onto Oceanside Boulevard. Any northbound traffic will have a sign board advising of the road closure on the 3rd. Hopefully, they'll utilize Oceanside Boulevard to go around, either utilizing College or El Camino Real or the other detour on Corporate Center to Ocean Ranch and to Rancho del Oro. A computer graphic was used to show the northbound detour. If they decide to continue north of Oceanside Boulevard, they'll hit a full road closure at Senior Center and Seagate Way and be diverted onto Seagate Way. That's actually an entrance to a business park, but you do have access all the way over to Corporate Center where there is a roundabout.

We are looking at providing parking. The Parks and Recreation Department is meeting with the businesses in that area to see if the public can utilize their parking lots. He knows of some that have already given permission for that on the 3rd, but that's still being finalized. Oceanside School District has authorized the use of their parking lots. Ocean Shores, Christa McAuliffe and El Camino High Schools will be spots that the public can park and see the show from those parking lots. As far as area parks, you should be able to see the show from Martin Luther King, Jr. Park. Once the businesses are finalized, we will develop a parking map and put it on the City's website for the public to refer to.

The area of the road closure on Rancho del Oro will also be available for people to sit. They won't be able to drive there, but if they park in the neighboring businesses they'll actually be able to sit on the closed portion of Rancho del Oro and observe the show. A team of officers will be assigned to the event, patrolling the areas where we are expecting people to be watching the show to ensure public safety during the event.

COUNCILMEMBER FELLER asked if the fireworks are being launched from the senior center or in the area above that.

SERGEANT GOW responded they're not going to be in the senior center parking lot; it's going to be in the open field adjacent to the senior center.

COUNCILMEMBER FELLER asked if that's above it.

SERGEANT GOW responded he's not exactly sure. The Fire Department and Parks and Recreation have specifically picked the location.

EILEEN TURK, Neighborhood Services Division Manager, responded the fireworks will be shot off just north of the senior center on a dirt plateau. The senior center will be closed and will be a command center for the fireworks.

COUNCILMEMBER FELLER asked if they'll be allowed to bring their own chairs on Rancho del Oro or is the City providing chairs.

SERGEANT GOW responded it'll be their own chairs or whatever they want to utilize.

DEPUTY MAYOR KERN asked how far in advance they're going to post the roads to let people know.

SERGEANT GOW responded a week.

COUNCILMEMBER SANCHEZ stated so that the public understands again, Oceanside is celebrating its 125th anniversary as a City incorporated in 1888. This street closure at El Corazon is the first of its kind. Councilmember Feller brought forward an item to have fireworks, and Council decided it would be on July 3rd at El Corazon. The officer is talking about how the senior center is going to be the command post, but she also understands that what's before Council is public safety's response on road closures. Will there be activities in this area? She heard that there's going to be parking at Ocean Shores to look at the fireworks, which is a bit of a walk for some, so will there be shuttles?

SERGEANT GOW responded no. Those alternative sites are for people to park if they want to go to those locations to be able to see the fireworks show. If they want to walk all the way down Rancho del Oro, that would be their choice to do so. Parks and Recreation is working with the adjacent businesses to see if the public could utilize their parking lots for the event. That's still ongoing. We haven't finalized that and are not prepared to put out a map of those businesses. However, he knows there are some businesses in the area that have already agreed to it.

COUNCILMEMBER SANCHEZ stated it sounds like it's still a work in progress. She asked if there will be booths or something to entice people to come out on this special day.

MS. TURK responded there will be several food trucks set up. The road will be closed from 6:00 PM to 10:00 PM. El Camino High School Band is combining with the Oceanside High School Band to perform from 8:00 PM to 9:00 PM before the fireworks show. We've got five food trucks confirmed with a variety of goodies. We want folks to come down, bring their beach chair and enjoy the sunset. Then the fireworks will go off at about 9:00 PM.

COUNCILMEMBER SANCHEZ stated it sounds like they're working on parking. In terms of the staging area, where can we anticipate this activity is going to happen?

MS. TURK responded the band is going to be located at the northern end of where the road closure is going to be. It's where Rancho del Oro Drive is the flattest, and then the road goes down at about a 45-degree angle. Most of the activity will be at the northern end of the road closure. There'll be folks directing people where to park and where the best place is to watch the fireworks.

COUNCILMEMBER SANCHEZ clarified that to get there, you would not be taking Oceanside Boulevard. You'd be taking a different route.

MS. TURK responded you can take Oceanside Boulevard or Mesa Drive. The entire Rancho del Oro Road is not closed, just a portion of it.

COUNCILMEMBER SANCHEZ asked if they will be able to drive onto Rancho del Oro Road to get to some parking.

MS. TURK responded exactly. We'll put more information on the website as quickly as possible.

COUNCILMEMBER SANCHEZ clarified it's food trucks, fireworks, Oceanside and El Camino High School bands and more to come.

MS. TURK responded yes.

COUNCILMEMBER FELLER asked if they're allowed to park on Oceanside Boulevard or Mesa Drive.

SERGEANT GOW responded no. There's no parking on Oceanside Boulevard or Mesa Drive.

COUNCILMEMBER SANCHEZ stated in the past, for games at Martin Luther King, Jr. Park, we've asked that cars not be ticketed. She asked if it would pose a public safety situation if we allowed parking on Oceanside Boulevard and Mesa Drive?

SERGEANT GOW responded any time you deviate from the norm, you have to look at the ramifications of that. The intention on the 3rd of July is that parking enforcement and the Police Department will be patrolling the area and directing people that we find parked on the edge of the roadway to those alternative sites.

COUNCILMEMBER SANCHEZ stated since we've never had an activity like this at El Corazon, she doesn't feel comfortable with the ticketing because people are not going to know.

SERGEANT GOW responded he didn't say we were going to ticket them; we're going to make contact with them and direct them to alternative sites. A ticket would only be issued to those people who refused to actually remove their vehicle.

COUNCILMEMBER SANCHEZ asked if the handicapped and families with small kids will be able to get parking close enough to the activity.

SERGEANT GOW responded we're not guaranteeing parking. If you have special needs, you'll want to get there early and take advantage of those limited spaces in the local businesses' parking lots. That's what he would encourage people to do, or they should go to one of the parks or the alternative school sites and park in those parking lots.

COUNCILMEMBER SANCHEZ asked if there is also parking at the Sprinter station.

SERGEANT GOW responded there is that parking lot as well, but to his knowledge we have not talked to them.

MS. TURK added this is a work in progress right now. We have been talking to the Sprinter to actually run a later train that evening and North County Transit about rerouting the bus line. There are only two buses that go by in that later evening time. More details will be forthcoming very shortly, with a press release and a detailed flyer going up on the website.

COUNCILMEMBER SANCHEZ asked about a shuttle.

MS. TURK responded shuttles cost money, and we have almost every dollar accounted for at this time. If somebody wants to throw in another $500 or $1,000, perhaps we could shuttle from the high school or some other areas. She'll go back and see if we can do it.

COUNCILMEMBER SANCHEZ was just thinking of that hill.

COUNCILMEMBER FELLER added in future years there will be hundreds of parking spots up by the soccer fields, if it's done in this location. Also, the purpose of being there is that you'll be able to see the fireworks in Morro Hills and all over the City. It's an ideal location, but it's still work.

FRANK McCOY, Police Chief, stated the purpose of the staff report this evening is for the authorization of the street closure. That's why we're not prepared to answer Council's specific questions as to entertainment, etc. We're specifically looking for authorization to close the road between 6:00 PM and 11:00 PM.

COUNCILMEMBER SANCHEZ moved approval of [**Resolution No. 13-R0392-1**, "...approving temporary road closures, parking and traffic flow plans for the July 3, 2013 anniversary in the El Corazon area, and for the July 4, 2013 holiday and for future July 4th holidays in the beachfront area"].

COUNCILMEMBER FELIEN has no problem with the road closure, but this has been kind of an experiment in terms of picking this location. If the whole City rushes to Rancho del Oro, we're not going to fit. The key to making this work is making residents aware of the other locations that they'll be able to view the fireworks from. He's not a topographical expert for the City, but if you're at Martin Luther King, Jr. Park or Empressa Park, you're going to see it. He asked which parks we're going to advertise to say they'll be able to see the fireworks from the line of sight from these parks, so we can encourage people to go to multiple locations rather than all rush to Rancho del Oro.

MS. TURK responded she's still going to push to have the recommended viewing spot at Rancho del Oro because we're going to have the high school bands there.

COUNCILMEMBER FELIEN stated that's great, but we can't all fit there.

MS. TURK responded it's a pretty good stretch of road. She's hoping we can draw people there so we can concentrate our resources and not be running to eight different locations.

COUNCILMEMBER FELIEN stated he wouldn't expect for the City to be involved at all at Martin Luther King, Jr. Park, as an example. However, some might prefer to go there knowing they will view the fireworks rather than fight the crowds at Rancho del Oro. He supports the idea that the City event is at Rancho del Oro, but he thinks people would be interested in knowing what areas have line of sight to the likely height of where the fireworks are going to be.

MS. TURK responded in our press release we'll try to suggest alternate sites as well. The fireworks are going to be shot off between 300 and 1,000 feet. It's a fairly high plateau where they're shooting them off, but there are a lot of hills around the El Corazon area. This is an experiment. It's a one-time deal, and we appreciate Council's support.

COUNCILMEMBER FELIEN thanked staff for all the work they're putting into it. He's sure it will be a success.

CITY ATTORNEY MULLEN stated the resolution in front of Council takes care of all of the street closures for both the 3rd and the 4th, so all of the actions that are needed to close various roads will be included in this resolution. For the 4th of July road closures, the resolution actually authorizes the closures for future 4th of July events. If that changes we'll have to come back and amend that resolution.

CHIEF McCOY stated they have a presentation to show for the 4th if Council

would like to see it.

MAYOR WOOD asked if any Councilmembers want to see the presentation for the 4th.

DEPUTY MAYOR KERN stated not unless there's a dramatic change from last year. Everybody's used to the 4th, but he just wants everybody to understand that we're talking about both days, not just the 3rd. He asked if the 4th is aligned with last year's closures.

CHIEF McCOY responded correct. The only difference between the closures this year in relation to July 4th is that we are going to include Pacific Avenue like we have in other years. That street will be closed off to general traffic. However, it will be open to those that live there as well as their guests. That road will mainly be used for residents or visitors to ride bicycles up on Pacific Avenue during the 4th of July.

DEPUTY MAYOR KERN asked if The Strand will be closed.

CHIEF McCOY responded The Strand will be closed to all traffic, as well as bicycles.

DEPUTY MAYOR KERN asked the City Manager when we'll have all of this posted on the website to let people understand, or at least get it to MainStreet so they can post it on their website.

CITY MANAGER WEISS responded the 4th of July information will happen sooner. As soon as it's ready to go, we will post it and make it available to all of the downtown businesses and residents. As we resolve the 3rd of July issues, we will post that as well. That'll be a little more in flux, but since the 4th of July is similar to what we did before, we will have that up.

DEPUTY MAYOR KERN seconded the motion.

Motion was approved 5-0.

MAYOR AND/OR COUNCILMEMBER ITEMS

35. **Request by Mayor Wood for presentation and discussion of Senate Bill 555 Clean Energy (SB555) financing district options; and direction to staff to prepare the documents to create an SB555 district and/or to pursue joining a regional SB555 Clean Energy Joint Powers Authority (JPA)**

CRYSTAL CRAWFORD, Regional Director, Ygrene Energy Fund, stated there have been quite a few developments since Council took action last summer to send a letter to the County. Council provided information through the City Manager earlier this week, including a copy of Council's letter from June 15th to the County asking that the County consider setting up a regional PACE (Property Assessed Clean Energy) Financing Program. She provided a copy of that letter in the attachments. She appreciates that this Council has been interested in opportunities and options for getting PACE financing and making that available to property owners in the Oceanside area, as well as North County in general. She provided updated information to Council, as there has been a lot of activity in this area in the last year.

In the last few months, the County has decided to look at a program that would make PACE financing available for all eighteen cities, as well as the unincorporated region. As Council did previously with the CalFirst Program back in 2010, should the County go forward with establishing a regional program, then the cities would have the option of opting into that program, as opposed to having to set up their own individual city programs or multi-city programs. This is another option that we've been discussing

in North County for the last year. The County is going to be taking this up again on June 18th. She provided the summary of the Statement of Proceedings from their May 14th Board of Supervisors meeting, where the County Executive Office came back to the County Board with a report on the comparison of the four program options. Unfortunately, we only had four Supervisors at that meeting, and it ended in a tie vote as to whether or not to proceed, with the staff coming back with additional information. It's going to be brought back to the Board on Tuesday, June 14th, for further consideration.

It has taken a while, but we're making progress. She provided background information about Ygrene. She has been here a couple of times, but has not made an actual presentation. The Ygrene program comes out of Sonoma County. Santa Rosa is where the headquarters is located. Her team has been involved in setting up PACE programs and was part of the group that put together the Sonoma County PACE program, which is the most successful program. Our model improves on that.

We currently have $100,000,000 of project funding available, should the City wish to go forward with the program. We provide a turnkey operation, which includes all of the services, software, administration, local offices and staff for the program. This is something a City can offer as an advantage to property owners without having to be very involved, which is important in these times of staff resources and city challenges. We provide a physical presence in the City with a local energy center, local contractor training and local resources to contractors. We've already done quite a bit of that outreach over the last eighteen months. She also provided examples of the letters of support they have, including a letter that came in yesterday from an Oceanside contractor who is very interested and knowledgeable about the different PACE options.

We believe that every jurisdiction is different, so every program should be different. We work with cities to customize those programs. We will work with the City and staff to find the best way to reach out to Oceanside property owners. A computer graphic was used to show that for every $100,000,000 in actual construction projects, retrofits for energy efficiency, water conservation or renewable energy, we generate 1,500 jobs and the associated economic stimulus. The City gets the advantage of the reduced greenhouse gas emissions. You get credit for that under AB 32. You also get the increase in tax revenues as properties are sold and you have the retrofits that have already been made to those properties.

We are a private for-profit company. We partner with local governments to form clean energy districts under the newest legislation SB 555, which expanded the scope of PACE financing. This Council is familiar with how these programs work with the property-assessed clean energy tools that the Legislature has created. The SB 555 changes/additions to the program allow for refinancing, which is something that you don't have under AB 811. If someone purchased solar last year and they have a solar lease and wish to own the actual installation, under the SB 555 program, they could refinance if it's within a twelve-month period. We offer lower rates and a better deal for that property owner, an option that's been added by the Legislature. We can also finance eligible improvements on new construction, which is another addition over and above what AB 811 provided. We're still figuring out the details, but there's the option to fund efficiency improvements to public buildings. The statute under SB 555 doesn't say how you do that, but it does allow for it. We're working with the Governor's office to figure out the details.

The contractor training is free of charge. You do have to be a certified contractor to participate. We want to make sure contractors understand what types of improvements are eligible, how the program works and what the costs of the financing are. We want to make sure they can communicate reliable, accurate information to the property owners in your City. As part of the training and benefits, we also provide contractors with free Energy-Pro software to do evaluations of properties, determine how energy is being used and what types of improvements would give the best return

on investment to the property owner.

Once the program is set up in conjunction with the City, we work with all property owners and property types. We're not limited to just residential or commercial. We can also fund improvements on agricultural, industrial or any type of property subject to Council's direction. If you wish to exclude a particular portion of the properties in your jurisdiction, you can do that. You may have noticed that in the County, the motion that was put on the floor a couple of weeks ago was to exclude certain types of residential, because the County had some concern about the FHFA (Federal Housing Finance Agency) issues. You have the discretion under our program.

It's our job to provide the project financing to whatever degree is needed in your community. If no one ever takes advantage of the program, that's fine. It's a completely voluntary program for property owners. However, based on our other programs, we hope for and expect a very robust interest in using this type of financing to make improvements. It's our job to provide the administration of all the financing that's needed to fund those projects.

A computer graphic was used to show an update on the number of cities and counties that are participating in the Ygrene program. Back in 2010, the City of Oceanside, along with eleven other cities and the County, opted into the CalFirst program. Not too long after, that the FHFA issued its letter of objection, which put the kibosh on the whole program. We and the Legislature continued to work and eventually passed SB 555 in October of 2011. During that time, we continued to focus on developing our program. There have been a number of our RFP's (Request for Proposal) issued in the State. Ygrene has been the company selected in four out of those five RFP's to fund the programs and partner with those jurisdictions. We now have forty cities in five counties in three states that are working with Ygrene to set up these programs.

Through this process we've learned what works and what doesn't, as well as the cost of programs. One of the other documents she provided in Council's packet is a comparison that was put together at the request of the elected officials in the Coachella Valley. The number one issue for the elected officials in the Coachella Valley was the cost. They looked at the cost differential, and our program was over 15% less expensive on the residential side when compared to the other program. On the commercial side, assuming the other program does go forward with a commercial program, our cost of funds for a $100,000 commercial program was more than 10% less expensive. So you do have a difference to your consumers.

There were a couple of other factors that were very important to CVAG. We have a local operation, and they were very interested in having local offices, outreach and contractor training. They were also concerned about local control, so if there were any concerns or complaints there's local Ygrene staff and a local district director that they can bring those concerns to. Also, they wanted to keep the sales tax and any money that's generated in eastern Riverside.

Over the last year, there's been a great deal of effort among the local governments to figure out the program differences. Some of Council may have attended a workshop in Encinitas a couple of weeks ago, sponsored by the cities of Solana Beach, Encinitas, Carlsbad and Del Mar. They had about 50 people there and put together a format where they tried to compare the features of the different programs. A computer graphic was used to show the program comparisons. We've tried to the best of our ability to compare the program features so that we can develop a better understanding about what the different options are for local government when they're trying to make this choice. When she started working on this in December of 2011, it took her a while to get her head around what are the differences in the programs, how they worked and the cost of those programs.

We just launched our Ygrene program in Sacramento in January of this year. Since January, we have funded 27 projects for a total of $8,800,000. We give kudos to the other program, which has been up and running for more than a year now.

What are Council's options today? One of their options, consistent with the action they took last June, would be for the Council to delay any action today on Item 21, where Council is being asked to opt into the FIGTREE and the WRCOG HERO program. She also suggested that Council delay any action today, pending the County's decision on June 18th about expanding the County's PACE program. It would bring information for Council in response to their request over a year ago. The Council has waited this long, so a couple more weeks might be worth the wait.

In addition, Council could direct staff to provide additional program recommendations based on an apples-to-apples evaluation of all programs. Council has a staff report on two of the programs and have heard from her at various times about options and features of the Ygrene Clean Energy program. There's also the California First program that the City already enrolled in a couple of years ago. Council could ask staff to provide that comparison to give them more information about the features, which would allow them to make a decision for Oceanside property owners.

Council could also direct staff to issue an RFP if they wish to have their own City program, which would give Council the ultimate control over how the program operates. That does take more effort on the part of the City and staff, but Ygrene reimburses the City for the legal fees and time that it takes to set up a clean energy program. There are other RFP's out there that the City could use as a template.

Lastly, Council could direct staff to pursue the formation of a clean energy Oceanside SB 555 district or continue pursuing the formation of a regional clean energy JPA (Joint Powers Authority). Council will recall the Mayor and the City Manager reporting at previous meetings on our efforts to put together a five-city clean energy San Diego North JPA as part of the activities around the Prosperity on Purpose efforts.

Council has a number of options today and she has a lot more information about the program and comparisons of the different programs, but she wants to be respectful of Council's busy agenda this afternoon.

MAYOR WOOD wanted to have information. We had another group in here before. He has gotten a lot of conflicting information about what we could and couldn't do. To be fair about it, it's hard to keep track of all this, especially at the State level. He appreciates Ms. Crawford's information. He heard from the other program that there was a delay in the County, which made a difference to Council as to what they were going to do. He asked if Chula Vista is doing this now.

MS. CRAWFORD responded yes.

Public input

DAVID NYDEGGER, 928 North Coast Highway, is the President and CEO of the Oceanside Chamber of Commerce. Several months ago, Ygrene presented this to our public policy committee. We approved in concept what they were talking about; we liked it. After reviewing some of the materials, there are a couple of things he wanted to point out that they were in favor of. They do business and commercial property. They also do new construction, which is an important factor to consider. He really liked the training they offered. These things get very complicated and, if contractors are not trained properly, they can really mess it up and hurt either the business or the home owner. He would like Council to give this careful consideration, look at all the options, and proceed as they see fit.

Public input concluded

DEPUTY MAYOR KERN stated Ms. Crawford mentioned that Item 21 ties into this. He asked staff to explain what we're looking at, because there's a lot of moving parts. He agrees with Ms. Crawford that we should probably wait until the County makes a decision. With Chula Vista, it's any day now. He asked for an overview of SB 555 versus the other issue.

MO LAHSAIEI, Environmental Officer, stated the City Attorney of San Diego prepared a comparison between SB 555 and AB 811 on October 8, 2012. He read an excerpt from the two-page letter, which basically said that with SB 555, a community facilities district (CFD) is formed under the Mello-Roos Act that can finance these things. When we're talking about the process to form a community facilities district under SB 555, it's virtually identical to the process under the Mello-Roos Act and requires a number of public hearings before the Council to authorize the various resolutions. The property is annexed through the execution of unanimous approval by the property owners to pay the special taxes.

The City Attorney of San Diego stated that the SB 555 program process is to use a very sophisticated financial technique that weighs complex issues under SEC (Securities and Exchange Commission) securities law that could have the potential for significant liability exposure to the City. Specifically, the Sacramento model proposes to tool the private loans that are made to the property owners to pay for the energy improvements and for administration to later sell those loans to investors as securities. In view of San Diego's history with the securities law problem and SEC's consent decree for securities law violations, the City of San Diego believes that any financial that could raise potential liability issues for the City under SEC security laws should be reviewed very carefully.

Under AB 811, there are four programs in the State right now under the PACE program. One is called FIGTREE. There's also HERO and California First. We joined California First almost a year and a half ago. They are only doing commercial. The other two are here tonight to see if they can go through the process. His understanding is that under AB 811 the City does not have any involvement at all. He's a one-man army right now and doesn't have any people to run the program if the City becomes a financial institution and goes through Mello-Roos.

He asked if Council wants to compare AB 811 with SB 555 when it comes to this kind of City involvement.

CITY ATTORNEY MULLEN responded the AB 811 process is different. SB 555 involves the creation of a Mello-Roos district. With AB 811 the property owner voluntarily enters into a contractual assessment that's recorded. Funding is provided, and the assessments are repaid by annual property tax rates. Under AB 811 it's over a twenty-year period, and with SB 555 it would be potentially over a forty-year period. So the basic difference is that AB 811 is a contractual assessment where the property owner voluntarily enters into it, whereas with SB 555 you'd have to create a Mello-Roos district and then approve special taxes.

DEPUTY MAYOR KERN stated it caught his eye when Mr. Lahsaiei mentioned significant liability. He asked what that is.

CITY ATTORNEY MULLEN responded that's probably a little more unique to the City of San Diego because they were dealing with their own securities law violations over the course of many years. Oceanside has Mello-Roos districts here. At the next meeting Council will be reapproving the special taxes for the three Mello-Roos districts that we already have. What you'd have to do, if you wanted to go down the SB 555 route, is basically create a whole Mello-Roos district.

MS. CRAWFORD addressed the questions and concerns raised by staff. The SB

555 legislation amended the Community Facilities District Act, commonly known as Mello-Roos, to allow for the creation of a clean energy district. The key difference is that it's completely voluntary. She used a computer graphic to show comparisons about district formation and what's required. The staff is correct; to form a CFD it does take a couple of Council meetings. You do have to have your Resolution of Intent to form the district. It puts the public on notice and then you come back in no less than thirty days to adopt the resolution establishing a district. This district is different from existing CFD's that Council has experience with because property owners are not required to participate.

Through this SB 555 amendment you set up the district, either as an individual city, the County as the entire district, or a couple of cities like with the JPA here in North County. It's up to the local elected how many jurisdictions they want to participate, but we set up a district and draw a map. That makes all of the properties in Oceanside, for example, eligible to participate, but only if they want to. We could set up a district, and nobody could participate. If no property owner wanted to use the financing, then nobody would ever sign to vote their property into the new district. It's completely voluntary. Council is not involved in setting the tax rates or any of those details.

The City Attorney, City Manager and staff would be involved in helping us set up the district, and Council would be asked to vote on it. Once that's done the property owners voluntarily enter into the contract. Then there's a special tax, and they decide how much they're going to borrow, up to 10% of the property value if they're eligible. There are eligibility requirements. They have to have equity in their property. If they decide they want to borrow $10,000 and pay it back over ten years, they get to decide how much and if they want to do solar, new windows, air conditioning, etc. They decide if they want to pay it back over twenty years, or they could decide twenty-five or thirty years depending on the improvement. Then they pay it back as a special tax on their taxes every six months.

DEPUTY MAYOR KERN stated he's looking at it from Council's perspective of setting up a Mello-Roos district or joining a JPA. He asked what's the difference in the mechanism of joining Chula Vista as a JPA versus us setting up one by ourselves? Or if the County does that, it's County-wide and we don't have to do anything, is that correct?

MS. CRAWFORD responded yes, you would have to opt in. You'd have a resolution to opt into a County program. The City Attorney is correct that the reason for the language in that memo from the City about the securities issues, and the need for the City of San Diego to take a close look at that, is because they're under an existing consent decree because of their own problems in the City. She's not aware of Oceanside having any of those kinds of issues. That's an issue that's unique only to the City of San Diego.

Ygrene does provide complete indemnity to all of the jurisdictions that are already participating, so there's no exposure to liability for the City. In response to Deputy Mayor Kern's question about Chula Vista, staff has not reported yet to their Council on the results of the RFP process. We are expecting that in the near future. One of the issues that the Council will be asked to look at is setting up a regional program, so it wouldn't be just Chula Vista. It could be Chula Vista and Oceanside or Chula Vista and Imperial Beach, etc. That's a discussion their Council will have to have. We don't know the outcome of that yet.

What we have been talking about for some time is the idea that instead of one city setting up its own clean energy district, there's efficiency in economies of scale. We could do this with multiple cities.

DEPUTY MAYOR KERN stated his big concern is Mr. Lahsaiei's comment about the staff time it takes to set this up versus joining a JPA. Mr. Lahsaiei is a one-man

band and has a lot on his plate. Obviously, the City Attorney reviews the language. If he recommends the Council to do it, then we can. He would rather go that route than try to reinvent the wheel. We'll let Chula Vista invent the wheel, and we'll just roll with them.

MS. CRAWFORD responded that's why there are several different options for the City. If the City would like to set up its own clean energy district, she has the authorization from her boss to set it up. We would work with the City Manager and City Attorney in particular.

We have a joint representation agreement where our law firm Orrick, Harrington and Sutcliffe, is working with CVAG and their attorney to review, advise and put all of this information before the elected officials. We reimburse CVAG and pay our attorneys to do most of that work. We do have to work with staff to get things on the agenda. However, once the program is set up, Ygrene is responsible for managing, operating and administering the program.

We also provide reimbursement to the jurisdiction. A computer graphic was used to show the jurisdiction cost recovery. When a property owner comes to Ygrene/Clean Energy Sacramento and wants to borrow money, they do the paperwork, sign it and the City signs off on the financing as well. We reimburse the City $100 for every project, which more than covers the cost of staff time to review the contract and sign it. We commit to our local jurisdictions to cover all of the costs of forming the district.

One of the things that is very attractive is not only the jobs, economic investment and greenhouse gas reductions, but the fact that we can set up a program that benefits our region without any cost to our cities or the County.

DEPUTY MAYOR KERN is very much in favor of it and would like to get started. He's not particularly tied to any group. The benefit to the citizens is what we're really here to look for. If the County comes through with all of this, we don't have to deal with it. We can wait for the County to do it or the JPA with Chula Vista. He tends to want to wait. Instead of us going first, let somebody else do that.

MAYOR WOOD had Ms. Crawford come up before Item 21 because this is confusing. There are other groups doing this, and the more the merrier, but he gets confused by some of the issues. Sometimes it's nice to have County staff or other cities take the time, effort and expenditures before we get involved.

He wants to know if we should continue this until we get all the information.

[This item was trailed until after the presentations]

[Recess was held from 4:59 PM to 5:10 PM]

5:00 – ROLL CALL

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

INVOCATION – Zack Beck

PLEDGE OF ALLEGIANCE – Fil-Am Cultural Association Members

PROCLAMATIONS AND PRESENTATIONS –

Proclamation – Filipino Cultural Celebration 2013
Presentation – "Pet of the Month" presented by Elkie Wills, San Diego County Humane Society and SPCA

Presentation – Make-A-Wish San Diego

Presentations were made

MAYOR AND/OR COUNCILMEMBER ITEMS - Continued

35. **Request by Mayor Wood for presentation and discussion of Senate Bill 555 Clean Energy (SB555) financing district options; and direction to staff to prepare the documents to create an SB555 district and/or to pursue joining a regional SB555 Clean Energy Joint Powers Authority (JPA)** - Continued

COUNCILMEMBER SANCHEZ thanked Crystal Crawford for coming to talk to Council. She has followed Ms. Crawford's career as a Councilmember and Mayor of Del Mar for twelve years, and as an attorney. She ran into her two or three years ago and she was really excited about this Ygrene program. She likes that over the next five years, Clean Energy San Diego seeks to invest $84,000,000 in Oceanside's local economy through a property-assessed clean energy district called PACE. That represents retrofitting just 3.5% of existing commercial and residential buildings with clean energy improvements in Oceanside. It will generate $243,000,000 in economic activity; create 1,400 new jobs; reduce carbon emissions by 11,000 metric tons of carbon dioxide and generate $9,300,000 in State and local tax revenue.

It sounds like a wonderful program, and there are different ways of creating this, one of which is on our agenda. Property-assessed clean energy programs allow property owners to finance energy efficiency, water efficiency and renewable energy projects on existing residential/commercial structures through a special tax assessment on the property. You wouldn't have to come up with the down payment or pay the whole thing up front. You could finance for an extended period of time. This is partly to get solar on rooftops, but above and beyond that, to be more efficient so we spend less money on our utility bills. That's the bottom line for our residents.

She clarified that they are now in forty cities, five counties and three states with twenty-seven projects for a total of $8,800,000 that Ygrene has invested. Is that right?

MS. CRAWFORD responded for Clean Energy Sacramento, yes, just since we launched in January.

COUNCILMEMBER SANCHEZ asked how many projects have actually been financed and construction completed versus having applications approved.

MS. CRAWFORD responded that number is for projects that have been financed. Some may be ongoing in construction, but those are where property owners have actually signed all the paperwork and have gone forward with the retrofit.

COUNCILMEMBER SANCHEZ asked in order to accomplish this, she heard some comments by our City Attorney that we'd have to basically go to court and get court validation before you can start any PACE program. Is that correct?

MS. CRAWFORD responded correct.

COUNCILMEMBER SANCHEZ asked if whether it's PACE via SB 555 or PACE via AB 811, you still have to do the same process. Is that correct?

MS. CRAWFORD responded correct.

COUNCILMEMBER SANCHEZ noted a previous speaker pointed out a difference in the programs. With the Ygrene program, which is the SB 555, all properties that are eligible include commercial and new construction. Is that correct?

MS. CRAWFORD responded yes.

COUNCILMEMBER SANCHEZ asked whereas the other does not?

MS. CRAWFORD replied that AB 811 is just for existing buildings. The different programs fund different types of projects. Some do just commercial, and some do just residential, or a combination. We will finance any property type that this Council wishes to go forward with.

COUNCILMEMBER SANCHEZ believes Council's role can be insuring that our residents have the best value. Having this be San Diego based makes the cost less. Is that correct?

MS. CRAWFORD responded the comparison that CVAG did showed that the cost would be less. The comparison used the cost of a $30,000 residential project and a $100,000 commercial project, and then showed us what all the costs involved in that are. They showed that our program is more than 15% less expensive than our competitor, the PFM Renovate America program.

COUNCILMEMBER SANCHEZ stated 15% is a nice chunk of change. Our residents would want to know which one would cost them less to do. Instead of money going out, it stays in the community. Is that right?

MS. CRAWFORD replied correct.

COUNCILMEMBER SANCHEZ pointed out there are different recommendations that Council could do. Ms. Crawford suggested we could delay action pending the County's June 18th decision on expanding the County's PACE program options, direct staff to provide program recommendations based on an apples-to-apples evaluation of all PACE options, or direct staff to issue an RFP for an Oceanside PACE program. She thinks the fourth option also had to do with an Oceanside program. While Ygrene would actually pay the costs the City would incur in setting up those programs, it's simply an option. If we do not want to go that route, we can still go via the County.

MS. CRAWFORD clarified the County will make a decision on June 18th, we hope. They had a tie vote on May 14th, but we expect all five Supervisors to be there. Pursuant to their rules, they'll bring the item back for another vote. We expect the same motion to be back on the floor. We'd love to have a unanimous vote. We're working with all the Supervisors to answer their questions, including the two Supervisors who voted no. We hope that the County goes forward on June 18th to bring other options to the table that would make these programs available for all eighteen cities, as well as the unincorporated area.

COUNCILMEMBER SANCHEZ thinks it is critical that Council does this analysis and provide the best value for our residents. The bill that continues to go up is our utility bill. Our residents can do something about that with respect to using less energy by being more efficient. Council should get onboard with Ygrene, make sure that every comparison is made, and the information provided to our residents is in simple English.

MAYOR WOOD would like to hear about everything before he finally makes a decision, as well as what the County and Chula Vista are doing. He could make a motion now, but it's only fair to let Item 21 go also.

COUNCILMEMBER SANCHEZ thinks it's important that our residents understand what is available to them and what the best value is.

MS. CRAWFORD added that a lot of that apples-to-apples work has been done in the last year. She understands staff's concern about what's involved in doing this.

The City has limited resources; that's true for all of our cities. A lot of work has been done since Council first considered this last June. We do have a comparison that has been put together by the City of Vista. They gave the four companies a list of questions to answer, so that work has been done. She gave Council the comparison that CVAG has done for two of the programs, and we've tried to do a comparison as well. We would be happy to work with staff to bring this information back to Council without creating a lot of extra work for staff. She is sure the other companies would be willing to help in that process as well.

COUNCILMEMBER SANCHEZ stated one of the points made last time we had this was that perhaps we should allow residents to have options. Her concern is that if we just go with one, don't have that comparison done and are not able to let people know that this is a better value, then they're not going to be happy. They're going to ask why the City went forward with this rather than giving the option of going with one that's a better value. She wants to make sure that we don't go forward too early on this without giving the public complete information. There is a lot more information available on the internet. It seems like the program Ms. Crawford is talking about is more flexible and allows for the possibility of more projects.

MAYOR WOOD wants to make sure everybody understands that we're trying to find the best possible thing for them. In the early stages, he didn't understand all the details, and it was very confusing. This is an opportunity to get a little more input.

COUNCILMEMBER FELLER asked the City Manager if Council needs to do an RFP for a sales program like this.

CITY MANAGER WEISS responded Council certainly has that option, but your prior direction was to open this up to as many different entities as possible for those that are available. Based on that, if in fact there's a regional JPA for the program that Ms. Crawford is referring to, we would bring that back to Council as well.

COUNCILMEMBER FELLER asked if this is moot, as far as Ygrene being reliant on one of those options or for us to set up our own Mello-Roos. Is that the idea?

CITY MANAGER WEISS responded you could set your own or you could wait like the others to do a regional district.

COUNCILMEMBER FELLER doesn't think Council needs any control over this whatsoever. We should be allowing our residents to pick and choose who they want whenever it's available to them. If the County is going to be here on the 18th of June, then Ygrene will be right back here no matter what we do on Item 21. We just need to allow anybody and everybody to participate when they can. If the HERO program goes first, that's just how it is. Once the County makes the decision regarding the eighteen cities, there'll be more than just Ygrene showing up.

MS. CRAWFORD harkens back to 2010 when Oceanside, along with Del Mar and ten other cities in the County, thought CalFIRST sounded like a great thing. It was easy, we just opted in with a resolution and thought it was going to be a wonderful opportunity for our residential property owners to access financing and retrofit their homes. It turned out that program didn't work. Not a single project has been funded.

As she put in the letter to Council, not all programs are created equal. This discussion choice being a good thing, in general she would agree with Councilmember Feller. In the City of San Diego, for example, the Council voted in October to put all programs out there for the City residents, but unless something's happened very recently, to date no programs are available. They haven't been able to work that out with the City. She believes the FIGTREE program has only had one bond issuance. They've not funded any additional programs since December of 2011. They did a handful of projects, and that's it. The City of Palm Springs opted into the FIGTREE

program, and they've had very little success. They now are going with the Ygrene program.

COUNCILMEMBER FELLER stated his whole point is that Council doesn't belong in it at all, other than if it takes us making a decision to allow homeowners to have this benefit. That's as far as we need to be involved in this. He hopes it's successful, but that isn't our responsibility.

MS. CRAWFORD respectfully disagrees. She thinks it is up to elected officials; that's how she approached it for twelve years. It is up to elected officials to look at opportunities that come forward to provide tools for their residents. You have the opportunity to make a decision about which is the best program for Oceanside.

She does think there are differences. We've clearly shown that elected officials like this Council are comparing our program and the WRCOG program side-by-side. You've got that in front of you and can look at cost and features and make a decision about which is the best for folks who live in your City. They voted for Council to do that and appreciate that you take that seriously.

COUNCILMEMBER FELLER absolutely respectfully disagrees with that. It's not our job to decide what color their kitchen is.

MAYOR WOOD stated there is no action on this tonight.

CITY ATTORNEY ITEMS

38. **Introduction of an ordinance amending Chapter 10A of the Oceanside City Code prohibiting smoking in outdoor unenclosed dining establishments**

CITY ATTORNEY MULLEN stated the item before Council is the introduction of an ordinance prohibiting smoking in outdoor eating and drinking establishments. The Council previously discussed this item in May of this year. After that discussion, the Council directed the City Attorney to draft an ordinance to prohibit smoking in outdoor eating and drinking establishments in the City. Chapter 10A of the Oceanside City Code already regulates smoking in many public areas within the City. The draft ordinance before Council is a pretty straightforward amendment to Chapter 10A. It includes a definition for unenclosed dining areas as any area, including streets and sidewalks, which is available or customarily used by the general public or an employee, and which is designed, established or regularly used for consuming food or drink and is not enclosed by a roof and walls.

The draft amendment then prohibits smoking in unenclosed dining areas. The draft amendment also prohibits smoking within twenty-five feet in any direction from an unenclosed dining area. So if an individual is standing outside in a patio dining area on a sidewalk, they can't just stand on the sidewalk portion and smoke there. They'd have to be twenty-five feet from that location.

Finally, the draft ordinance requires a party who owns or controls the unenclosed dining area to post a no-smoking sign at each point of ingress to the unenclosed dining area, and one other sign in a conspicuous place to alert the patrons that smoking is not permitted. The City Code allows for violations of this Code section to be treated as an infraction and be punishable by a fine of $100 for a first offense, $200 for a second offense and $500 for a third.

This is a pretty straightforward amendment to the City Code following the direction of Council at the May 1st meeting.

Public input

BARBARA GORDON, is representing the North Coastal Council PTA (Parent Teacher Association), which recognizes that health and pleasant outdoor activities for adults and children are compromised by secondhand smoke. Children are especially vulnerable because they breathe in more air than adults, as their lungs are still developing. They are at greater risk of the damaging health effects from secondhand smoke, including serious illnesses. This is no idle threat, since asthma is the number one reason children enter emergency rooms in San Diego. There is no risk-free level of secondhand smoke according to the 2010 Surgeon General's Report. It's important to remember that secondhand smoke was classified as an air contaminate by the California Resource Board in 2006. Every day 3,000 kids start smoking. 90% of adult smokers began at age eighteen. It's important that children and youth experience smoke-free behaviors and see adults as making healthy choices by not smoking outdoors.

The North Coastal PTA encourages Councilmembers to take the action to reduce exposure to secondhand smoke, to extend the current inside experience of dining and take that outside. Smoke-free air is the right of all people, but especially children who are at the mercy of the decisions that adults make that affect the quality of air.

JOSÉ PEREZ, youth, is a student at Rancho Buena Vista. He joined this movement because he believes this is something important, especially for younger students and children. He has a little brother and sister and is worried about having them deal with this kind of situation.

This is something that affects kids, and they sometimes don't even know that it's affecting them. This is something important that should be followed through and voted on. If he could give something to the younger students and kids, it would be to help them deal with this kind of situation.

ANDREA PORTENIER, 5152 Frazee Road, likes to go out to eat and has COPD (Chronic Obstructive Pulmonary Disease) that was caused by exposure to secondhand smoke. When she goes out to eat, she'd like to eat out on the patio, but she can't go outside if there is or might be smoking. That's true of many people in Oceanside and California, because we have more people with asthma than people who smoke.

Some will complain that this is a loss of their right or their freedom. It may be an inconvenience to go without using your tobacco product of choice on a patio, but it is much rougher to go without breathing.

ERICA PHUNG, 9404 Genesee Avenue, La Jolla, is the Chair of the Tobacco Free Communities Coalition in San Diego. She also works with the American Heart Association and the American Stroke Association. Oceanside has changed over the past few years and has made some progress in public health. Just a few years ago, Council approved an ordinance that restricted smoking, so we now have smoke-free parks, beaches and a pier that everybody can enjoy.

Today Council is considering something very important: smoke-free outdoor dining. We've already seen some cities in San Diego take this step, including Solana Beach, Del Mar, National City, Chula Vista and Carlsbad. Now it's Oceanside's turn to take this under consideration. The good news is there's information that shows that customer satisfaction actually remains the same or increases with smoke-free outdoor dining. In Chula Vista they found that 88% of managers and employees surveyed said that they enjoy working in a smoke-free environment.

We appreciate Council's support and hope that it votes to continue this trend toward health in Oceanside.

DAWN DURBIN, 920 Lacebark Street, San Marcos, is a volunteer with the

American Cancer Society Cancer Action Network. We are in the business of eliminating cancer in the world today. The American Cancer Society Cancer Action Network supports smoke-free outdoor dining. 13,000 Californians die of lung cancer every year and some of them die of smoke exposure. Think of a pregnant woman, small child, or somebody with emphysema. You wouldn't have them smoke or stand next to a smoker. We cannot expose these people to secondhand smoke because somewhere along the line, they will be a social, economic and health problem. We are not setting a good example for our children by showing them that we should separate smokers from non-smokers.

The American Cancer Society is 100% behind this ordinance.

MORGAN PARR and MEGAN LENNOX, youth, stated they are here on behalf of the Smoke-Free North County Youth Squad in support of cancer-free dining. They encouraged Council to support smoke-free outdoor dining in Oceanside.

MARY DONAHUE, 1693 Marbella Drive, Vista, is a volunteer for the American Cancer Society Cancer Action Network. The American Cancer Society Cancer Action Network supports smoke-free outdoor dining. 86.9% of Californians don't smoke. Levels of secondhand smoke exposure outdoors can reach levels attained indoors, depending on the direction and amount of wind and the proximity of smokers. She applauds Council for this ordinance.

AARON BYZAK, 330 Isthmus Way, is the President of the North Coastal Prevention Coalition. They have worked with Council many times in the past to pass measures that promote public health. This is a great opportunity to take the next logical step forward. It's not only the right thing to do from a public health standpoint, but also a very popular thing to do. Our tobacco control program at Vista Community Clinic did a survey of over 500 residents in Oceanside, and 90% are in support of this. MainStreet Oceanside did a survey of business owners, and they overwhelmingly supported it.

When you talk to the business owners and employees, many of them don't want to have to make the decision to say no smoking. They would actually prefer that somebody else tell them there's no smoking. That way they don't have to face the wrath of the customers. They'd rather have somebody else make the decision for them.

He encouraged Council to again partner with the North Coastal Prevention Coalition and with the many people in this room that support this, and to pass this measure.

JOE KELLEJIAN, 473 Glencrest Drive, Solana Beach, asked Council to join the 111 cities in California and other venues that have gone no-smoking. He owns a residence in the Marina Towers. It was the first condominium structure in San Diego County to have no smoking, not only in the units, but on the property itself. This is a feather in the cap to those who serve Oceanside. He also has a family business in Oceanside. They have thousands of people that come to Ecology Auto Parts every month. It's completely smoke-free and has been for years. He mentioned other venues that are no-smoking in the County.

Many people have concerns about individual rights. He also values individual rights: the rights of 90% of the people in California and the County who don't want smoke when they're enjoying patio dining. He also values the individual rights of the scores of people who work in this industry who want to have a safe and healthy environment.

Earlier today he had a conversation with the Mayor of Carlsbad. A few months ago they passed the same ordinance that Council is looking at. The Mayor and others on their Council were very apprehensive about passing this ordinance. It took some time, but they finally got to the point where they did it, and they have not received one

complaint about smoking.

As elected officials, we're sworn to protect the health, safety and welfare of those we serve and those who visit. He asked Council to support the ordinance.

DEBRA KELLEY, 2750 Fourth Avenue, San Diego, is representing the American Lung Association in California. She thanked Council for taking a look at this important issue. There are two fundamental questions. One is whether this type of ordinance is necessary and the other is whether it actually works. It's been almost a decade since the California Air Resources Board declared outdoor secondhand smoke to be a toxic air contaminate. They didn't take this lightly; they looked at the science. One of the things they realized is that, if you can smell secondhand smoke, you are already experiencing a serious level of exposure. Many of the studies they based their decision on were conducted in outdoor restaurant patios. They found that sometimes the level of secondhand smoke in those areas approximated what we used to have in indoor areas. There really isn't any question about the dangers of secondhand smoke.

In terms of the practicality, we've had a lot of experience working with other communities, and this sends a positive message to the community. It's important to protect kids and seniors. About half of us are ultra-vulnerable to secondhand smoke. She has asthma, and if somebody is smoking outdoors, she cannot enjoy that facility. The business community has embraced these ordinances around the County. It's really needed to protect kids and seniors, and it works. People easily comply, and it creates a level playing field for all of the restaurants and outdoor dining areas. She urged Council to move forward with this important ordinance.

JOE JEFFREY, 3613 Ocean Ranch Boulevard, is the owner of Junkyard Sports Bar and Grill located on Ocean Ranch by the Marriott. He installed an outdoor eating area about a year ago at the request of his customers because they want to go outside and bring a drink, have something to eat and be able to smoke. Prior to that they had to stand out there to smoke, and they'd leave their food inside. He had people walking outside with drinks and food. To comply with what his customers wanted, he installed it. This would change if Council adopts this resolution.

He has a lot of visitors from other states that stay at the Marriott. They appreciate that he has this forum. He's talked to many of his customers, and they aren't happy with the fact that this is being considered. It's their opinion that it's outside. It's not controlled air, and we do fine. He's always had smokers. If they're by somebody else who doesn't smoke, they'll courteously move to another table so it doesn't affect them or put out their cigarettes.

CHRISTOPHER WILSON, 770 Harbor Cliff Way, is a smoker and supports in principle the idea of creating smoke-free outdoor eating areas. He realizes that his right to smoke stops where it interferes with someone else's right to breathe. This is not really an issue for him. However, looking through the ordinance, there's a couple of things that might be addressed. Deputy Mayor Kern mentioned potentially issuing permits for cigar events at establishments. He didn't see that addressed at all in the ordinance. That might be something to consider before introducing it as it exists right now.

The other thing is when you ban smoking within a certain radius of the establishment, you're pushing the people that are smoking out farther. If that takes them away from a place where they can dispose of their cigarette butts, they're going to throw them in the gutter, on the sidewalk and in the street. The effect of that could potentially impact the quality of the sand on our beaches as those cigarette butts wash down through the storm drains and wind up on the beach. Council may want to consider installing additional receptacles or something so this doesn't become an issue.

JIM JENKINS, 1429 Calle Marbella, stated it's not just the secondhand smoke

that's an irritant; the respiratory irritant is also the ashes. He's been in a number of restaurants with his kids where ashes are blowing all over his food from people that are smoking. Respiratory irritants are not just an inhalation hazard as a result of a vapor, gas, or a mist; it's particulate. He supports this ordinance and thinks it's important to create a healthy environment for people to dine and enjoy themselves.

GENA KNUTSON, Program Manager for the Tobacco Control program at Vista Community Clinic, wants to make Council aware that they conducted outreach to all of the restaurants in Oceanside that have patios. There are more than 470 restaurants in Oceanside. We called each of these to determine which ones had outdoor patios. Out of those, we found that there are 160 restaurants that have outdoor patios. We then went to each restaurant and gave them an information packet on the issue. We also gave them a fact sheet about the meeting that was happening tonight, including the date, time and location. We also gave email addresses, so that if they send in a comment, it will go to all of the Councilmembers.

CODY CAMPBELL, Vista Councilmember, urged Council to support this ordinance. Ultimately, this is not an issue that affects just Oceanside; it affects our region. He urged Council to join cities such as Carlsbad in banning smoking in outdoor dining areas. Next Tuesday in Vista, they'll be bringing forward an ordinance that is substantially similar to this one, and hopefully be joining Oceanside in protecting public health. This isn't a political issue; it's an issue of responsibility as elected leaders in our communities to provide for the public health and welfare. He asked Council to support this measure and pass it this evening.

CITY CLERK BECK stated there are two members of the public who also submitted correspondences. They were distributed to the Councilmembers. He also received one prior to the Council meeting that Council does not have. It's from William Marquis, an Oceanside resident, voicing his opposition and encouraging Council to vote no on the prohibition against smoking in outdoor unenclosed dining establishments.

Public input concluded

COUNCILMEMBER SANCHEZ thanked Oceanside residents, especially the kids, for bringing this forward. This is a critical public safety issue. For Oceanside, in terms of getting more people to come to our city, people are thinking twice about whether or not they feel comfortable dining where there is outdoor smoking. In a beach city like ours, where we encourage people to dine outside and we're encouraging more restaurants to have an outside dining area, this is becoming more important.

She also thanked those who conducted local surveys. We need to find out how our restaurant owners feel, and they've given us the information that overwhelmingly shows that they support this. She has been contacted by restaurant owners and those dining who all support this.

She **moved** [introduction of an ordinance amending Chapter 10A of the Oceanside City Code prohibiting smoking in outdoor unenclosed dining establishments]. She hopes that Oceanside becomes the next city in California that recognizes you can attract a lot of business by paying attention to public health.

MAYOR WOOD seconded the motion.

DEPUTY MAYOR KERN stated his vote hasn't changed on this. He's going to vote against this. A survey a couple of weeks ago showed that California is 49th in freedom. We're trying to take away as much freedom as we possibly can. He understands what Joe Kellejian, Vista Community Clinic, etc. want to do, but these people who smoke in these outside restaurants do it because they want to be there. If you don't want to be there, don't go there. He would leave it up to the individual owner of the business to make that decision. We're not here to make decisions for people on

their private property.

We're 50th in business climate. We'd be 51st if there was more, because we're trying to be as restrictive as we can in this environment. He asked the City Attorney who pays the $100 fine.

CITY ATTORNEY MULLEN responded assuming a police officer issued a citation, it would be to the party in violation. If there was an individual smoking in violation of the ordinance, then they could be cited. He would anticipate that their attempt is going to be for voluntary cooperation, just like the other provisions of Chapter 10 that prohibits smoking elsewhere. Ultimately, it would be the party who is cited, which would be the smoker. The owner also needs to put up a no-smoking sign in the area. That's a requirement as well.

DEPUTY MAYOR KERN stated we have restaurants in town that don't allow smoking in their outdoor dining area, and they don't have signs. Those owners have already made those decisions. They have the ability to do that. Mayor Kellejian just talked about his homeowners association. His whole building is smoke-free. That was a decision that was made by the homeowners association without government interference. It was a decision made privately to do something on private property. It didn't take an act of government to do that.

We talked about cigar nights. He goes out to Stone Brewery about two or three times a year for cigar night. We try to get people to do that for different events, so why can't we carve out that exemption? Also, what about golf courses? Obviously they serve food at the golf course, so you can't light a cigar because you're too close to the building. If a police officer is there and you light up a cigar on the first tee, you're going to get a ticket. People may say that's extreme, but that's certainly the case; it's within their bailiwick to do that.

He's knows Mr. Campbell is new on the Vista Council and suggested he not be in a hurry to regulate everything. He's had conversations with his colleagues about how terrible the atmosphere is in California because of restrictions and overregulation. He's sure he will go down in flames tonight on this because they want to regulate. They'll go home tonight being very happy about regulating one more thing. Then they'll complain next week about how overregulated we are.

When they make that vote, they have to understand that they're part of that problem of overregulation. We have business owners tonight like Mr. Jeffrey who purposely put in additions to his restaurant to allow his customers the freedom to smoke outside. He accommodated them because he wanted to accommodate his customers. If tomorrow he decides he doesn't want smoking outside in his restaurant, he can make that decision for himself. He doesn't need government to make that decision for him. We need to be very cautious about going down this regulatory path.

As for the students who wrote the postcards, he's a retired teacher; it's not hard to get a bunch of postcards. If you make them write a 500 word essay on why, you may get two, but signing a postcard in class is pretty easy to do. Before you go down that path think about it, because the next thing may be something that you like, and it's going to be regulated, whether it's plastic bags in Solana Beach or limiting the size of soft drinks. He bets in three to five years there will be some law regulating the size of soft drinks, and we'll have a group with a bunch of post cards saying that we need to regulate the size of soft drinks in Oceanside because if we don't, children will die.

We're on this regulatory bandwagon. He knows that people think he's being kind of extreme in his opposition to this, but when do we say enough is enough? When do we say we have enough regulations and let people make their personal choices? It may be choices we do not like, but it's their choice. Having the heavy hand of government come down on people because we don't like the choices they have made is wrong.

When we talk about beaches and parks and the Civic Center, those are areas that we control as a Council. That was our policy decision because we control that land, and we made that decision on the land that we control. The owners of those restaurants should have the same right and the same control that we have on the property that we control.

He has to vote against this and hopes his colleagues will reconsider and think about overregulating, but if they do vote for this, don't ever complain about the overregulation in California again because you become part of the problem.

COUNCILMEMBER FELIEN appreciates Deputy Mayor Kern's passion on this issue and the points he's made regarding the private sector versus the public sector and where our writ should be. Smoking is kind of unique in that, unlike other vices, it is a shared experience. That's what makes it a little different. Last time this was up for a vote he voted to allow it to move ahead to the drafting stage, while publically saying he wasn't committed to supporting it. His support was going to be dependent on the feedback that he received. Based on the feedback that he received, most people lean in favor of it in terms of average citizens. Businesses that have spoken to him are 50-50; it's not overwhelming one way or the other in terms of the balance of support, although certainly people are passionate in their views.

His concern is that culturally we're moving more to a smoke-free environment, but we're in the middle of a recession and are not going to do anything to damage our businesses and make choices that they wouldn't want to make. As part of the feedback, probably the most passionate issue that people had to complain about was cigarette butts on the sidewalk, which is a litter issue and not a smoking issue. That seems to be the area that the public and businesses in the downtown area are more concerned in addressing.

He will support moving this to the next step down the road and seeking further feedback from the public, because in all honesty the feedback in proportion to the size of our city and the number of businesses involved has been pretty low. He is interested in more feedback, but an ordinance that he can support would need to have a carve-out for cigar socials and exemptions. Some people enjoy their vices, and there should be an opportunity for an exception. Obviously, an exception doesn't mean a 365-days-a-year, 24-7 exception. People need to have special events, and we can accommodate that while moving things forward.

Another issue that was mentioned is the non-smoking electronic cigarettes, which people use when they're trying to quit smoking. He would like to at least explore an exemption for that. He asked the City Attorney if the issue of cigarette butts on the sidewalk is too far beyond the scope of the ordinance we're considering. Can that be amended or considered here, or will it have to be another issue on another day?

CITY ATTORNEY MULLEN asked what he is seeking to accomplish.

COUNCILMEMBER FELIEN responded the issue is whether or not we should have an enforced penalty for litter of cigarette butts.

CITY ATTORNEY MULLEN responded we already have that, so it would already be included.

COUNCILMEMBER FELIEN stated it's not being enforced to the satisfaction of many people. If the issue has already been addressed, then legislatively it's a dead issue, but certainly implementation leaves something to be desired.

The other item that had a lot of complaints is the sign requirement. The sign requirement would need to be revised to make it voluntary. The City can put up one or two signs around areas that have a lot of restaurants and businesses. You could have a flyer behind the cash register if someone wanted to, or have documentation that the

City has an ordinance that could be handed to anyone, but he doesn't want to be forcing businesses to be buying and posting a bunch of signs.

If we have the sign requirement revised and the exemption for cigar socials and possibly electronic cigarettes, then he'd be willing to take the next step. He's not knowledgeable enough on electronic cigarettes, but it was brought up to him.

CITY ATTORNEY MULLEN clarified he doesn't believe that electronic cigarettes would fall within the definition of smoking as it's defined under our current City Code, so Council wouldn't need to come up with an exemption for that.

COUNCILMEBER SANCHEZ stated the sign issue provides notice, otherwise you can't cite someone for violating it.

COUNCILMEMBER FELIEN stated the issue is: when was the last ticket given out on a beach or a park for someone smoking? Most people find out it's against the law, and they voluntarily comply. It's far more of an education issue. Once it's implemented, it's an enforcement issue. He's not going to support forcing a bunch of businesses to nail a bunch of signs all over. If it turns out to be some big issue that he's underestimating, we can always come back and look at it. However, that's part of the feedback he's gotten from businesses.

The sign issue needs to be looked at and a carve-out for cigar socials of some kind, and also a personal constituent request for a golf course patio exemption. He asked how many cigars are smoked at a golf course.

DEPUTY MAYOR KERN responded about three per round.

COUNCILMEMBER FELIEN asked if he's talking about smoking on the course while hitting the balls or smoking while at the table after playing.

DEPUTY MAYOR KERN responded what happens is that the place that serves food at the clubhouse is within a short distance of the putting green, the first tee and the last green. The idea is to get a beer and finish your cigar out on the patio. There has to be some refuge from government someplace, and he would hope a golf course would be one of those refuges.

COUNCILMEMBER FELIEN stated we can certainly hear what the feedback from the rest of his colleagues are on the golf course issue. He has put out his markers on the sign requirement and cigar socials. They're the two main ones, and we'll see where we end up.

COUNCILMEMBER FELLER stated this is a pretty difficult decision because it's the rights of two different factions. He's never smoked and burns a cigar about once or twice a year on the golf course. He doesn't get what people like about smoking at all; it just doesn't make any sense. He asked if this affects stand-alone bars.

CITY ATTORNEY MULLEN responded yes. He asked that question at the last Council meeting, and the direction was to include it for drinking establishments as well.

COUNCILMEMBER FELLER asked if we're talking about on private property, or are we talking about on public sidewalks?

CITY ATTORNEY MULLEN responded we are talking about an unenclosed dining area, which is defined to mean any area including streets and sidewalks which is available to or customarily used by the general public or an employee, and which is designed, established, or regularly used for consuming food or drink and is not enclosed by a roof and walls. So if you had a patio dining facility on a City sidewalk, then yes it would be covered. In addition to that, there is a definition for a reasonable distance,

which is modeled after Carlsbad's ordinance, that smoking is prohibited within twenty-five feet of an unenclosed dining area.

COUNCILMEMBER FELLER asked if they could walk up and down the street twenty-five feet away from the restaurant in front of somebody else's business.

CITY ATTORNEY MULLEN responded they couldn't if it were another patio dining facility. If it wasn't, then yes they could.

COUNCILMEMBER FELLER is not in favor of taking it away from someone like Mr. Jeffrey, who talked about his place. He's not on public property; that's private property. He's gone to the expense of it. Monterey Canners has discontinued allowing smoking. He doesn't think 333 has a smoking area in their general area. That's where it's getting fuzzy for him. We have smoking at our skate parks, at Little League baseball games in the parks and at football games on school properties. He knows it's not allowed. It's just where people smoke, everywhere they're not supposed to. He asked how many tickets have been written in the last ten years for smoking in various locations. He bets it's not very many, probably about as many as he can count on his hand.

We can regulate in the public right-of-way, which is public beaches and parks. He might be open to supporting this ordinance in the public right-of-way, but it's not right for Council to stop somebody who is on private property.

If it's in the public right-of-way on our public sidewalks, he will support that. As for private properties, there are a couple that are totally self-contained where it isn't in the public's right-of-way. For him to approve this, we'll have to change that. He's also reluctant about the twenty-five feet.

CITY ATTORNEY MULLEN stated that is the draft in front of Council. That does not make any changes to what's before Council.

COUNCILMEMBER FELIEN asked Councilmember Sanchez as the maker of the motion and Mayor Wood as the second, if they are interested in considering any of the recommended adjustments or amendments.

MAYOR WOOD responded he's not.

COUNCILMEMBER SANCHEZ responded Councilmember Felien identified two issues, one having to do with electronic or was it the e-smoking?

COUNCILMEMBER FELIEN clarified the two that are left are the signs and the carve-out for cigar socials.

COUNCILMEMBER SANCHEZ stated the signs are necessary. Somebody asked how often do you get cited. When she was a public defender, believe it or not there were citations that were given. There were several infractions for Oceanside. With respect to private events, she doesn't believe this is covered under this. She asked the City Attorney if private events are excluded from this ordinance. Is the cigar smoking a private event?

CITY ATTORNEY MULLEN responded usually they're open to the public. You buy a ticket to attend. Hennessey's had them in Carlsbad. The language as it's drafted now would prohibit those. You could create an exception if you wanted. If it's generally open to the public, that's the qualification in the ordinance. If you wanted to create an exception to avoid any ambiguity and make it clear that those are not included within the scope of the ordinance, we could do that.

DEPUTY MAYOR KERN asked what about golf courses?

COUNCILMEMBER SANCHEZ responded golf courses are parks.

MAYOR WOOD stated 98% of the people in the State don't smoke. We were told that. Then all the people contacted the bars, and they didn't seem to care. So we're back to a couple of issues: cigar smoking, which is going to be the same thing and needs to be in the ordinance, and signage, which he thinks is required. It's one of those things where you see it all around the County. It's Council's decision to make. He's going to call for the question and let everyone make a decision. He doesn't see how he can back off on a decision that everybody spoke on. That's every individual's call.

COUNCILMEMBER FELLER thinks that private property should be exempted. The public may still be going there, but it is private property. We're talking about the use of public property on the sidewalks, and he does support that.

MAYOR WOOD stated there are quite a few ordinances that pertain to private property that have been passed by the State and City, so he's not sure this is the one that should be getting exempted, but that's Council's call. Let us vote and let it be done. He doesn't know what Councilmember Sanchez's opinion is as the motion maker, but he's not willing to waiver on it.

COUNCILMEMBER SANCHEZ is getting conflicting information regarding private parties. Her understanding is that it would not be covered under this. At least that was the response that her office got. She asked if there is an area that is roped off for a private party only.

MAYOR WOOD stated if you have a bar or a facility or restaurant that's closed to the general public and they're having their own meeting in there, he can understand that, but if the public is allowed to walk in and out, then we have a problem with the ordinance.

CITY ATTORNEY MULLEN stated the way that this is drafted indicates that it's any area, including any streets and sidewalks, which is available to or customarily used by the general public or an employee and which is designed, established or regularly used for consuming food or drink and is not enclosed by a roof and walls. That's why he says the example that was provided probably would fall within that. If you wanted to exempt a private party, we can create that exemption.

COUNCILMEMBER SANCHEZ is not sure if there would be a third vote with that added in. She asked if that would satisfy Councilmember Felien.

COUNCILMEMBER FELIEN responded we're talking about compromise here, and we've had a couple of points that were brought up. We certainly have a different mix of ideologies. We have a sign issue, a cigar social issue and an issue of private property versus public property. With a little effort we can craft an ordinance that's a step forward. Everyone's not going to get what they want, but we take can a step forward for public health while recognizing the feedback that he and Councilmember Feller received, based on where people's major concerns are.

He gets the feeling we have an all-or-nothing attitude here, but we can put something together. We don't have to solve this issue tonight. We have some things on the table, and the City Attorney can research them, or we can vote on the original ordinance if nobody's satisfied with the amendments as they get put together. He recognizes the concerns of the health issue. His wife is supporting any issue to get rid of smoking. That's her passion, and it matches a lot of what some of the speakers have said. He shares some of Deputy Mayor Kern and Councilmember Feller's concerns with the government trying to be the nanny State and tell people on their own property what they should be doing. We can come up with a compromise where no one's happy, but everyone gets something they want. We'll see if there's any interest there.

MAYOR WOOD called for the question because we're going to go all night on this. He gets tired that nobody in the Council wants to represent the populous of our city on most issues.

COUNCILMEMBER SANCHEZ is still not satisfied that this was intended to include a private party. She is willing to exclude a cigar private party if the City Attorney can tell her where that would go, but her question is whether that will satisfy a private cigar party. Is that what she heard? She's not getting an affirmation; what she's getting is a list of things. She's not agreeing to all of that list, but asked a very specific question having to do with a private party.

COUNCILMEMBER FELIEN responded his specific answer to her specific request is no, that wouldn't be enough to get a yes vote, but there's nothing that says this lives or dies tonight. We can always come back.

COUNCILMEMBER SANCHEZ can't remember if it was him or Councilmember Feller, but somebody said something about a private party.

COUNCILMEMBER FELIEN responded he brought up the issue of cigar socials, what constitutes private versus public and do tickets make it public.

COUNCILMEMBER SANCHEZ stated a private social is a private party. It's not open to the public.

MAYOR WOOD stated we're not going to argue anymore. He called for the question. It's a waste of our time. They're not going for this.

COUNCILMEMBER SANCHEZ stated she's not ready to vote.

MAYOR WOOD responded then don't vote.

DEPUTY MAYOR KERN asked if we're voting on the call.

CITY ATTORNEY MULLEN responded no, the original motion.

COUNCILMEMBER SANCHEZ stated she's not ready to vote and would like to take a break.

MAYOR WOOD responded no.

CITY CLERK BECK stated he has to restart the vote. Councilmember Feller is requesting to restart.

COUNCILMEMBER FELLER stated we need to delay this two weeks.

MAYOR WOOD responded he doesn't want to hear that. We've been arguing all day up here. Let's go on. If the Councilmembers knew what was coming for at least a week, they could study it. They want to fight up here, and he's not going to continue. They can bring it up again and put it on the agenda, but tonight we're not going to argue. There are too many things, and obviously we're wasting our time trying to change one idea.

COUNCILMEMBER SANCHEZ asked if it exempts private social cigar parties and it is on streets and sidewalks, will that satisfy Councilmember Felien.

COUNCILMEMBER FELIEN responded yes, and some modification in the sign requirement. Those are the three issues. He's not sure what Councilmember Sanchez' passion is there.

MAYOR WOOD suggested to the City Manager that Council can always bring it back, but they won't. We're cutting this down to be absolutely nothing like it was presented to us. That's what he's concerned about.

COUNCILMEMBER SANCHEZ asked what is the problem with a ten-dollar sign?

COUNCILMEMBER FELIEN responded that's the feedback he got from businesses on this issue. He's basically representing the people who called his office and said this is their concern. That's the feedback the Chamber got, that they were concerned they would be required to post a bunch of signs.

COUNCILMEMBER SANCHEZ stated her concern is that an officer will go through an hour of giving a citation, getting all the information, finding out if there are any other tickets, failures to appear, etc. and actually possibly taking that person in. That officer is having to go to a motion and spend half a day in court because there is no sign. As a public defender she would love that.

MAYOR WOOD stated we're back to arguing, and he doesn't want to hear it. This is over, so vote. He doesn't want to hear it anymore. Vote or don't vote or put "absent" or get up and leave.

COUNCILMEMBER FELIEN suggested that he and Councilmember Sanchez can talk later.

COUNCILMEMBER SANCHEZ stated she is modifying her motion.

MAYOR WOOD stated no, she is not. She may not like it, but to vote and that's it.

CITY CLERK BECK clarified in order for the motion to be modified, the second has to be willing to modify it, and Mayor Wood said no.

COUNCILMEMBER SANCHEZ stated it could be modified by somebody else. It doesn't have to be the second.

CITY CLERK BECK clarified as of right now we're still awaiting Councilmember Sanchez' vote.

COUNCILMEMBER SANCHEZ withdrew her motion and would like to make another motion.

[Recess was held from 6:59 PM to 7:05 PM. Councilmember Feller arrived at 7:08 PM]

MAYOR WOOD stated he's going to pass the gavel to Deputy Mayor Kern while he excuses himself.

[Mayor Wood left the meeting at 7:10 PM]

DEPUTY MAYOR KERN totally sympathizes with the Mayor and the frustration on this issue. He's going to make a substitute motion. He asked the City Manager to guide Council through this.

CITY MANAGER WEISS stated based on Council's discussion, there seems to be support for prohibiting smoking within dining areas that are within the public rights of way. Everyone is supportive of some type of a ban on smoking. His recommendation would be to restrict those under the definitions and prohibitions to those dining areas that are within the public rights-of-way. We already regulate those. If they're in the

public rights-of-way, they have to do certain things and get permits from the City as far as the types of fencing they put around and how far the encroachment can be. His recommendation, because it is a good idea to look at those public dining areas, is that we prohibit smoking within any public area that would be an unenclosed dining area within any public street or sidewalk area. We can make those modifications.

He believes the sign is important. Given the costs that businesses need to enclose those dining areas, even through our normal requirements, the sign wouldn't be a significant issue. He gets it if they had to post a number of signs, but for those that are within the public rights of way, he thinks it's reasonable to expect them to put a sign up. We can make those modifications and bring something back to Council. Under definitions, we would say unenclosed public dining area shall mean any public area within any street and/or sidewalk which is available or customarily used by the general public. He did make a note that within a reasonable distance shall mean a distance of ten feet. He understands there's an issue with twenty-five feet. We would recommend ten feet. That should not put you significantly encroaching into anyone else.

Also, smoking is prohibited in unenclosed public dining areas within the City of Oceanside along or within any street or sidewalk area, except places where smoking is already prohibited.

DEPUTY MAYOR KERN asked the City Clerk if he got all of that. That's his **substitute motion**.

COUNCILMEMBER FELIEN asked where is the cigar social carve-out issue or the definition of private versus public.

CITY MANAGER WEISS responded this is all on public streets, so a golf course clubhouse is private property. A roof deck in a restaurant that is entirely private property at this point would be exempt.

DEPUTY MAYOR KERN stated that's his substitute motion. He asked for a second. He will call for the question.

COUNCILMEMBER FELLER seconded the motion.

COUNCILMEMBER FELIEN has one point of discussion. He is open for more public feedback. His yes vote is to move the process forward, and we'll see where the final feedback is.

COUNCILMEMBER SANCHEZ stated the people who asked this to be placed on here said they did not want this as is. They would prefer that it go down. What they asked for is exactly what was what presented tonight and they prefer to have a vote on that. Her understanding is that it would be 2-3, three against.

CITY ATTORNEY MULLEN stated the City Clerk actually had a recorded vote on the original motion.

CITY CLERK BECK stated on the original motion he will display the results, then we're going to take a vote on the new substitute motion on behalf of Deputy Mayor Kern. The first original motion from Councilmember Sanchez and seconded by Mayor Wood is the following: Mayor Wood yes, Councilmember Sanchez nothing, Deputy Mayor Kern no, Councilmember Felien no and Councilmember Feller abstain.

COUNCILMEMBER SANCHEZ stated she changed her vote to yes. She can do that before the next vote is taken.

After titling of the ordinance, the original **motion failed 2-2-1**, Kern and Felien

– no, Feller – abstained.

DEPUTY MAYOR KERN stated now we're going to vote on the substitute motion for the public areas like the City Manager delineated.

COUNCILMEMBER SANCHEZ stated that is not what the public wants.

DEPUTY MAYOR KERN stated we gave them half of what they wanted.

Motion was approved 3-1, Sanchez - no, Wood – absent.

GENERAL ITEMS - Continued

21. **City Council: Adoption of a resolution approving an amendment adding the City as an Associate Member of the Western Riverside Council of Governments to permit the provision of Property Assessed Clean Energy (PACE) Program Services within the City and make certain findings and authorizing certain matters necessary to participate in the California HERO Program; adoption of a resolution to approve associate membership in the California Enterprise Development Authority (CEDA); and adoption of a resolution authorizing the City to join the FIGTREE PACE program and authorize CEDA to conduct contractual assessment proceedings and levy contractual assessments within the territory of the City**

MO LAHASIE, Environmental Officer, prepared a staff report for Council's consideration to review and make an opinion about these two programs that have been introduced to our City. These programs are basically property-assessed clean energy. They are HERO and FIGTREE.

Public input

MARK RODGERS, 150 Boulder Canyon, Folsom, stated we've spoken about PACE a number of times and what keeps happening is that Council makes the decision to put it off again. What we're hoping for tonight is that we can actually see something other than indecision, a motion to move forward and actually get going on PACE.

Regarding some of the previous commentary that was offered, he has a couple of points of clarification. He wants to be sure Council understands that we were referred to by three different names. The name of our program is simply the HERO program. We are partners with a number of different industry experts that we find to be the best in the industry for a number of various aspects of delivering PACE. It's complex, and to think that one company can pull it all together would be presumptuous of anybody. We have a great partnership; it is called the HERO program, not the PFM program or any other name.

His partner WRCOG is also here. We're one of many partners in the program. He has some additional handouts to clarify the fees as they apply to PACE and not to some phantom numbers. It's fair to say we're the only program that has actually culminated enough data to have what the average PACE project would be. That number is $18,000. We broke down the fees in terms of the way that both companies amortize the fees over the term of the loan and the interest. We actually give you a very fair view of what the fees look like. He thinks Council will find it's quite different than what they've been presented. It's based on truth versus speculation.

We have just signed our 52nd city in Southern California in the last week. Two are right here in San Diego County. The cities of Vista and San Marcos have both passed resolutions in the last 30 days to move forward with HERO financing. They are the thought leaders; they're not waiting for the County or the rest of the world. They're not waiting for things to be perfect. They're getting onboard with this because it's

working and because it's changing the lives of people in the construction industry and property owners in general, not just homeowners.

He also wants to make it clear that we do have a commercial program.

DEPUTY MAYOR KERN reminded Mr. Rodgers that he's under a three-minute time constraint because it's just general public comment.

MR. RODGERS is just here to answer questions and to give a little commentary. He asked if there is a chance for rebuttal.

DEPUTY MAYOR KERN responded yes, and he's sure the Councilmembers will have questions, but he wants to move this along. If there are any questions that Mr. Rodgers wants to raise, then we can have Mr. Lahsaiei answer them.

MR. RODGERS stated at this point he'll just take questions, and he's good with that.

JOE FLORES, representing FIGTREE, understands how confusing the PACE landscape can be. However, we're pleased with Oceanside and the leadership Council is taking in adopting the PACE programs that are now active and readily available, FIGTREE being one of them. Vista conducted similar research. They asked their staff to come back and compare the programs. He was pleased to see Vista Councilmember Campbell because the City of Vista unanimously voted to bring on the FIGTREE/PACE program and the WRCOG program.

He asked Council to make these programs available today. There are contractors ready to get to work and property owners that need this. By adopting this program, Council is not excluding the City to later explore the Ygrene program once they've fleshed out the details. Council can then revisit it and even adopt it. We are advocating an open market PACE landscape where property owners can ultimately choose which program best meets their needs. The City of San Diego did a similar thorough vetting, and they determined that FIGTREE was a great proposition for them. They adopted it, similar to San Marcos.

You're not taking on any risk or any new untested programs. Our programs have already funded projects. We have more in the pipeline, and we're poised to make an announcement about additional projects that we'll be funding here within the next few weeks. It's easy for us to refute all of the comparisons that were made by the Ygrene representatives, because you're looking at one side. We're saying don't just choose one, let the property owners decide.

MARK AARVIG, 32 Executive Park, Irvine, is the Managing Director of Samas Capital. We are the commercial side of HERO. We've been in the PACE market for over four years, developing the markets and working with participants in the area trying to develop this whole program. We're not new to the market. We've been involved with WRCOG for a couple of years, and we also are involved in programs in other states, one being the State-wide mandate for funding in Florida. He wanted to make sure that Council knew that there is a commercial side of the WRCOG program.

Our program is unique to most programs in that it's an actual rated program. We have a rating by the rating agencies on our financing vehicle. Long term, this will affect your borrowers. The costs of a rated funding platform are significantly lower than an unrated platform. In our program, we currently have projects that are in the process of being funded. We do have projects coming down the pipeline. Renovate is way ahead of us on their program. They're doing a fantastic job. A lot of their marketing effort is our marketing effort. We have over 400 contractors signed up in Riverside County alone. These contractors don't operate in specific counties, they operate in many counties. We've gotten a lot of requests to be participating in the San Diego area.

There's a lot of interest in the Oceanside area as well. Generally speaking, this is a natural next step.

He's an economist, and market forces will dictate ultimately who survives and what the successful programs are. We're not afraid of having multiple programs. We think that ultimately the market will wash that out, and you'll find out who are the entities that really can produce.

GARY POULIN, Oceanside, is the Vice President of Solar Watt Solutions. He has a background as an engineer. He's been a Vice President at Hewlett Packard and been in solar power since it was on spy satellites. He's very passionate about going green and about being a value proposition to the end-user of renewable energy, which are the customers, homeowners and property owners in Oceanside. He's had the privilege of following the HERO program and has successfully grown his business almost 40% over the last fifteen months, just through the product offering of HERO. There is no reason not to move forward with this choice for the people that live in Oceanside and other cities in North County that have already adopted it. Other competition coming in only gives more choices.

Why be regulated now? He asked Council to take action on it today. It increases the small businesses. He's been able to keep people employed for the last four years, and the reason is that one of the product value propositions is the financing. Putting it on your tax bill over a twenty-year period is single-handedly the best financing program you can use for renewable energy in the United States. It's being looked into at the Federal level. He's been active with the governor of California on fast-tracking the permitting. Nothing speeds it up faster than the financing. If you make it affordable and put it on the property tax, the customer doesn't feel like they have the burden of the debt. Even if they're sixty-five years old, it goes with the house. It's in a trust fund and goes to their kids. The dilemma of not being able to invest because you're incurring debt does not occur when you put it on your tax bill.

He asked Council to move forward with this. Other competition can come in, and you're not limited. The market and the competition will determine who succeeds and who doesn't. The bottom line is he doesn't see a reason to hold off on it. He doesn't want to travel everywhere in Riverside County. He just recently signed and closed the deal with the Mayor of Hemet in the HERO program. It's easy to use. This company is well-funded and well-managed. The customers' interface with this company is painless. The decision-making process is quick compared to the alternatives. There's nothing better on the market.

Public input concluded

COUNCILMEMBER SANCHEZ still feels that, if we're going to be providing products to our residents, we do it in a way that they can pick and choose. She heard a very good presentation by Ygrene, by someone who is a very reputable person. Crystal Crawford has been around for many years as a Councilmember, Mayor and an attorney. When she's talking about a reduction of 15%, it won't hurt us or the community to wait just a little longer on this so that we can truly provide alternative options to our community, especially one that provides a much better value.

CITY MANAGER WEISS responded Council's direction was to bring forward those programs that are available at an appropriate time. He suspects if the Ygrene program does get some type of regional approval, then we would bring that back to Council as soon as we could.

COUNCILMEMBER FELLER moved adoption of [**Resolution No. 13-R0393-1**, "... approving the amendment **[Document No. 13-D0394-1]** to the joint powers agreement and consenting to inclusion of properties within the City's jurisdiction in the

California Hero Program to finance distributed generation renewable energy sources, energy and water efficiency improvements and electric vehicle charging infrastructure", adding the City as an Associate Member of the Western Riverside Council of Governments to permit the provision of Property Assessed Clean Energy (PACE) Program Services within the City and make certain findings and authorizing certain matters necessary to participate in the California HERO Program, **Resolution No. 13-R0395-1**, "...approving associate membership by the City of Oceanside in the California Enterprise Development Authority and authorizing and directing the execution of an associate membership agreement **[Document No. 13-D0396-1]** relating to associate membership of the City in the authority", and **Resolution No. 13-R0397-1**, "...authorizing the City of Oceanside to join the FIGTREE PACE Program **[Document No. 13-D0398-1]**, authorizing the California Enterprise Development Authority to conduct contractual assessment proceedings and levy contractual assessments within the territory of the City of Oceanside, and authorizing related actions"].

DEPUTY MAYOR KERN stated his thing is how to get this to the consumers the quickest. He **seconded** the motion. If the County on June 18th adopts the Ygrene program, then on the 26th we can agendize that, bring it back and join the program at that time. He is all for open markets. Let's get it to the public as quickly as possible. He appreciates Ms. Crawford's effort in this, and we've talked about it for a long time. At a certain point we have to pull the trigger. He can't see penalizing other companies because one company still needs to get their ducks in a row to get started. We need to get started as quickly as possible because of the benefits, not only to our consumers, their houses and the people that live in the City, but also the environmental benefits that we get sooner.

He has one point of contention with one of the speakers about not incurring debt. You are incurring debt; you just happen to pay it a different way. You're not off scot-free; you do have to pay it still. It's just how it's paid is what the advantage is to the public.

Motion was approved 3-1, Sanchez – no, Wood - absent.

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

No action will be taken by the City Council/HDB/CDC/OPFA 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.

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

CATHY NYKIEL, stated we're celebrating Oceanside's 125th anniversary with the parade on June 29th. It is a true red, white and blue Americana event with floats, marching bands, etc.

On June 29th the Cobras have a game at Oceanside High School at 2:00 PM. That evening Parks and Recreation will have the First Marine Division Band, followed by a movie at the Pier Amphitheater. On July 3rd Oceanside celebrates its 125th anniversary with a presentation, food and entertainment at City Hall. That evening fireworks will be shot off at El Corazon.

On July 4th on the beach adjacent to the pier, we will have extended areas for your entertainment, with some extra food and retail experiences on The Strand. We have the day market throughout June, but it will be closed the 4th of July.

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

COUNCILMEMBER SANCHEZ spoke for **MEL VERNON**, 1044 North Ivy Street, Escondido, stating Mel is head of his tribe, the Luiseño Band of Mission Indians. Unfortunately he already left. We have the annual Pow-Wow this weekend at the San

Luis Rey Mission. There are booths and traditional Native American foods, as well as traditional dancing.

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.

30. **City Council: Adoption of a resolution confirming the Engineer's Report, confirming the diagram and assessments, ordering the assessments to be levied for FY 2013-14 for the Oceanside Lighting District, Assessment District No. 2-1991; and approval of budget transfers in the amounts of $390,000 in gas tax funds and $10,000 in energy fees to the Lighting District account**

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

CITY MANAGER WEISS stated this is the annual renewal of the Lighting District. Not that long ago, Council had a detailed discussion about this item when we set the public hearing. Unless Council has any questions, he's prepared to submit this item for Council's consideration.

COUNCILMEMBER FELIEN moved approval [of adoption of **Resolution No. 13-R0399-1**, "...confirming the 2013-2014 Fiscal Year diagram and assessment for the Oceanside Lighting District, Assessment District No. 2-1991", confirming the Engineer's Report, confirming the diagram and assessments, ordering the assessments to be levied for FY 2013-14 for the Oceanside Lighting District, Assessment District No. 2-1991; and approval of budget transfers in the amounts of $390,000 in gas tax funds and $10,000 in energy fees to the Lighting District account].

DEPUTY MAYOR KERN seconded the motion.

COUNCILMEMBER FELLER asked how we have been billing Rancho del Oro.

CITY MANAGER WEISS responded people that are within Rancho del Oro where the lights have been removed have a reduced assessment similar to other areas in the community where there are no lights. That's already been taken into consideration. The other action Council approved for a separate overlay within Rancho del Oro is not part of this. That will come back to Council at a separate time.

With no one wishing to speak, Deputy Mayor Kern closed the public hearing.

Motion was approved 4-0, with Mayor Wood absent.

31. **City Council: Adoption of a resolution to amend the Oceanside Boulevard Underground Utility District to include Crouch Street; and approval of a budget appropriation in the amount of $100,000 in available Undergrounding In-Lieu Funds for the project**

A) Mayor opens public hearing – Deputy Mayor Kern opened the public hearing.
B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Deputy Mayor Kern and Councilmembers Feller and Sanchez reported contact with staff. Councilmember Felien reported no contact. Mayor Wood was absent.
C) City Clerk presents correspondence and/or petitions – none.

D) Testimony, beginning with:

GARY KELLISON, Senior Civil Engineer, stated this item is to add six properties to the existing underground utility district along Oceanside Boulevard. We've made good progress in recent years, and about one-third of the district has been undergrounded already. This proposal adds the properties along Crouch Street between Oceanside Boulevard and Apple Street to the district. Just this week he got clarification from SDG&E (San Diego Gas and Electric) that they're willing to combine the work on Crouch Street, with the remaining work around Crouch on Oceanside Boulevard around the bar and going a block back to Greenbrier. They would borrow their funds two years ahead and do it in one shot to be completed in 2015. With Council's approval, SDG&E would begin design work. For the City's share of costs that aren't reimbursable, such as providing replacement street lights, this item includes a request to appropriate $100,000 from in-lieu developer fees.

With no one wishing to speak, Deputy Mayor Kern closed the public hearing.

COUNCILMEMBER SANCHEZ understands that this was actually delayed. It was intended to be part of the project for the district. She knows there is a priority list for several of our long streets. Once that's done, she's sure they'll get to the next segment.

She **moved** approval [of adoption of **Resolution No. 13-R0400-1**, "...amending the Oceanside Boulevard Underground Utility District", to include Crouch Street; and approval of a budget appropriation in the amount of $100,000 in available Undergrounding In-Lieu Funds for the project].

COUNCILMEMBER FELLER seconded the motion.

Motion was approved 4-0, with Mayor Wood absent.

32. **City Council: Approval of franchise provider's request for annual adjustment to the contractor compensation under the City's solid waste service contract with Waste Management of California; adoption of a resolution increasing maximum rates for the collection of waste matter within the City of Oceanside, by adjusting the current solid waste rates by .87 percent, which will result in an increase of $.15 for the Basic Residential Solid Waste and Recycling Rate, or .87% to all other rates for services provided under the solid waste contract; and direct staff to implement the user rates and franchise provider charges**

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

CARI DALE, Water Utilities Director, stated the annual Consumer Price Index (CPI) adjustment for the Waste Management contract allows for an adjustment up to 1.74%, based on a CPI formula that's in the contract. Staff's recommendation is to offset half of that increase, or .87% with the Solid Waste/Rate Stabilization Fund. This is consistent with last year's methodology with the rate increase.

The Integrated Waste Commission met on this item and had the following comments. One was to consider establishing a low-income rate for residential customers with limited means. Staff had investigated this option previously and was advised that any discount for one rate class would have to be borne by other rate payers or offset by General Fund monies.

The second recommendation was to consider establishing a special large-volume rate to differentiate commercial customers from residential-type commercial customers like homeowners. If so directed by Council, staff can investigate this possibility, but there are concerns about whether this is feasible under the current billing system and contract language. The effect of such a change would be that commercial accounts would bear the full impact of the discount for residential-type commercial customers and would be held accountable for any rate increases, while not benefitting from that Rate Stabilization Fund. Such an action would also require a contract renegotiation on the Waste Management contract.

The other recommendation was to deposit 100% of excess revenues into the Solid Waste Fund. Council took action in the third quarter to deposit 50% into the General Fund.

The requested action is to approve the franchise provider's annual request for adjustment to the contractor compensation under the City's solid waste service contract and to direct staff to implement the user rates and franchise provider fees.

Public input

JIMMY KNOTT, 127 Sherri Lane, addressed the question of low-income rates, stating there are opportunities that could help our low-income and our elderly seniors who are on a fixed income. He encouraged Council to look at an enhanced recycling program to assist in those rates.

DEPUTY MAYOR KERN suggested the appropriate place for that would be to take it to the Integrated Waste Commission to explore those ideas.

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

CITY MANAGER WEISS stated that Mr. Knott does bring up an interesting observation. Although you don't have the ability to look at low-income, under the current contract residents do have the ability to buy the service that is appropriate for them. We have different rate structures for different usage. Seniors who generate less waste can opt into a lower rate and a smaller container. That is available to them now. Most of it is based on waste generation; the less you generate, the less you would pay.

COUNCILMEMBER SANCHEZ stated the Rate Stabilization Fund is going to take care of most of this. It's only a fifteen-cent increase per month. She **moved** approval [of adoption of **Resolution No. 13-R0401-1**, "...fixing maximum rates for the collection of waste matter within the City of Oceanside", by adjusting the current solid waste rates by .87 percent, which will result in an increase of $.15 for the Basic Residential Solid Waste and Recycling Rate, or .87% to all other rates for services provided under the solid waste contract; and direct staff to implement the user rates and franchise provider charges].

COUNCILMEMBER FELLER seconded the motion.

Motion was approved 4-0, with Mayor Wood absent.

34. **City Council: Approval of the FY 2013-14 Action Plan [Document No. 13-D0408-1] of the 2010-2015 Consolidated Plan for Housing and Community Development; and authorization to submit the FY 2013-14 Action Plan to the U.S. Department of Housing and Urban Development (HUD)**

A) Mayor opens public hearing – Deputy Mayor Kern opened the public hearing.
B) Mayor requests disclosure of Councilmember and constituent contacts and correspondence – Deputy Mayor Kern and Councilmembers Feller and Felien

reported contact with staff. Councilmember Sanchez reported no contact. Mayor Wood was absent.

C) City Clerk presents correspondence and/or petitions – none.

D) Testimony, beginning with:

BRENDAN MANGAN, Management Analyst, stated that when we actually wrote this staff report, we were expecting a 6% decrease in CDBG (Community Development block Grant) funding. We've just been notified that we'll actually be getting a 6.8% increase, which is about an $80,000 increase from last year. We'll be returning to Council with an amendment to this plan and an amendment to the CDBG budget as well. We actually need to pass the plan tonight because we have to submit it to HUD.

The City General Fund does not support activities described in the Action Plan, and the allocations have no impact on the General Fund. We recommend that Council support this staff report.

Public input

JIMMY KNOTT, 127 Sherri Lane, speaking on behalf of his park manager, stated this, as part of the Action Plan, is inclusive of Section 8 funding as well. Because of questions about going to strictly direct deposit, his park owner/manager requested that they continue with the conventional checks until after the transition period.

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

MARGERY PIERCE stated the reason that we require all of the landlords to do direct deposit is because we have had a reduction in staff and a reduction in our administrative costs provided by HUD. We spend a lot of time looking for lost checks and researching it. By having direct deposit, we eliminate that extra work. It's a great streamlining effort for us, so we intend to move forward with it.

COUNCILMEMBER SANCHEZ stated this is $1,100,000 of Community Development Block Grant funds that we get. Staff does a wonderful job in making it stretch a long way. She **moved** approval [of the FY 2013-14 Action Plan **[Document No. 13-D0408-1]** of the 2010-2015 Consolidated Plan for Housing and Community Development; and authorization to submit the FY 2013-14 Action Plan to the U.S. Department of Housing and Urban Development (HUD)].

COUNCILMEMBER FELLER seconded the motion.

DEPUTY MAYOR KERN stated Mr. Mangan said it has to come back. He asked if it will come back as a Consent item or will we have to hold another public hearing.

MR. MANGAN responded Council will have to come back with a public hearing. It'll be an amendment to our plan, and we'll also be amending the budget for the CDBG at the same time.

Motion was approved 4-0, with Mayor Wood absent.

33. **City Council/CDC/Harbor: Adoption of resolutions for the following: approving the Appropriation Limitation as required by Article XIII-B of the State Constitution, as modified by Proposition 111 for FY 2013-2014 as calculated in the resolution; approving the FY 2013-2014 City of Oceanside Operating Budget; approving the FY 2013-2014 City of Oceanside Capital Improvements Program Budget; approving the FY 2013-2014 Community Development Commission Operating Budget; approving the FY 2013-2014 Harbor District Operating Budget; and approving the FY 2013-2014 Harbor District Capital Improvements Program Budget**

A) Mayor opens public hearing – Deputy Mayor Kern opened the public hearing.

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

TERI FERRO, Financial Services Director, stated tonight we are bringing forth the annual operating budget for Fiscal Year 2013-2014, which starts on July 1st for 2013-2014. One of the approvals Council is required to adopt is the Gann Appropriation Limit. That was a California Constitution amendment voted in by the voters in 1979, which established an appropriation limit on an annual basis on what agencies, cities, states, etc. can spend from taxes. That formula is modified on an annual basis, based on population growth and inflation. The information is provided to us by the Department of Finance. This is one of the resolutions before Council. Council has three separate resolutions for the Operating Budget and two for the Capital Budget. The Operating Budget totals about $341,000,000. There's a CIP (Capital Improvements Program) Budget, which is a separate document being approved tonight, of about $40,700,000.

A computer graphic was used to show the operating side of the budget. There are six categories in the way we classify the budget. There's the General Fund, which seems to be the focus on everybody's mind and covers daily operations. It represents 35% of the overall budget. The Special Funds is where you would find housing projects, grants, LMAD (Landscape Maintenance Assessment Districts), gas tax, etc. It is 12% of the budget. Debt Service Funds is the debt that the City owes, which is 4%. The Capital Project Funds, which is not Capital CIP, is the operating aspect under the Capital Funds that only represents $3,500,000. Enterprise Funds would be water, sewer, airport, solid waste and harbor. Internal Services Funds are the support services provided to the rest of the City for Information Technology, Building, Fleet, Risk Management, etc. We're looking at a total Operating Budget of $341,000,000.

If we shift focus on the General Fund, a computer graphic showed a comparison of where the revenue is coming from compared to last fiscal year. As Council is aware from the quarterly reports, we have been doing very well with increases in property and sales taxes. Property taxes have gone up about $1,600,000 compared to the budget last year at this time. Sales tax has gone up about $900,000 compared to last time. Other taxes such as franchise fees, card room tax, hotel tax, etc., are seeing about a $200,000 increase. Charges for services that include permits, licenses and service charges have gone up slightly. The "All Other" category is an all-encompassing thing that would include fines, interest earnings, transfers from other funds and miscellaneous things that don't fit in the other categories. That category does have a significant increase from last fiscal year. We are seeing that permits are up almost $600,000, which is a good sign for the economy.

We have a $1,200,000 transfer from Solid Waste to pay for some solid waste City services, which is now being represented in the General Fund. There is also a one-time use of reserves of about $600,000 for one-time items that the Council had requested. A computer graphic was used to show the breakdown of where the City gets the dollars. Property tax and sales tax are over 50% of where the revenue comes from.

On the expenditures side, the City spends over 61% of its budget on public safety. That is a priority for the Council. In comparison, the budget went up about $5,000,000. In the General Government category, there were some increases as the City has various contracts for outsourcing. We recently outsourced the EMS (Emergency Medical Services), parking and accounting. Those are funded there for the contracts. This also includes the $600,000 for one-time items such as the pier maintenance, lifeguard towers, WiFi and the community services gap, which includes various services such as school resource officers, REACH, Lifeline, etc. There are beach restroom funds being transferred to that project.

Public safety went up about $1,800,000. Basically, that is just the various MOU's (Memorandum of Understanding) that are going up for step-increases, benefits and health insurance. Public Works did go up about $1,200,000. The majority of that is the solid waste City services. It is now being reflected in the General Fund, funded by the solid waste services. Community Development has gone up about $300,000. That's a positive sign, based on the development activity going up and revenue going up. In the Community and Cultural category, Parks and Recreation services are going up. As the revenues are coming in, the services are there, including the reinstatement of the library hours.

To look at the General Fund in a different format, she broke it down by personnel, M&O (Maintenance and Operations) and the various services. A computer graphic was used to show that 70% of the budget goes towards personnel. Personnel did go up overall $1,800,000. That's predominantly just for existing MOU's, which addresses health insurance, pensions and other benefits. Maintenance and Operations, as she mentioned, is the solid waste services. They were one-time items. All departments had about a 1% CPI adjustment. Interfund Service Charges is what the General Fund is paying for, including Risk Management, Fleet, Information Technology, etc.

Debt service actually went down due to the refinancing that Council approved. Capital and Transfers are pretty much flat. One item we do have is $300,000 to enhance reserves. A computer graphic was used to show a chart with two-year actuals of where we were on June 30th compared to where we think we're going to be on June 30th in 2013. The bottom line numbers show that the reserves have been increasing. The first line identified in red indicates "not available," which is basically land, advances to other funds, etc., things that you cannot liquidate. The rest of the reserves, with Council policy, can be either modified or used for another purpose.

For the line indicating "undesignated," back in June of 2011 there were no undesignated funds available. Last year we ended up with about $2,000,000, and this year we anticipate a minimum of $5,500,000. That number will go up. These numbers are based on May 31st. We haven't finished our fiscal year. A good chunk of that is the $4,700,000 that we received in the sale of land. That number will go up as we have been getting a lot of one-time dollars from the property tax residuals. This is a good way to start off the fiscal year, with a healthy budget and a good reserve.

Public input

JIMMY KNOTT, 127 Sherri Lane, was asked to speak for the South Oceanside community and Merchants Association. One issue brought up was the Marshall Street Pool. There has been a noted increase in criminal activity due to some of Council's successful activities in other areas. As those areas are being affected, it's moving the crime toward South Oceanside where we have been relatively quiet for a couple of years. There is also an increase during the summer, with people targeting people at our beaches and homes.

We also have a lack of activities for some of our youth in South Oceanside. The parents, families and businesses are looking at potential ways of using the youth energy. One way would be to see if there's any way possible to reopen Marshall Street pool, and to coordinate some activities with Parks and Recreation around it. He hopes Council will be able to do something positive.

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

DEPUTY MAYOR KERN noted that earlier tonight we had a very minor item about smoking, and we had all these speakers. Tonight we're going to pass a budget that's basically $341,000,000. The most important thing we do all year as a Council is

to vote on this budget, and we had one speaker. If we talk about public engagement, we need people to give us more input on the budget than we do on smoking. He's disappointed that we didn't have a higher turnout for our public hearing portion on the budget, because this is going to determine what we do for the next year.

COUNCILMEMBER SANCHEZ stated there has been an increase in demand for the Marshall Street Pool. We do have a surplus of $463,547. We are anticipating an additional increase to the General Fund of about $50,000 for some activity that is being processed for the Ocean's Eleven. This is a critical program for the residents of South Oceanside and is the only recreational program. It's been closed for two seasons. She understands that to have it open for the summer would cost about $50,000-$60,000. That is a small amount for this neighborhood. She is asking that Council add this to the Operations Fund budget. She asked if we have a better estimate.

MARGERY PIERCE, Neighborhood Services Director, responded when we eliminated the Marshall Street Pool it was open only during the summer hours and the estimated savings was about $80,000. That could be offset potentially with revenue that would be generated by classes being given there, so there is probably a gap of at least $50,000.

COUNCILMEMBER SANCHEZ moved approval [of adoption of **Resolution No. 13-R0402-1**, "...of the City of Oceanside, California determining and adopting an Appropriation Limit for the Fiscal Year 2013-2014 in accordance with Article XIII-B of the Constitution of the State of California", as modified by Proposition 111 for FY 2013-2014 as calculated in the resolution; **Resolution No. 13-R0403-1**, "...of the City of Oceanside, California approving the Operating Budget for the Fiscal Year 2013-2014"; **Resolution No. 13-R0404-1**, "...of the City of Oceanside, California approving the Capital Improvements Program Budget for Fiscal Year 2013-2014"; **Resolution No. 13-R0405-3**, "...of the Community Development Commission of the City of Oceanside, California approving the Operating Budget for the Fiscal Year 2013-2014"; **Resolution No. 13-R0406-2**, "...of the Oceanside Small Craft Harbor District approving the Operating Budget for the Fiscal Year 2013-2014", and **Resolution No. 13-R0407-2**, "...of the Oceanside Small Craft Harbor District approving the Capital Improvements Program Budget for Fiscal Year 2013-2014"], with the addition of $60,000 to re-open Marshall Street Pool.

She knows there are a lot of other things that Council has cut, but this is one program that is really being felt. This is a program that provides scholarships; a door to the possibility of going to college, along with having a place for the kids to play. She asked that her opposition remain on record regarding the Sewer Study for Morro Hills, the Melrose Extension and the Mission Avenue Improvements, based on the reasons she has given before. As to this one program, she's asking that Council add it to this year's budget.

COUNCILMEMBER FELIEN echoed Deputy Mayor Kern's comments. The debate over issues is inversely related to their importance. On the positive side, as a Council, we did make a concerted effort to have workshops and get anyone who wanted to be involved in the process involved at an early stage so that we could have the staff factor their concerns into the budget. He would like to optimistically think that this process was successful and led to the lack of speakers tonight. He asked Ms. Ferro, for the benefit of the public, to confirm that the $5,000,000 surplus we have in undesignated reserves is one-time money. Also, in terms of our operating budget, what's the surplus we're expecting for the coming year in our operating budget?

MS. FERRO responded $435,000, and the reserves are one-time.

COUNCILMEMBER FELIEN stated in terms of Councilmember Sanchez's request for $50,000 for the pool, his recollection when we discussed this issue was that the amount involved was much larger. He asked if we can collect $30,000 in fees from

the classes at the pool. It seems awfully high and doesn't match his recollection of the numbers we discussed when this issue has been on the agenda before.

MS. PIERCE responded that's correct; that's what our estimate would be.

CITY MANAGER WEISS stated if Council recalls, at one point the question was what the cost was to keep it open year around, and that number was closer to $130,000. To keep it open for the summer, Ms. Pierce is projecting $50,000-$60,000, and they would collect some revenue from classes and lap-swim. Without knowing the total use of the pool, it's going to be difficult to say. He thinks it would be a valid program, and he would recommend it. If Council wants to fund it, we would appropriate $60,000 and operate it through the summer months. We would then come back to Council in October with the result on what it costs and what we received. Then Council can evaluate whether they want to include it moving forward.

MS. PIERCE added it is June 6th today, and it would be very difficult to think that we'd be able to hire all the personnel to open the pool. We don't have personnel currently. We cut back personnel and only have enough barely to operate the Brooks Street Pool. Thinking that we might be able to open it realistically this summer might be very difficult to do, and Council should know that.

COUNCILMEMBER SANCHEZ asked if they would try.

MS. PIERCE responded absolutely.

COUNCILMEMBER FELIEN asked what's the lead-time to open the pool.

CITY MANAGER WEISS responded if Council authorized it, even though the budget would take effect, we would move as expeditiously as possible. We do have the lists that have been established for lifeguards, so he believes we could probably get something operating hopefully within 30 days.

COUNCILMEMBER FELIEN asked what are the current activities going on in the Brooks Street Pool, and why do we feel that the Brooks Street Pool isn't doing enough so that we need to open the Marshall Street Pool.

CITY MANAGER WEISS responded that, although in the fall and spring we do make Brooks Street available for all of the high school swim programs, the summer programs are fairly backed-up for most of the swim programs.

MS. PIERCE responded we are doing very well. Most of our classes are being sold out at the Brooks Street Pool. On the other hand, we would have to look toward marketing this pool also, because the summer guide has already gone out and that's why everybody has been signing up at Brooks Street. No doubt there is a big desire to open Marshall Street. If we can program it efficiently, we should be able to do well.

COUNCILMEMBER FELIEN would support a budget amendment for net $60,000 to open the Marshall Street Pool. He **seconded** the motion.

DEPUTY MAYOR KERN asked if it's $50,000 or $60,000.

COUNCILMEMBER SANCHEZ clarified it's $60,000.

COUNCILMEMBER FELLER asked Police Chief McCoy for an update on the crime we just heard about in South Oceanside, as opposed to the rest of the City.

FRANK McCOY, Police Chief, responded crime in Oceanside is up all over the City, and it's being driven mostly by thefts. This last month we were actually down in all categories of crime except for general theft, such as auto burglaries or somebody

stealing a bicycle. Our major crimes are down; it's just the theft crimes that are higher. He attributes that to our shifting of inmates from the State prisons to our local communities, as well as the economic times. We've also cut our police department by twelve officers over the last few years. Those have all had impacts. He's not aware of any specific crime trend that is spiking in any certain area. When those trends do pop up, our crime analysis unit notifies our officers, and we do what we can to put resources on those increased crime areas.

COUNCILMEMBER FELLER appreciates that. He's been to many of the South Oceanside meetings. They generally have officers in attendance. He hopes that for the next meeting, they could update their figures and give a preview to the merchants and the residents down there. Other than that, he doesn't think the crime is any different in South Oceanside as it is in Rancho del Oro as far as burglaries and theft. That's prevalent all over the City, so he doesn't attribute it to the Marshall Street Pool being closed. It's a good endeavor to try to get it opened for a few months if we can.

DEPUTY MAYOR KERN has three motions that he wants to make separate on the budget. He asked if Council needs to vote on the motion on the floor first.

CITY ATTORNEY MULLEN responded he should describe what the proposed amendments would be, and then they could determent if it changes the main motion.

DEPUTY MAYOR KERN stated the first is to move to establish a new reserve fund balance for repair and maintenance of infrastructure in the amount of $500,000 effective in the FY 2014-15 year budget. It does not impact this current year's budget, but would establish that reserve balance of $500,000 as of the next year. Right now, the only thing we have in a reserve balance for maintenance is for the building we're sitting in now, and that's $55,000. We have nothing for the rest of the City. He asked the City Attorney how we can handle that.

CITY ATTORNEY MULLEN responded since there is a motion and a second and as long as Council is not amending the actual budget for this year, he recommends voting. Then Council can take up the remaining three motions, as long as whatever Council has doesn't affect the budget document that's in front of them.

Motion was approved 4-0, with Mayor Wood absent (with Councilmember Sanchez registering a no vote on the Sewer Study for Morro Hills, the Melrose Extension and the Mission Avenue Improvements).

DEPUTY MAYOR KERN went through this budget extensively. We do not have any reserve balances for infrastructure and maintenance. He **moved** to establish a new reserve fund balance for repair and maintenance of infrastructure in the amount of $500,000, effective in the 2014-15 budget. It allows staff to plan for this over the next year and amend whatever Council policies we have that affect it accordingly. We've talked about this briefly before, about best practices. A lot of cities have these accounts. He asked Ms. Ferro to comment on this.

MS. FERRO responded the Government Finance Officers of America puts forth a best practice to set aside funds for the replacement of infrastructure. The City does that now for water/sewer. A piece of the fees that the residents pay is set aside for eventual repair and replacement of equipment. She's not aware of anything in the event that the City has to repair a City facility infrastructure, bridges, or whatever. We do have a very small replacement fund for City Hall; it's $55,000 this year. It's a small amount, but it's a start. It's like what we do with Fleet. Every year we set aside a little bit of money, knowing that one day we're going to have to replace that vehicle. Our infrastructure can span forty, fifty or sixty years. Council is just starting the process, and that can be accomplished via Council policy and then considered for next year's budget.

DEPUTY MAYOR KERN asked if there is a second to his motion.

COUNCILMEMBER FELIEN seconded the motion.

COUNCILMEMBER SANCHEZ doesn't get where this money is coming from. She asked if it's coming from the General Fund or from reserves.

DEPUTY MAYOR KERN responded it'll probably come out of the General Fund next year. It's for the 2014-15 budget; not this year.

COUNCILMEMBER SANCHEZ stated we don't know what we're going to have next year. Shouldn't we wait until we have a better sense of how much we're going to have and how much it's going to cost to continue to operate the City at a certain level? Then we can see how much we have left over to put into something like this. She understood we might be looking at a very close budget for next year. Right now we're $400,000 in the black for operating, so where would the money come from? Would it come from Development Services? Also, what are we talking about specifically? Are there specific projects?

DEPUTY MAYOR KERN responded this is a general infrastructure reserve. We have aging infrastructure in the City. We put $55,000 in a reserve just for this building alone, and this building was built in 1988.

COUNCILMEMBER SANCHEZ suggested a motion to direct staff to do a study to come up with a plan for maintaining our buildings and what that would mean priority-wise. It is a year out, so perhaps we should come up with a list and a study by staff first, so that we know what the problem is.

DEPUTY MAYOR KERN stated they have a year to plan. This is not maintenance; this is a reserve account for anything that would catastrophically happen or even semi-catastrophic.

COUNCILMEMBER SANCHEZ stated we have a rainy-day fund, so this is not catastrophic; you're talking about maintenance of infrastructure, right?

DEPUTY MAYOR KERN responded infrastructure and maintenance of those infrastructure items. He would like to follow best practices of other cities.

COUNCILMEMBER SANCHEZ would like to hear from the City Manager what his plans are for this and what he's been doing to ensure that our infrastructure continues to live whatever lifespan it's supposed to live.

CITY MANAGER WEISS responded that, as Ms. Ferro mentioned, we have adequate reserve funds for our utilities. We also have reserve funds/annual maintenance programs for street maintenance. For City buildings, however, with the exception of the Operations Center, this building and the Police Library building, we no longer set aside money for roof repairs or anything else. We used to through the City's community facilities fund, but we eliminated that money. We do have an infrastructure reserve that had been set up for catastrophic issues and for new construction. The policy currently limits those funds to potentially new construction.

His recommendation is that, if the other items are similar to this, in advance of the preparation of the 2014-15 budget, we will come back with options before Council embarks on the actual budget discussions in that year. We could look at what the costs are, and by then we will have a clearer forecast of what the issues are. We would come back to Council in January of 2014.

DEPUTY MAYOR KERN clarified this is not project-specific. Looking at the budget and seeing what other cities do, he felt that this was necessary. He talked to Director Ferro about best practices in other cities, and he doesn't think this is a very

significant amount.

COUNCILMEMBER SANCHEZ stated $500,000 could wipe out a number of programs that we have. That's why she'd like to see the priority, because $500,000 means that something else is not going to get funded. Without having that in front of her and prioritizing what our most critical needs are, it's very difficult for her to put aside $500,000. That means everything else is going to be cut by whatever percent. That's hard, especially when the cost of living is going up.

COUNCILMEMBER FELIEN stated we don't want to end up in the same position as so many other cities that underfund their maintenance and their reserves for events that take place, but just don't know specifically when. You see in San Diego the results of sinkholes and water pipes breaking every single day because of this. Next year, if the budget doesn't allow for this $500,000, the Council can vote differently, so it's not locking us into some permanent position. Someone would have to explain what program is more important than not having an adequate reserve. We can vote on this to establish an important principle that we're going to have appropriate reserves based on activities and depreciation we know will take place in our facilities. We would have a year to change our minds if we wanted to.

COUNCILMEMBER FELLER thinks the City Manager has a point, that this is something for him to put in his budget and let us know if it's attainable. However, we should know before the budget is set in stone. In other words, he's not willing to give $500,000 to it if we are $2,000,000 short. We're going to have plenty of things to think about at that point anyway.

DEPUTY MAYOR KERN stated this is a policy call. He would like to at least get started, and $500,000 is a good start. If we get to the end of the next budget cycle and we are dramatically short, as Councilmember Felien says, we can make a decision at that time, but this is a goal that we should aim for.

COUNCILMEMBER FELLER would rather hear about it in January. He doesn't know that it's Council's direction. The City Manager runs the City and plans for it, and we set the policy. The City Manager's idea of knowing about it in January is the way to go.

DEPUTY MAYOR KERN stated it is policy, and we're the policy board, so we have to make a policy decision.

CITY MANAGER WEISS will get the policy and bring it back to Council. His only recommendation is to adopt the policy and we'll come to Council with how we can do it. We may or may not be able to.

DEPUTY MAYOR KERN stated that's what he's asking for, to set out on that track.

Motion was approved 3-1, Sanchez – no, Wood – absent.

DEPUTY MAYOR KERN moved to increase the Healthy Cities Reserve Fund from 12% to 13%, effective June 30, 2013. We are cutting it pretty close to the edge right now with our Healthy Cities, with what our general budget is and what it would take now if something catastrophic should happen, so he wants to increase the Healthy Cities from 12% to 13%.

COUNCILMEMBER FELIEN seconded the motion for discussion.

COUNCILMEMBER SANCHEZ asked what the motion is.

DEPUTY MAYOR KERN responded it's to increase the Healthy Cities reserve

fund from 12% to 13%, to increase it 1%, effective June 30th at the end of this fiscal year with whatever we have in the extra fund balance. He'd like to see it increase 1% in the following year too. We're going to get to the point of whether we can afford it or not, but he would like to get the Healthy Cities Reserve up to the standard in the County. We're probably one of the lowest as far as Healthy Cities Reserves, so we really do need to actually start planning ahead. We've been in a downward spiral in the last few years and are starting to come back up, so we really need to start adequately funding some of these reserve accounts for things that we need.

COUNCILMEMBER SANCHEZ asked the City Manager what this means in terms of money.

CITY MANAGER WEISS responded a lot of it's going to depend on how you count General Funds. Within that $121,000,000 of General Fund budget, there's roughly $20,000,000 in transfers, for example, for street sweeping, which is solid waste funded, and Harbor Police, which is funded through Harbor but funds are transferred to the Police Department. If you take those transfers out, you're probably at 13% now.

COUNCILMEMBER SANCHEZ asked so we're already there?

CITY MANAGER WEISS responded he believes the number Ms. Ferro showed as transfers was either $14,000,000, or it might have been $21,000,000. If you take those out you may be there now. Harbor Police maintenance is a good example. That's roughly a $5,000,000 program within General Fund departments. There's a direct transfer from the Harbor Enterprise Fund to the General Fund, but it's really not General Fund money; it's actually Harbor Enterprise money. If you took those transfers out, that would be roughly there. If you left it at $120,000,000, obviously a 1% increase is going to be $1,200,000.

COUNCILMEMBER SANCHEZ stated we don't have it for this budget. We just adopted the budget for this fiscal year starting July 1st through June 30th of 2014, so if we were to start that now, we would be operating in the red under the second scenario. Under the first scenario we're already providing that, so there's no need to approve another motion or give additional direction. She doesn't understand why these motions are being done now and were not brought up at the workshops, because then we would have been cutting programs across the board; cutting $1,000,000 under the second scenario. Under the first scenario, we're already there so don't need it. We have a Healthy Cities Reserve, and we're doing pretty good. If we have $1,000,000 for a tragedy, we have the money, so she's going to vote against it. She doesn't see the reason for doing this now.

COUNCILMEMBER FELIEN asked where the City fits in terms of the percentage we have devoted to Healthy Cities compared to other government entities in our State and region.

MS. FERRO has not done a comparison in the last several years, with the economy turning around. She doesn't know if other cities have reduced their reserves, but she does know that a lot of cities have been relying on reserves to balance their budgets. As a Finance Director, she thinks as an organization our comfort level is 25%. It could be very expensive. If you think of the purpose of Healthy Cities Reserves, in the event of a catastrophic event that pays for the operation. You're assuming that your revenue streams are no longer coming in, that people aren't paying their property taxes, and sales taxes aren't coming in, yet there are services until FEMA (Federal Emergency Management Agency) gets us back on the ground. To bring it from 12% to 13% as a Council policy call. As Finance Directors, we always like it higher.

COUNCILMEMBER FELIEN asked if Ms. Ferro is saying that best use and practices that are recommended by professional government organizations are looking for something closer to 25% than 12%.

MS. FERRO is not going to recommend that.

COUNCILMEMBER FELIEN clarified he just means in terms of what's recommended. Obviously, every city is in a unique position and doesn't always get to do the best thing everyone recommends, but he asked if 12% would be at the lower end.

MS. FERRO responded she knows there are cities out in the desert in the Coachella Valley that are over 100% funded. They are very wealthy cities like Indian Wells, for example. You have other cities up in Los Angeles that are upside-down. As a matter of setting a policy, how you get to it and what's realistic for our City? 12% is low. You can say we have $14,000,000 there, but in the event of a catastrophic event, you have a lot of City operations that you want to maintain.

COUNCILMEMBER FELIEN stated just in terms of the accounting minutia of figuring it out, the issues come up of what 12% of the base is. He asked if there's a standardized list of what are recognized as General Fund activities that a healthy reserve should be a percentage of. We seem to have an issue regarding what's coming from special funds that we as a City choose to run through the General Fund that other cities may not. In having an apples-to-apples comparison, is there a specific list of activities that the healthy reserve should be compared against?

MS. FERRO responded that could be a policy decision. She believes the Council's current Healthy Cities policy defines a minimum of 12% of the base operating budget. If the operating budget is $121,000,000, it would be 12% of that. That's the way the policy is written. We can change the policy and say now it's 18%, but it excludes all these items, so you'd still end up with the same $14,500,000.

COUNCILMEMBER FELIEN asked the Deputy Mayor how he wants to handle the definition issue of what we're going to have 12% of, and going up to 13%. Councilmember Sanchez brought up a procedural issue on whether or not we're allowed to amend the budget vote that we just took if this is going to impact the current year's budget.

DEPUTY MAYOR KERN has always based it on the General Fund and what it's going to cost if we have a catastrophic event. We probably have two weeks of operation right now. He would like to get it up to a month, but he doesn't think that's possible right now. Working toward that is something we should do as a policy Board. We do actually have some reserves at the end of the year, so instead of going out and trying to spend that as quickly as possible, we should set some aside to increase the rainy-day fund. His eventual goal is to get to the 25% over the next ten years.

COUNCILMEMBER FELIEN asked if at the end of the year we have the extra money for this year and we decide to put it into a Healthy Cities Fund or direct the City Manager to put it in a Healthy Cities Fund, that doesn't impact the budget vote we just took for the next fiscal year?

CITY ATTORNEY MULLEN responded it's his understanding the intent of the Deputy Mayor's motion is not to change any of the budget documents that were approved, but to establish a policy that Council should have a 13% Healthy Cities Reserve. We're going to have to come back and amend the Council policy, because that's not on the agenda. This is direction to staff to come back and amend Council Policy 208. That's really what the motion should be.

COUNCILMEMBER FELLER has no idea where the Deputy Mayor is going with this. Everybody would love a big savings account, but he doesn't know where the money comes from without cutting more. We have $14,500,000. That's more than two weeks if our budget is $121,000,000; it's a month in a worse-case scenario. He would

like to build the undesignated reserves back up to the $26,000,000 or $27,000,000 we had at one time, but he doesn't recall any time in his thirteen years that we've had over $14,500,000 in Healthy Cities. In fact, it was raised at one point, but he doesn't recall when.

He doesn't know where this money is going to come from. A $467,000 surplus is out there, but we're talking about sand on the beach, quiet zones and bathrooms, which is all one-time money. That's what Healthy Cities and the undesignated reserves are. He's not seeing a lot left out of the $5,500,000, even though Ms. Ferro said there would be more money coming. He asked where the money is coming from.

CITY MANAGER WEISS responded if Council sets this as a target, it'll give us something to work towards to at least address it. He doesn't know that Council will be able to fund it, but we've gotten several one-time distributions as a result of the residual tax distribution from Redevelopment funds. We've used that, based on Council's policies, to look at the post-employment reserve balance. Had Council not adopted a policy to put money into that reserve fund, we wouldn't have done that. If Council sets this as a policy as we have money, we would let Council know that we'll start trying to fund some of these things.

DEPUTY MAYOR KERN stated this is a policy, and it's a goal.

Motion was approved 3-1, Sanchez – no, Wood – absent.

DEPUTY MAYOR KERN moved to eliminate all unfunded positions. They've been sitting unfunded for about five years, but we still carry them on the books and he wants to eliminate them. If a department wants to come back and add a position and ask for funding, we can do it then, but just carrying unfunded positions year after year on the books doesn't make sense. Even now, if it's a position that's unfunded and the department wants to fund it, they're going to have to come to us to fund it. As an accounting issue, he would like to get rid of the unfunded positions. This has no budget impact whatsoever. He asked Ms. Ferro to comment on it.

MS. FERRO recalled about five years ago in 2008 and 2009 when the City was experiencing some significant reductions. There was a question of whether the positions could be retained but not funded. That's what's been on the books for the past five years. Most are for public safety positions. The Chief mentioned that the department has been down a couple of positions. If the money comes in, he has to come before Council to get those positions back anyway. It's just a matter of semantics; do we keep them on the books as an unfunded position, or take them off? There is no fiscal impact to take them off.

DEPUTY MAYOR KERN reiterated that, if the Chief wants to add a position back and we have the money to fund a position, he can say he needs a position and attach a dollar amount to it, and the Council would vote on it instead of carrying unfunded positions year after year. After five years it's time to eliminate them.

MS. FERRO responded the only thing from a management perspective is that each position has a unique number, so by taking it off the books that number gets retired.

COUNCILMEMBER FELIEN seconded the motion for discussion.

COUNCILMEMBER SANCHEZ stated we're talking about public safety. Those are the vacant positions that the Chief has not been able to fill. We just heard in response to a question that we have an increase in crime/theft. The Chief tries to go after grants. Some of these positions we end up funding through grants, like CalGRIP. It would be unfair to delete these positions when in fact he's actively looking for funding, either through the State or the federal government. We have in the past been

in a position to get funding for public safety, so she would not do this. There is no fiscal impact, so there's no reason for it other than making it more difficult for the Chief to be able to make this a high priority for his department to fill these positions.

We need this for our businesses. We just heard it's the South Oceanside Merchant's Association that was complaining about the increased crime. It's our businesses, our residents and our ability to attract more people and business to Oceanside. She doesn't see that this is a good thing to do.

COUNCILMEMBER FELLER asked the City Manager what has been the policy for unfunded positions and what is the reason we have carried them forward in the past?

CITY MANAGER WEISS responded that a number of years ago when we were looking at reductions, rather than eliminate police officer positions, we just identified them as unfunded so that in the event the money became available, the process would be the same to fund them. It was more of a semantics issue to avoid saying we're eliminating public safety positions. Effectively, when you eliminate unfunded positions, you will be eliminating very specific police officer, community service officer and field evidence technician positions. That's the net result of eliminating the unfunded positions, and the goal back then was not to do that.

COUNCILMEMBER FELLER asked if we have other positions in the City that are unfunded.

CITY MANAGER WEISS responded all the other positions that we reduced or eliminated are a result of layoffs and reductions of those positions for other departments that were actually eliminated from the budget. It's only the public safety positions that were unfunded.

COUNCILMEMBER FELLER asked how difficult it is to reinstate a position. He'd love to be adding police officers. If we had Manchester already built, we would have had probably another $1,000,000 or $2,000,000 a year just in TOT (Transient Occupancy Tax) from that project. If we had the concrete plant, we'd have $1,000,000 there and $500,000 here. It could have filled those positions, and he'd rather have more police officers.

CITY MANAGER WEISS stated we funded a police officer position recently, based on the meeting with the school district where we're splitting the cost of a new school resource officer. In Council's budget document, we just refunded one of those positions. We did not have to add a new position in. We think we're going to be coming forward to Council with an MOU with the Vista School District to add a school resource officer. If you eliminated these positions, that MOU would not only include the MOU and the money, but we would also have to amend the budget to add a position back in.

COUNCILMEMBER FELLER is not sure why we're doing this. He wants more police officers. He wants to have them available as soon as we have the money.

DEPUTY MAYOR KERN stated when they come forward, they would create the position and fund it at the same time. These have not been funded for five years, and currently we don't have one funded for the sixth year. We're carrying them on the books. It's an accounting cleanup item, and he thought it was an appropriate time to do this. After five years the position has never been filled, so why are we carrying them on the books? If the City Manager works out a deal with Vista Unified, the same night that they come forward with the funding we create the position. It doesn't take anything to create it, yet we're just carrying them year after year. He'd like to get a little reality back into the budget.

COUNCILMEMBER FELLER stated frankly this is the most real budget we've dealt with in seven or eight years, with the surplus and the amount of cuts and steps we've taken. This is a real budget, and he doesn't see a need to do this.

DEPUTY MAYOR KERN stated it's a policy call, and that's why he brought it forward. If it doesn't pass, it doesn't pass. We'll just carry unfunded positions for another year.

COUNCILMEMBER FELIEN stated phantom positions don't fight crime. It seems this is a policy cleanup issue. Any item that's unfunded on the organization chart should be something that we're going to realistically fill in the near future. Having positions we want to fill with no realistic plan to fill them in the near future serves no purpose. It doesn't affect the real world one way or the other. The issue is whether we have an honest organization chart or a wannabe organization chart. The real world isn't going to change one way or the other on how this vote goes; it's just whether we're going to have an honest organization chart that we look at when we're seeing how our City is staffed.

Motion failed 2-2, Sanchez and Feller – no, Wood - absent.

MAYOR AND/OR COUNCILMEMBER ITEMS - Continued

36. **Request by Councilmember Feller to allocate $650,000 from the Laguna Vista sales proceeds to the removal of sand at the San Luis Rey River Flood Control Project, Whelan Lake mitigation site (assuming all permits can be obtained); direct that the sand be placed on the Beach between Seagaze Drive and Wisconsin Street within the next thirty (30) days; and authorize the City Manager to execute the necessary contracts and agreements**

COUNCILMEMBER FELLER stated assuming that all permits can be obtained is the key to this item. He would like to designate $650,000 to mitigate the Army Corps of Engineers' needs and to allow them to dig up that sand and give it to us for our needs on the coast. We should at least be ready at a moment's notice. This is basically just a placeholder for the sand and to proceed with this as soon as possible.

CITY MANAGER WEISS stated we have been working with the Corps for decades regarding the river. We are in the process of identifying additional mitigation. By way of background, we are mitigating for property that had already been mitigated once. We have now completed two phases of mowing, and there is additional mowing that needs to occur. Additional habitat revegitation also needs to occur. There is an area near Whalen Lake that has been identified as a habitat restoration area. Unfortunately, that habitat restoration area needs to be graded and dirt and sand removed in order to allow the vegetation to be planted.

The Corps for the last several months has been working with the City to see if we can remove that material. We contractually are obligated to pay 5% of the total river costs in cash and 25% for in-kind contributions. We had asked the Corps if we were to pay to remove the sand that we would get credit, and they had indicated no. So we've told them we're not going to pay to move the sand. As we discussed with Councilmember Feller on this particular item, we did contact the Corps and told them that we have an opportunity for some funding that will allow for the sand to be moved and could we do it within the next 30 days. Their initial reaction was an over 80% possibility that it could be moved within 30 days. Our goal was to get it on the beach before the 4th of July.

We have had a number of conversations with the Corps, and they have now backtracked and indicated that it is unlikely we will be able to move the sand this year. It's highly likely, though, that they will be looking to us if the money is available for early spring of next year. They are hopeful to get some additional permits for the material

removal. We will be working with them to have the sand tested to ensure that it is beach quality sand. If Council allocates the money, it's unlikely that we will be able to get sand on the beach this summer, but we would probably try to coordinate it with the dredging operation that will occur early next spring.

COUNCILMEMBER FELLER moved to earmark $650,000 for that. Hopefully we can keep an eye on it. If there is another opportunity, we would have something available on a moment's notice.

DEPUTY MAYOR KERN seconded the motion.

COUNCILMEMBER SANCHEZ first heard about this last Thursday and wishes this had come up before for discussion. This is a recent issue. We've just finished our annual dredging, and there was a plan to place sand on this stretch of beach from Seagaze Drive to Wisconsin Avenue. Unfortunately, for the first time in recent memory, grunion became a problem. This is highly unusual. They are usually not on this part of the beach during this part of the season, so sand did not get placed there.

There would be several critical requirements. There would have to be a study that the sand is of beach quality. With the sand replenishment project that we just did through SANDAG (San Diego Association of Governments) for the shoreline preservation, they spent some time working on this issue of grain and beach quality. Also, there would have to be permits for the deposition. There are no permits at this time at all. If we had the money, wanted the sand and all the studies were done, we do not have a permit to dump sand on this part of the beach. Perhaps the Corps was thinking that it could be done under the sand replenishment project we just completed through SANDAG last year, but that was very specific sand from a very specific place on a very specific stretch of the beach.

We also have another opportunistic sand replenishment project. Unfortunately, that is also not on this part of the beach. They're going to have to do studies to get the permits to get this to happen. With the grading the City Manager just talked about, there was nothing in the environmental studies regarding the grading and taking the sand out, so they're going to have to do environmental studies for that as well. It was six to nine months, and now it's six to twelve months, which would get into our winter season. This is not a good time to place sand on the beach because it'll probably mostly go out to sea through erosion.

She thought the $650,000 was to pay for sand, but it's for the transportation and the cost of the studies. She and the Mayor did meet with representatives from Senator's Boxer and Feinstein. We were trying to get to the bottom of why it costs so much and finally understood that it's mostly transportation, based on a 40-minute round trip.

Our discussions went to funding and perhaps reducing the costs. We've got two issues here. First, what's the best time to try to get sand on the beach? Staff is recommending that it be done at the same time we do the dredging. That means February or March of next year.

Second is the cost and where this money is going to come from. The money identified is the Laguna Vista sales proceeds. The City Manager had indicated to us that he was going to come back to us around August or September to talk about how much the proceeds will be from the sale. It's about $4,700,000, but obviously we haven't had a chance to sit down and talk about what the priorities are. These were originally HOME funds from the Housing Department. When the City bought into the leasehold for this mobile home park, it was believed that these funds would go right back to the Housing Department. We do have a critical affordable housing project, Mission Cove, that needs these funds. Her concern is that if we spend all of this money and don't leave any for that project, the project will not go forward and will impact our ability to go forward on some of our construction projects. It will also put a bigger burden on the developer

community.

She would like Council to instead talk about the $4,000,000. She will not be here for the June 26th meeting, so she hopes Council doesn't set it for that meeting because she wants to be here to discuss this. $4,000,000 is in one-time funds. We should at the very least leave half of that for our affordable housing project, at least $2,200,000. We also have $400,000 in surplus funds, so maybe we could put $300,000 of that into this sand project. We shouldn't automatically go to a fund that we haven't even finalized yet for something that's not going to happen until next year. She's very concerned about that.

If Councilmember Feller can amend his motion to direct staff to come back with how much we're going to have, then we can discuss it and prioritize where that money should go. There are probably many things that we could start doing. We need to do this in a more methodical way and let staff, who is going to come to us anyway in September, do that. There is no need for rushing. The sand is not going to get on the beach in a month or two.

DEPUTY MAYOR KERN actually had more emails on this item regarding sand than he had on the smoking. He likes Councilmember Feller's motion because it puts the money aside in case we have the opportunity. It may not happen for many months, but we have the money set aside so when we have the opportunity to get the sand, we can. Like Councilmember Feller said, this is a placeholder. If we get the Army Corps to move, which is always a very difficult thing to do, we can actually move forward. If they're ready, we're ready. He doesn't want to get down the road, find the Army Corps is ready, and we have to come back and try to find money to do this. We should just hold it now until the opportunity is available.

We can revisit this at a future time. If it doesn't look like it's ever going to happen, we can re-appropriate the money for another item. Maybe we'll revisit this at budget time next year and see whether we want to carry this money over to the following year's budget or put it back into a CIP. This is one-time money. That's a decision we can make next June, and hopefully we'll have a placeholder for now.

Motion was approved 3-1, Sanchez - no, Wood – absent.

37. **Request by Councilmember Felien for a presentation by North County Transit District on Quiet Zones**

COUNCILMEMBER FELIEN stated at the last meeting for the North County Transit District (NCTD), they mentioned that they had the option of putting together a study for a quiet zone along the coastal rail corridor. It would be a decision of the City whether or not to participate in this study. As part of making that decision as a City, it would be worthwhile to hear a presentation on just what the study would consist of. It doesn't make sense to go forward with the study unless there is real interest in following through with the expense that would be required to make the corridors qualify for a quiet zone designation. This is the first step in that process.

REED CALDWELL, Deputy General Manager, NCTD, stated this is the presentation that we gave at the May 2nd Board meeting. The FRA (Federal Railroad Administration) defines quiet zones as where the actual train does not sound a horn. There are exceptions to that, and they're at the discretion of the locomotive engineer. If he sees any emergencies or any individuals walking on the track or near the track, like the trespassers we typically have down in the Del Mar bluffs, he will sound the horn for emergency/safety concerns. The active warning devices will still operate in the quiet zone, so it will be crossing bells and crossing lights.

Typically with the quiet zone there are added features. Some of the added features include additional gates and alarms, so there are additional bells that go off.

What you may hear now is the train noise sounding, so you really don't hear the bells. It's actually intensified without the train because there are usually additional bells that exist once you do that.

In reviewing the regulatory background, the FRA established their final rule in 2006. The details for this rule are what create the actual quiet zones that the FRA is controlling. Their law preempts any State law, such as the CPUC (California Public Utilities Commission) regulations or any local laws. When it comes to quiet zones, the FRA and their rail lines, what we operate is the freight inner city rail, and the FRA governs that.

The CPUC has a general order that they adopted back in 2004. This sets criteria for the railroad crossings. The highway railroad crossings that we have on the corridor are all governed by the CPUC. They let us know what requirements are for anyone crossing the railroad and what they'll have to do to provide for the safety of the individuals, whether it's a pedestrian or a vehicle crossing. One of the unique points is that anything within two feet of the rails, the railroad has to do. We can't let the City do it. When Engineering improves the road on Mission, they can go up to two feet to the rails. Then NCTD has to do anything within that two feet and within the rails. That's our requirement. The owner of the railroad has to perform that work.

Policy 18 was adopted last October. This was preceded by a couple of other policies that were adopted early on. The first one was in the 1990's. It was redone in early 2000, and we redid it last year in 2012. The main thing is that this is cost-neutral to NCTD. The policy was that if there are any costs that are going to be borne, it is up to the agencies that are crossing the railroad to pay them. NCTD performs the construction within the corridor within the rail tracks.

A computer graphic was used to show some of the efforts that have occurred in the past. They are primarily studies in Encinitas, Vista and Oceanside, which has completed a study also. There are two areas that have done quiet zones. The Del Mar wayside horn is considered a quiet zone because the train no longer sounds the horn. There is a wayside horn there that you will hear if you're within the direction of how the horn positions, which is perpendicular to the track. The City of San Diego started back in 2006 and completed their quiet zones in 2012. There are seven crossings down there that are on our right-of-way that we no longer sound horns on. If you ever ride the Coaster, when we get down to San Diego we do not sound the horn.

Another computer graphic was used to show the quiet zone efforts in the City of San Diego. It was a $21,000,000 program, which gives you a taste of what the costs are. The $21,000,000 was funded 100% by the CCDC (Centre City Development Corporation) at the time.

Another computer graphic was used to show sample intersections to view the requirements we typically see. There are the red gates that exist right now, but the intersections typically have to be enhanced a great deal to ensure that people do not make the wrong decision and drive around and cause safety issues with the railroad.

What we had presented to the North County Board was this programmatic study, which would create a rough order of elements that are needed at every crossing on our railroad from Oceanside down to San Diego for the ones that are not quiet zoned right now. It also gives a cost estimate, although we haven't fully estimated the costs. We think it's going to be somewhere in the $400,000-$500,000 range. We're getting ready to come up with a proposal that we'll be presenting at a meeting next Wednesday with a subcommittee of our board. Councilmember Felien is a member of that subcommittee, so he will be participating in that discussion.

The programmatic study allows for a corridor-wide risk index, which is something that is required by the FRA. It assesses the risk of your crossing in regards to what the

nation-wide crossing index would be. If it's less-than, you have an automatic approval, but it's rarely less-than. In most cases it's always more. If it's not twice as much, then you have a pretty good opportunity to get your crossing approved, but if it's too high, it's highly unlikely. The programmatic study and the corridor-wide risk index allow you to include all of the risk throughout the corridor. If you have one bad intersection, you still can create a quiet zone, which is the advantage of this. It creates uniform safety. The citizens see the same crossing and hear the same bells at all of the intersections throughout the corridor. As you go from town to town, it really adds a safety factor.

The noise leakage is a problem too. If Oceanside were to do quiet zones, the residents would probably hear Carlsbad horns, and if Carlsbad were to do quiet zones, they would hear Encinitas horns, etc. So it's always better to do your neighboring cities, because you will hear the train horns from the other cities. In reviewing the coastal corridor, five of the crossings are in Oceanside. There are twenty-seven total. Of those twenty-seven, eight are quiet zones, although one is a wayside horn. There still is noise there. At the other seven we do not blow our train horns. We don't blow it at Del Mar, but there is still a wayside horn there.

One of the policy considerations that we brought to our board is that the local jurisdictions lead quiet zones. There has been significant good work done by the communities, both inland and in the coastal corridor. That's what we're talking about with the $400,000-$500,000; it's totally the coastal corridor. The inland corridor is where the Sprinter runs, and we'll be looking at it later on.

To understand what's happening in the corridor, we have double-tracked, and we're going to increase our service, including NCTD, Amtrak and BNSF (Burlington Northern Santa Fe). By 2030, there will be 76 trains a day going up and down the corridor. That's both ways, not one-way, so there is definitely going to be some additional train traffic on this corridor. San Diego funded 100% of their quiet zones. There is no funding right now in the 2050 plan for anything to do with quiet zones from the SANDAG standpoint. There is no funding in the NCTD process right now, although we are looking into possibilities that we'll be discussing with our board members next week on what we can come up with to help to get a corridor-wide study out there for all the cities in the coastal corridor.

COUNCILMEMBER FELIEN asked of the $450,000, approximately what share would Oceanside be required to pay.

MR. CALDWELL responded we haven't come up with the actual disposition or the proportionality of it. We'll be presenting that to Council next Wednesday. There are several possibilities that we've looked at. There's the possibility of dividing it evenly among the cities. We could do it proportionately among the number of crossings, or we could do it equally by the number of cities. We'll be talking about that next week.

COUNCILMEMBER FELIEN just wants some rough numbers at this point. He asked approximately how much it costs to upgrade each railroad crossing.

MR. CALDWELL responded that's what the study will hopefully do. An example would be what we saw down in San Diego, where they had twelve crossings. It cost them $21,000,000. That was a couple of years ago. There are probably some significant crossings that will require significant improvements. It's probably going to range anywhere from $2,000,000-$5,000,000 per crossing.

COUNCILMEMBER FELIEN stated this is the start of a long process to see what funding is available. When he talked to the City Manager, there was a chance that we could possibly get some LOSSAN (Los Angeles/San Diego/San Luis Obispo Rail Corridor) funding, rather than having to pay for it out of the City General Fund. There may be other options. It could be a mix-and-match, but we're going to have to decide as a City how we want to prioritize this possibility.

Public input

MS. CRAWFORD lives in Del Mar, and it's a great thing. We had one crossing in Del Mar that had many complaints from the residential areas. The noise traveled up the hill. Oceanside is much different in topography, but having the quiet zones and the horn is amazing as far as the difference that it makes in the sound. It's still very effective, but very quiet as it's intended to be. When she was on the Del Mar Council, we fundraised in the community to do our one crossing. Oceanside has a much bigger project. If you haven't been to one of the crossings where they do the demonstration and you want to come to Del Mar, she's sure her Mayor and staff would welcome Council to come down and hear the difference.

Public input concluded

COUNCILMEMBER SANCHEZ stated we have been looking at quiet zones for quite some time, since about 2004 or 2005. In 2006 we did a study. We got a consultant, and the consultant came up with a $7,000,000-$9,000,000 price tag for five crossings. Today she's hearing $2,000,000-$5,000,000 per, so that means a $10,000,000-$25,000,000 new estimate. We didn't have the money and had other demands in the City. So we did a quiet zone assessment district survey on October 10, 2007. There were three community meetings held in the months of July and August of 2007. Also, an internet survey was located on the Engineering Department's webpage. Postage-free postcards were also sent regarding the survey notification mailing.

Basically, there was very little support to create a district. They tried to include people who would most benefit. At the time, we were also hearing from people who would want to have a quiet zone for the Sprinter, which had many more places where you'd have to have the quiet zone crossings. It became an issue of maybe doing one or two. We then decided that wouldn't work, so we'd have to do the entire five. The only fair thing was to see if there was interest in forming a district, and there was not.

She understands that for NCTD this is a net-zero cost. They're basically providing expert help, but the help that we need is money. We need $25,000,000. She knows our businesses and residents would like it. This is an ongoing saga for us. Maybe if we only had the one crossing.

COUNCILMEMBER FELLER asked Mr. Caldwell if the rule is within two feet of the rail or the ties.

MR. CALDWELL responded it's actually within two feet of the closest rail, so it's the closest steel. If you go out to crossings you'll see where we put a steel and concrete piece in there that the cars drive over. It's within that. Typically, we go outside that.

COUNCILMEMBER FELLER stated the Sprinter crosses Oceanside streets thirteen times. Two of them are at Wisconsin Avenue and Oceanside Boulevard, which would be part of this north-south corridor. That's a total of sixteen crossings. He can understand why Solana Beach didn't fund that grade separation by themselves. We are the busiest place, and it's not going to be any less busy. As we go forward we should look at opportunities to participate in a study for the corridor. We should keep it on the forefront. When it comes to approving projects that produce revenue that are affected by this, maybe we'll think about approving them and getting them through the process quicker. We want to make sure that these projects get approved so we have money in the coffers through their normal property and sales tax.

DEPUTY MAYOR KERN stated it's not so much for the people that live by the train track because they understand that they're living by a train track. The real issue is going to be when those hotels are built, and we have a hotel right next to the train track, right at Mission Avenue. He didn't realize how loud the trains were until he was there a

couple of weeks ago in the parking lot. The train blew its whistle right underneath the new hotel. He has a feeling when that hotel gets occupied, we're going to hear a lot more about quiet zones, so we're getting out in front of this and finding out how much it actually costs. Regarding the ones down at Cassidy Street, people live there, and he thinks they're used to it. We really have to think about the ones in our tourist zones, especially the one at Mission and probably up Sixth Street. Grade separation would be more than $2,000,000-$5,000,000 per intersection.

SCOTT SMITH, City Engineer, stated it might be beneficial for Council to hear where we are. He met with Mr. Caldwell and his staff about a year ago on this. Prior to Council making any decisions on whether to participate in this program or not, the background may be helpful for Council to understand where we're at. The staff has done two diagnostic studies in analyzing the five rail crossings. Councilmember Sanchez is correct, the first one happened in 2006. There was a second one that allowed us to revise the cost estimate. That dropped the cost estimate down to about $2,800,000-$6,700,000 for all five crossings. The study that Mr. Caldwell is discussing would be potentially covering what we've already done.

The reason we met with them previously for a corridor-wide study is that we were looking as a City to partner with the rest of the coastal cities along the main rail to secure funding. That funding would be secured through pursuing the public works plan that Caltrans was processing and trying to put through, as well as the LOSSAN project. We've actually been able to bring this along without having any money dedicated to the project. Through partnering with Amtrak, as well as with SANDAG staff, we have been able to address some of the crossings and brought them pretty far along. They are not quite done as far as a quiet zone, but are getting very close. With the price tag of $2,800,000-$6,700,000, we could probably almost look at half of that value. There's a range because it depends on what the final verdict is.

We have an agreed-upon group of supplemental safety measures which would qualify these five crossings for a quiet zone. However, we would still have to run those crossings through a quiet zone calculator to determine that. Then that information would be forwarded to FRA. We have addressed the five crossings. Out of the five crossings, when Amtrak did their work on the bridge over Loma Alta Creek, they touched both Wisconsin Avenue and Cassidy Street. They installed some of the supplemental safety measures that would help qualify those crossings already. As you move to the north, we have Wisconsin Avenue. As the Coastal Rail Trail that SANDAG is working on progresses, there is a component where a meeting will happen. He believes it's with the Coastal Rail Trail. We've been working with the staff and incrementally addressing these crossings to get us further along, so that price tag has been dropping.

On Mission Avenue there are some improvements that would go there. That's our key area in the downtown. He's looking at trying to find a way to fund that and pursuing different options. We may be able to proceed with that. If we can arrange what he's hoping to happen, then he can bring that item forward to Council to determine whether they want to fund that or not.

The last crossing to the north is Surfrider Way. We've been working with SANDAG staff. They have a project called Eastbrook to Shell, which is going to reconstruct the bridge that runs over San Luis Rey River. In completing that project, they have to touch that crossing. As Mr. Caldwell previously mentioned, there's a General Order No. 88-B that the CPUC requires the agency that's doing that work to receive concurrence from the municipality. In order for SANDAG to receive our concurrence, we've encouraged them to help improve those supplemental safety measures at the Surfrider Way crossing. That should bring that crossing almost up to quiet zone standards, so we are actually getting relatively close.

In designating money to a corridor-wide study, while it's a good concept and it's noble to address the region, he doesn't know how beneficial it will be if there's no money

to go with the study to help fund these final improvements, particularly since we're so far along with what we've been doing.

COUNCILMEMBER FELIEN stated part of this process is to find out if we need to participate in the study and if it's worthwhile, or if we're that far along on our own with our own projects.

DEPUTY MAYOR KERN stated this is just an information item. Hopefully by next spring we'll have some clear idea of where we're going with this. It's going to be a critical issue, especially with the new hotels coming in.

CLOSED SESSION REPORT

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

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

CITY COUNCIL REPORTS

22. **Mayor Jim Wood** – absent.

23. **Deputy Mayor Jerome Kern**

DEPUTY MAYOR KERN is going to the MWD (Metropolitan Water District) meeting next Tuesday. They have overcharged Oceanside $314,000,000 in eighteen months. They're still insisting on a 5% increase the next time around. He's going to make his plea that they not do that.

24. **Councilmember Gary Felien -** Due to time, no report was given.

25. **Councilmember Jack Feller**

COUNCILMEMBER FELLER congratulated all of the graduates for 2013.

26. **Councilmember Esther Sanchez**

COUNCILMEMBER SANCHEZ announced the Filipino Festival and Pow-Wow this Saturday and Sunday. She congratulated the graduates. She is attending the International Livable Cities Conference on the last week of this month. She will be gone on June 26th. It is the first time in several years that she's not going to make it to a Council meeting. She hopes Council doesn't have anything critical and it can wait until the following week.

INTRODUCTION AND ADOPTION OF ORDINANCES - None

ADJOURNMENT

DEPUTY MAYOR KERN 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 9:49 PM on June 5, 2013. [The next regular meeting is scheduled for 2:00 PM on Wednesday, June 26, 2013].

ACCEPTED BY COUNCIL/HDB/CDC/OPFA:

_____
Zack Beck
City Clerk, City of Oceanside

California

CITY OF OCEANSIDE

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

JUNE 26, 2013

REGULAR MEETING 2:00 PM COUNCIL CHAMBERS

NOT OFFICIAL
UNTIL APPROVED AT SUBSEQUENT
MEETING BY CITY COUNCIL

2:00 PM - OCEANSIDE CITY COUNCIL (COUNCIL), HARBOR DISTRICT BOARD OF DIRECTORS (HDB) COMMUNITY DEVELOPMENT COMMISSION (CDC), AND 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
Jerome Kern

Councilmembers
HDB Directors
CDC Commissioners
OPFA Directors
Gary Felien
Jack Feller
Esther Sanchez

City Clerk
HDB Secretary
CDC Secretary
OPFA Secretary
Zack Beck

Treasurer
Gary Ernst

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

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

For this regular and joint meeting, the Council sat as all 4 governing bodies [Council, HDB, CDC and OPFA] simultaneously but took action as the respective agency for the jurisdiction covered by each item. Council titles only will be used for brevity throughout the entire meeting.

The regular and joint meeting of the Oceanside City Council (Council), Small Craft Harbor District Board of Directors (HDB), Community Development Commission (CDC) and Oceanside Public Finance Authority (OPFA) was called to order by Mayor Wood at 2:02 PM, June 26, 2013.

2:00 PM - ROLL CALL

Present were Mayor Wood, Deputy Mayor Kern and Councilmembers Feller and Felien. Councilmember Sanchez was absent. Also present were 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 and 2A(i) and 2A(ii).

[Closed Session and recess were held from 2:04 PM to 4:03 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 (OCEA, MECO, WCE, OPOA Non-sworn, and Unrepresented); 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 (SECTION 54956.9(A))

i. DUNEX, INC., CAVALIER MOBILE ESTATES v. CITY OF OCEANSIDE
Superior Court Case No.: 37-2010-00061745-CU-EI-NC (Appeal)

ii. DUNEX, INC., CAVALIER MOBILE ESTATES v. CITY OF OCEANSIDE
Superior Court Case No.: 37-2012-00055503-CU-EI-NC

Items discussed; no reportable action

4:00 PM – ROLL CALL

MAYOR WOOD reconvened the meeting at 4:03 PM. Present were Mayor Wood, Deputy Mayor Kern and Councilmembers Feller and Felien. Councilmember Sanchez was absent. Also present were City Clerk Beck, City Manager Weiss and City Attorney Mullen.

CONSENT CALENDAR ITEMS [Items 3-26]

All items listed on the Consent Calendar are considered to be routine matters or formal documents covering previous City Council/HDB/CDC/OPFA instructions. 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 City Council/HDB/CDC/OPFA or the public through submittal of a Request to Speak form prior to the commencement of this agenda item.

CITY CLERK BECK announced that Item 19 shows the public hearing date as August 7, 2014, but it should read August 21, 2014. Item 21 has been removed from the agenda by staff. Item 26 has been pulled for discussion by a member of the public.

The following Consent Calendar items were submitted for approval:

3. City Council/Harbor/CDC/OPFA: Acceptance of Joint Minutes of the Small Craft Harbor

District Board of Directors, Community Development Commission, City Council, and Oceanside Public Financing Authority of the following meetings:

May 23, 2012, 2:00 p.m. Adjourned Meeting of the City Council
June 19, 2012, 2:00 p.m. Adjourned Meeting of the City Council

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 annual purchase orders for the Building Maintenance Section of the Property Management Division for the purchase of equipment, supplies, services, and materials in amounts over $50,000 for FY 2013-14 for routine and recurring maintenance, repairs and operations from various City Department funds for a total of $878,202; and authorization for the Financial Services Director, or designee to execute the annual purchase orders

6. City Council: Approval of annual purchase orders for services, equipment, supplies and materials in amounts over $50,000 for FY 2013-14 for routine and recurring maintenance, repairs and operations from various Public Works Department funds for a total of $2,668,500; and authorization for the Financial Services Director, or designee, to execute the annual purchase orders

7. City Council: Approval of amendment 1 **[Document No. 13-D0440-1]** in the amount of $37,965 to the professional services agreement with Enterprise Technology Services, LLC for Oracle 9.1 Post Upgrade Enhancement items; and authorization for the City Manager to execute the amendment

8. City Council: Approval of a license agreement **[Document No. 13-D0441-1]** with Electronic Transportation Engineering Corporation of Phoenix for five Electric Vehicle (EV) Level-2 and two Direct Current (DC) Fast Charger stations on City-owned Harbor Parking Lot #1 at no cost to the City; and authorization for the City Manager to execute the agreement

9. City Council: Approval of two professional services agreements **[Document No. 13-D0442-1** and **Document No. 13-D0443-1]** totaling $31,342 with Joe's Paving of Valley Center for road repairs in the areas damaged by the installation of new waterline and appurtenances; and authorization for the City Manager to execute the agreement

10. City Council: Approval of a professional services agreement **[Document No. 13-D0444-1]** with Dudek Engineering of Encinitas in the amount of $202,289 for the Sewer System Odor Control Study and Chemical Use Evaluation; and authorization for the City Manager to execute the agreement

11. City Council: Approval of a professional services agreement **[Document No. 13-D0445-1]** with NV5 of Oceanside in the amount of $117,551 for design services for the Lake Boulevard Sewer Line Replacement Project; and authorization for the City Manager to execute the agreement

12. City Council: Approval of a professional services agreement **[Document No. 13-D0446-1]** with Richard Brady & Associates of San Diego in an amount not to exceed $128,334 for the preparation of the plans and specifications for the Reservoir Repairs Phase 1 and 2 projects; and authorization for the City Manager to execute the agreement

13. City Council: Approval of twelve one-year professional services agreements in amounts totaling $1,760,500 for FY 2013-14 for the provision of outsourced Public Works programs, including landscape maintenance, tree trimming, trash removal, and concrete repair work; and authorization for the City Manager to execute the agreements
Document No. 13-D0447-1 Rancho Del Oro (landscaping)
Document No. 13-D0448-1 Rancho Del Oro (tree trimming)

Document No. 13-D0449-1 Rancho Del Oro (for trash, weeds, etc.)
Document No. 13-D0450-1 C.W. Doherty
Document No. 13-D0451-1 King Masonry
Document No. 13-D0452-1 J. Leon Construction
Document No. 13-D0453-1 West Coast Arborists
Document No. 13-D0454-1 Mora's Equipment
Document No. 13-D0455-1 Perrault Bobcat
Document No. 13-D0456-1 California Tree Service
Document No. 13-D0457-1 Pro Works Concrete
Document No. 13-D0458-1 Urban Tree Care

14. City Council: Approval of a three-year professional services agreement **[Document No. 13-D0459-1]** with Houston & Harris PCS, Inc., of Grand Terrace in the annual amount of $78,750 for the annual Citywide Storm Drain Inspection and Cleaning Program; and authorization for the City Manager to execute the agreement

15. City Council: Approval of a three-year professional services agreement **[Document No. 13-D0460-1]** with the San Diego Humane Society & SPCA in the minimum amount of $2,571,056 to provide animal sheltering and animal control services to the City, and for the use of approximately 6,500 square feet of City-owned land for parking purposes; and authorization for the City Manager to execute the agreements

16. City Council: Approval of a property use agreement **[Document No. 13-D0462-1]** with Visit Oceanside, Inc. for a minimum total revenue in the amount of $28,800 or equivalent, for use of a portion of the 418 North Freeman Street building located at the 602 Civic Center Drive complex; and authorization for the City Manager to execute the agreement

17. City Council: Approval of a three-year program to implement and fund the Seguimos Adelante/Moving Forward Project Bookmobile; approval of a budget amendment for FY 2013-14 in the amount of $38,700, transferring $38,700 from the Fleet Replacement Fund to the Library Department Fund to staff the program; and direction to staff to budget appropriately using Fleet Replacement funds in FY 2014-15 and FY 2015-16 to establish funding for the remainder of the three-year program

18. City Council: Adoption of **Resolution No. 13-R0463-1**, "...establishing certain traffic controls within the City of Oceanside", to establish a 20-minute loading zone on Pier View Way between Coast Highway and North Freeman Street adjacent to "Artist Alley"

19. City Council: Adoption of **Resolution No. 13-R0464-1**, "... initiating proceedings and a proposed open space maintenance district", making certain designations in connection with for the formation of the Hi Hope Ranch Landscape Maintenance District", **Resolution No. 13-R0465-1**, "... approving an Engineer's Report and declaring its intention to order the formation of a open space maintenance district and to levy an assessment thereon, and taking certain other actions in connection therewith", the Hi Hope Ranch Landscape Maintenance District, setting a public hearing for ~~August 7~~ **August 21, 2013**, at 5:00 p.m. in the City Council Chambers, and directing that assessment ballots be mailed to affected property owners

20. City Council: Adoption of **Resolution No. 13-R0466-1**, "...amending Resolution 12-R0373-1, which determined and adopted an appropriations limit for the fiscal year 2012-13 in accordance with Article XIII-B of the Constitution of the State of California", amending the appropriations limit to $315,536,355 for FY 2012-13,as modified by Proposition 111 and SB 88 (Chapter 60/90)"

21. [City Council: Adoption of a resolution approving and implementing the MOU between the City and the Management Employees of the City of Oceanside (MECO) effective July 1, 2013 through June 30, 2015]

Removed from the Agenda at the request of Staff

22. City Council: Adoption of **Resolution No. 13-R0467-1**, "...approving and implementing the Memorandum of Understanding **[Document No. 13-D0468-1]** between the City of Oceanside and Western Council of Engineers" (WCE), effective July 1, 2013 through June 30, 2015

23. City Council: Adoption of **Resolution No. 13-R0469-1**, "...superseding Resolution No. 07-R0744-1 to revise the Economic Development Commission membership number and categories", to amend *Section 2.1 Composition* to have eleven regular voting members with designations from specific business activities in the community, which City Council can amend at its discretion", and the revised Bylaws **[Document No. 13-D0470-1]** for the Economic Development Commission

24. City Council: Adoption of **Resolution No. 13-R0471-1**, "...approving submittal of application(s) for all CalRecycle grants for which the City of Oceanside is eligible"; and authorization for the City Manager to execute all agreements and associated documents applicable to CalRecycle grants

25. City Council: Acceptance of the Treasurer's Report for the quarter ended March 31, 2013; and adoption of **Resolution No. 13-R0472-1**, "... approving the Policy for the Investment of City of Oceanside Funds **[Document No. 13-D0473-1]**"

26. **Removed from the Consent Calendar for discussion – Public**

DEPUTY MAYOR KERN moved approval of the balance of the Consent Calendar [Items 3-20 and 22-25].

COUNCILMEMBER FELLER seconded the motion.

Motion was approved 4-0, Sanchez - absent.

Items removed from Consent Calendar for discussion

26. **City Council: Adoption of resolutions of the City Council, acting in its capacity as the legislative body of Community Facilities Districts No. (1) 2000-1 (Ocean Ranch), (2) No. 2001-1 (Morro Hills), and (3) 2006-1 (Pacific Coast), authorizing the levies of special taxes for FY 2013-14**

JOAN BRUBAKER, 1606 Hackamore Road, asked, if the bonds have been negotiated to a lower interest rate, why are you running over what the budget allotted? Has something new been proposed, incorporated or needed? Appropriating a higher amount of money comes out of taxes and people's income.

MICHELE LUND, Treasury Manager, responded we are proposing a reduced levy, as opposed to what was in the budget. We had that outlined in the Fiscal Impact Statement. Those levies were reduced from what was originally budgeted in the 2013-2014 budget that Council approved on June 5, 2013. Because the budget is adopted prior to setting the levies and prior to asking for approval through resolution, there is always an adjustment to the levies when we come forward to Council.

The exception is Pacific Coast Business Park, because that is an escalating debt service, and we did not refund those bonds.

DEPUTY MAYOR KERN moved approval [adoption of **Resolution No. 13-R0474-1**, "...acting in its capacity as the legislative body of Community Facilities Districts No. 2000-1 of the City of Oceanside (Ocean Ranch Corporate Centre) authorizing the levy of a special tax for fiscal year 2013-14"; **Resolution No. 13-R0475-1**, "...acting in its capacity as the legislative body of Community Facilities Districts No. No. 2001-1 of the City of Oceanside (Morro Hills) authorizing the levy of a special tax for fiscal year 2013-14"; and **Resolution No. 13-R0476-1**, "...acting in its

capacity as the legislative body of Community Facilities Districts No. 2006-1 of the City of Oceanside (Pacific Coast) authorizing the levy of a special tax for FY 2013-14"].

COUNCILMEMBER FELLER seconded the motion.

Motion was approved 4-0, Sanchez absent.

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.

27. **City Council: Authorization to award a contract in the amount of $1,399,980 to Bonsall Petroleum Construction, Inc., of Bonsall, for the Revised El Corazon Reclamation Plan Grading Improvement project; authorization for the City Manager to execute the agreement upon receipt of all supporting documents; and approval of a budget appropriation in the amount of $1,455,705 from three accounts into the Silica Reclamation Fund Expenditure Account**

DOUG EDDOW, Real Estate Manager, stated staff is asking Council to award a contract to Bonsall Petroleum, dba Moody's, who has a reclamation operation going on right now, to do the El Corazon Reclamation Plan Grading project. This is a requirement per our Development and Disposition Agreement (DDA) with Sudberry to move forward with the temporary athletic fields at El Corazon. The contract is for $1,455,705, which is broken up into 2 components: the first being $1,399,000 for the actual grading, and then another $55,000 for some concrete work. The hopes are that we are in a position to grade the project once Sudberry has gone through their due diligence, which is set to expire August 5th. If they say everything is fine, then we want award this contract and be in the position to grade shortly thereafter.

Public input

LARRY BARRY, 3973 Brown Street, remembers going through the negotiations and remembers the City Manager saying this wasn't going to cost more than $400,000 in grading. First, it wasn't going to cost us anything. That is how this was sold to us. All of the sudden it went from no cost, to $400,000 - $800,000, to over $1,400,000. How do we negotiate this so we can get our money back? Is this another case of us agreeing to a deal, and then we have to keep paying out money? How much are we going to pay for on property that we own and are giving away to these people? They're supposed to build these great hotels and giving us a lot of revenue. If this is negotiating, then we failed. He'd like to see more accountability.

Public input concluded

DEPUTY MAYOR KERN asked Mr. Eddow to tell us the source of the money on this item.

MR. EDDOW responded there is approximately $1,100,000 set aside in the Silica Reclamation reserve that is used for the purpose of reclaiming the site from the former mine site. The grading operation consists of reclaiming 100 acres of that site to make it safe and stable. We just accelerated that expenditure of money for that use. The money originally came from the mine operator. Additional dollars are generated through revenue from the reclamation project for construction demolition placements, as well as other uses of that site.

DEPUTY MAYOR KERN stated this really is no cost to the City because a lot of this money was put in by the Ottawa Silica Sand Company when they gave us the property and reclamation money to recover the property.

MR. EDDOW clarified it's not General Fund dollars.

DEPUTY MAYOR KERN moved approval [of authorization to award a contract **[Document No. 13-D0477-1]** in the amount of $1,399,980 to Bonsall Petroleum Construction, Inc., of Bonsall, for the Revised El Corazon Reclamation Plan Grading Improvement project; authorization for the City Manager to execute the agreement upon receipt of all supporting documents; and approval of a budget appropriation in the amount of $1,455,705 from three accounts into the Silica Reclamation Fund Expenditure Account].

COUNCILMEMBER FELLER seconded the motion. He has a newspaper article in his office that says in 1994 this was a white elephant by former Councilmember Melba Bishop. He has looked at it as a great opportunity as we go forward. In this case, we've got this grading mostly paid for by the donation of Silica Sand, so we have a great opportunity to generate something new in the middle of our City. We have a couple of hotels that are pretty excited about seeing this, and others will be. He understands where Mr. Barry is coming from. This is not something for nothing, but it's a little cheaper than we thought it would be. We could have gotten rid of this land a couple of years ago for several million dollars, but we're going to make something special out there ultimately.

COUNCILMEMBER FELIEN recalls hearing with other deals that, when a price is negotiated on a property, it assumes the seller is going to provide the property with an expected level of grading. Is that in play here, and we're just meeting that requirement in terms of our negotiations with Sudberry?

MR. EDDOW responded that often when you do a real estate transaction, what the ultimate payment is by the buyer is predicated on what the seller does to the property. A lot of times they prepare the site with a graded pad versus giving it to them as-is.

COUNCILMEMBER FELIEN recalled that from start to finish, the City has put on the table the idea that we would grade this property to a certain level, and that would be part of the package we were offering.

MR. EDDOW responded that is correct.

COUNCILMEMBER FELIEN asked if the cost of that grading has been creeping up over the years or are we where we expected? Mr. Barry mentioned the original estimate was $400,000.

MR. EDDOW responded the cost of grading has gone up since we initially looked at it because of the condition of the soils out there. It's a former mining operation. We were hoping that we could balance the site by taking dirt from one area and putting in on another, but we couldn't do that because the area we were going to take the dirt from would be too soft. We had to put dirt on top of that dirt in order to stabilize the whole area. We would have had to do that in order to move forward and make that site useful, safe and stable.

COUNCILMEMBER FELIEN asked if that was known when we were doing the negotiation with Sudberry.

MR. EDDOW responded no. When we started we did not anticipate that magnitude of bad dirt. It was not until we started designing the site and testing the dirt.

COUNCILMEMBER FELIEN asked if Mr. Barry was right that it was originally supposed to cost about $400,000 and we've crept up to this amount because the soil turned out to be less than expected.

MR. EDDOW never used the number $400,000. He felt it would be below $1,000,000, but it's in excess of that.

COUNCILMEMBER FELIEN clarified that the difference between the current price and $1,000,000 would be the result of the soil surprise.

MR. EDDOW responded it's basically moving an additional 400,000 yards of dirt at about $1 a yard.

MAYOR WOOD is happy this project is going forward. Over the years there have been changes about what's going out there and how it's going to be funded. When this was down to 2 developers, Sudberry and Stirling, Stirling came forward and said that some of the costs involved in Sudberry's plan were not accounted for, such as the grading, and that the City would have to do the grading. He agrees that in the past some of this wasn't explained accurately. He understood there would be no cost. This is money we got from an account from Silica Sand. It's not much out of our pockets, so he'll go forward with it. How long until the grading starts?

MR. EDDOW responded the City has to wait for Sudberry to perform their due diligence. They have until August 5th to do that. If everything looks fine at that point, then we can start grading shortly thereafter.

Motion was approved 4-0, Sanchez absent

28. **City Council: Approval to reject the lone proposal received for the Parking Management Request for Proposals (RFP), and continue to provide these services by City staff**

KIEL KOGER, Public Works, stated that, in an effort to identify potential cost-savings and reduce the budget through outsourcing, staff solicited proposals from qualified private companies in April to perform parking maintenance services. These services are currently performed by City staff, consisting of a supervisor, 10 full-time employees and 2 seasonal employees. Duties include providing parking enforcement, street meter and pay machine maintenance, parking lot maintenance and revenue collection. The program is funded by the Solid Waste Disposal Enterprise Fund and the General Fund.

Staff only received one proposal and conducted an interview with the proposer, Ace Parking. In-house costs were then compared to contractor costs to see if outsourcing was cost-effective. They found it more cost-effective to continue to perform these services with City staff. The first year cost to have City staff perform these services is $826,000. The first year cost for the contractor, Ace Parking, is $937,000. There are also costs that will remain even if the services are outsourced.

We were looking at a 5-year contract. A computer graphic was used to show the yearly costs. The 5-year total was just under $5,000,000. The contractor applied a CPI (Consumer Price Index) of roughly 3% per year.

City staff costs will increase over a 5-year period, primarily due to health care and retirement costs, with no increase in salaries for the foreseeable future. Based on information from CalPERS, the City's miscellaneous employee PERS rate will increase 3.5% over the next 5 years, and staff is projecting a possible 50% increase in health insurance costs.

In addition to the cost comparisons, there is a concern as to whether a private company could provide the same level of service as City staff. Ace Parking primarily provides parking services such as garage management, valet services and ground transportation at airports and commercial properties. It appears they have very limited parking enforcement experience working for municipalities, although they currently provide services to the City of Chula Vista on a limited scale. The service being

requested by Oceanside is much different, as Oceanside's parking enforcement program is citywide and comprehensive, whereas Chula Vista's program is focused only in the downtown area enforcing meters and pay machines.

Current City staff is well trained, efficient and a professional group of employees who provide a good service to the community at a good value. Parking officers provide much more to the community than simply writing tickets, such as providing assistance to citizens by offering parking options, giving directions, providing information about the City and reporting work orders. By the nature of the work, parking enforcement is a difficult job, and complaints are a given since receiving a citation is never a positive experience. Overall, management receives very few complaints from our patrons. Parking officers are trained to be polite and respectful and work with patrons, as well as issue warnings and provide leniency when appropriate. Parking enforcement should strike a balance in trying to achieve compliance without being heavy-handed. Outsourcing could disrupt this balance that the community has come to expect, and reversing direction after outsourcing to bring the program back in-house would be difficult to re-establish.

Staff recommends that the Council approve the rejection of the lone proposal received for the parking management RFP and continue to provide the services with City staff.

Public input

DON SALAZAR, Oceanside City Employees Association (OCEA), is here with many of the members and their families to support the rejection of the proposal that calls for outsourcing.

LARRY BARRY, 3973 Brown Street, stated it looks like a good deal to stay with City staff on this. These parking enforcement officers are revenue enhancers for the City. He has had some parking problems on his street and has complained, but they won't come around after working hours when people are home and park on their lawns, etc. He was told their hours are 7:30 to 4:00, yet parking enforcement comes out at 5:30 Sunday morning to give people tickets for being 18 inches away from the sidewalks.

Public input concluded

COUNCILMEMBER FELLER thinks we are trying to be a kinder and gentler City. Outsourcing has its place. If you can't afford to do business, then you can try to outsource. He agrees wholeheartedly with staff.

He **moved** approval [to reject the lone proposal received for the Parking Management Request for Proposals (RFP), and continue to provide these services by City staff].

DEPUTY MAYOR KERN asked if the evaluation of the contract was a third party evaluation or done by City staff.

MR. KROGER responded by City staff.

DEPUTY MAYOR KERN will go along with the proposal, but from now on when we discuss outsourcing, there should be third party evaluations of these particular items. Staff has a vested interest.

MR. KROGER stated one thing we've done with all of our outsourcing proposals is shared our costs with the contractors. We really try to be transparent about it. We show them everything we have and let them ask questions.

CITY MANAGER WEISS stated all of the information before Council was shared with Ace Parking for any issues, concerns or comments. They reviewed the numbers, saw what you're seeing now and indicated that they were unable to compete. If there was something that was missing, Ace Parking has had the opportunity and the reason to identify any issues or concerns, and they chose not to. With any of the bidders, we provide them with the opportunity to review all of the numbers.

DEPUTY MAYOR KERN stated philosophically, even if they came in lower than City staff, he has a real problem going with a single-bidder contract. He would like to see competitive bidding. He will support the motion.

COUNCILMEMBER FELIEN has an issue with the correct accounting for pensions. How does one have a negative unfunded pension liability when our current CalPERS reports show we have a $471,000,000 termination liability.

CITY MANAGER WEISS responded that partially the unfunded pension liability continues to accrue whether or not you outsource this. Although it's deducted from the budgeted amount, it's actually included in the cost analysis. That number plus the PERS rates that include a portion of the unfunded liability are in the personnel costs under "fully burdened rate". Approximately 10% of the total PERS cost is part of the unfunded liability added back into the fully burdened rate. The portion that's attributed to being an ongoing cost to the City because of the people who are already here or in the retirement system, has been reduced because that's not a budgeted cost. It's an actual contractual obligation to PERS. What we pay to PERS on an annual basis for their portion of the unfunded liability is in the fully burdened rate portion.

COUNCILMEMBER FELIEN stated once again that's the fully burdened rate at the dishonest rate of 7.5% that no outside authority thinks anyone is ever going to get as opposed to the 3.9% that CalPERS itself uses when you buy out of their system. Is that correct?

CITY MANAGER WEISS responded that's correct.

COUNCILMEMBER FELIEN stated the issue once again is that when you allocate the $471,000,000 of termination liability, you don't get anywhere close to that future liability. Then we start seeing California cities lining up to go into bankruptcy because they use this inaccurate accounting for pensions.

The other thing we keep missing is that, when you outsource you don't get rid of the unfunded liability that was accrued in the past, but you stop accruing unfunded liability for the future. Is that true?

CITY MANAGER WEISS responded up until recently that was true. This past June, PERS has indicated that the significant increases in their rates over the next 5-10 years is going to take into account funding the future unfunded liabilities. At year 10, where our rates are projected to go up fairly significantly, those rates will stay in place for approximately a 30-year period to make up that unfunded liability. Collectively, but for miscellaneous and public safety, he believes our PERS rates in year 7 will be up approximately $7,000,000 a year.

COUNCILMEMBER FELIEN stated using the calculations he uses, we have a cash spread of roughly $100,000 in favor of the City, and with how he calculates the unfunded liability, that would not make up the $100,000 difference. Plus, cash today is worth more than cash tomorrow, so that would have to be weighed in as well. In this case, the conclusion is correct but he expressed his objection with the road used to get there.

Motion was approved 4-0, Sanchez absent

29. **City Council/OPFA: Adoption of resolutions authorizing the issuance of Water Revenue/Refunding Bonds, Series 2013A, by the Oceanside Public Financing Authority, in an amount not to exceed $23,000,000; and authorizing the execution of certain documents and directing certain actions in connection therewith**

MICHELE LUND, Treasury Manager, stated this item seeks approval to issue up to $23,000,000 in Water Revenue/Refunding Bonds. The proceeds from the sale of bonds will be used to refinance 2 outstanding bond issues: the 1998 Water Revenue Bond and the 2003 Water System Certificates of Participation (COP). The proceeds will also provide $11,700,000 to fund 4 capital improvements projects in the Water Department.

The refinancing of both the 1998 Revenue Bonds and 2003 COP's would provide approximately $143,000 in savings on an annual basis. This differs significantly from the savings figures provided in the staff report in front of Council. Bond interest rates have increased over the past 2 weeks due to the federal government's confirmation that they will begin to reduce their open market securities purchases if the economy continues to show improvement. The municipal market was hit pretty hard, not only with the increase in rates, but also in significant widening of yield spreads on the longer end of the curve.

If we were to go into the market today, the all-in interest rate of the bonds would be approximately 4.15%, as compared to the 3.55% two weeks ago when we wrote the report. Despite the increase in interest rates, it still provides savings greater than the 3% net present value savings threshold that we use as a trigger to refinance bonds. The City did request a rating from Standard & Poors last week and is waiting to hear the results of that request. The current assumed rating on the Water bonds we have is a AA-. If we receive a single rate bump to AA, we would expect the interest rate on the bonds to drop by approximately 20 basis points.

The City is also taking advantage when we refund the bonds to fund capital improvement needs for the Water Department. The 4 Water capital improvement projects to be funded include improvements to the City's water reservoirs, construction of the Mission Basin Groundwater Purification Facility Operations Building, the Ocean Hills Recycled Water Project and replacement of the supervisory control and data acquisition system for both treatment plants and all water reservoirs and regulating stations. The projects were approved as part of the CIP budget that was approved on June 5, 2013.

Following Council's approval, we anticipate pricing the bonds in mid-July and closing by the first week in August.

Public input

JIMMY KNOTT, 127 Sherri Lane, represents the Utilities Commission Budget Committee who reviewed this and, after resolving some questions, we saw the benefits of this recommendation.

Public input concluded

COUNCILMEMBER FELIEN asked what rate were originally going from and going to now.

MS. LUND responded about 60 basis points. It dropped in the last 2 weeks.

COUNCILMEMBER FELEIN asked what the rate is of the bonds we're refinancing.

MS. LUND responded we're asking for a new rating. The bonds that we refinanced in prior years had an enhanced rating by insurers, so that carried a AAA rating. We didn't have an underlying rating on the bonds, so these are new ratings.

Regarding the interest rate, we're going from 3-1/8% to 5%.

COUNCILMEMBER FELIEN stated even with the disappointment and the credit market, we're still making a significant savings. That's good news for the City.

COUNCILMEMBER FELLER asked if it's possible to get better than a AA rating.

MS. LUND responded we went before the rating agencies. Currently the Sewer credit rating is AA. We expect to get at least an AA rating on the bonds, since the Sewer rating is AA. It's going to committee tomorrow at Standard & Poors, so hopefully we'll hear the results tomorrow. It is a possibility that we could get a better rating, like AA+, but we're being conservative.

COUNCILMEMBER FELLER asked why we aren't AAA.

BRIAN FORBATH, Bond Counsel, responded it's because you're not big enough.

SARAH BROWN, with Stifel Nicolaus, has been working with staff on the rating process. You're asking a good question, and you should ask for every type of credit why you can't get a better rating. The bonds that are being refunded are not currently rated, so we're always trying to guess how the rating agencies will evaluate the credit. Your coverage is extremely strong. Your diligence in looking at your capital improvement program, scheduling and rate increases that allow for you to preserve the asset that you have, valued at over $700,000,000, and also plan for future growth and needs of the enterprise is phenomenal. Not everybody does it, especially in today's environment where it feels like you're constantly asking for rate increases. Your diligence in being able to do that is phenomenal.

The one thing that will always be a little bit of a negative on your system is your reliance on imported water versus local sources. The type of capital improvement program that you've established is meant to increase your own local sources, which makes you more able to control your own destiny rather than always playing catch-up to what the San Diego County Water Authority (SDCWA) has in store for you.

She's hoping for a AA+. There are AAAs but you don't see them for a system your size. At this point, with such a large capital improvement program, they're going to want to see another year or two of you building those capital improvements and seeing how the system reacts to that before they provide that upgrade.

The sewer rating was AA-. We're looking for AA. The next step up would be AA+ and then finally AAA. It's achievable, but she's not sure it's achievable right now.

COUNCILMEMBER FELLER moved approval [of adoption of **Resolution No. 13-R0478-1**, "...authorizing the issuance by the Oceanside Public Finance Authority of Water Revenue/Refunding Bonds in an aggregate principal amount not to exceed $23,000,000 and approving certain documents in connection therewith"; and **Resolution No. 13-R0479-OPFA**, "...authorizing the issuance of Water Revenue/Refunding Bonds, Series 2013A, not to exceed $23,000,000; and approving the execution of certain documents and certain acts in connection therewith", **[Document No. 13-D0480-1** (Preliminary Official Statement), **Document No. 13-D0481-1** (Continuing Disclosure Agreement), **Document No. 13-D0482-OPFA** (Indenture of Trust), **Document No. 13-D0483-1** (Installment Purchase Agreement), **Document No. 13-D0484-OPFA** (Installment Purchase Agreement), **Document No. 13-D0485-OPFA** (Assignment Agreement), **Document No. 13-D0486-1** (Purchase Contract), **Document No. 13-D0487-OPFA** (Purchase Contract), **Document No. 13-D0488-1 1998** (Escrow Agreement), **Document No. 13-D0489-1 2003**

(Escrow Agreement) and **Document No. 13-D0490-1** (Bond Counsel Agreement), and directing certain actions in connection therewith].

DEPUTY MAYOR KERN seconded the motion.

Motion was approved 4-0, Sanchez absent.

30. **City Council: Authorization to award a contract in an amount not to exceed $3,066,016 to S.C. Valley Engineering, Inc., of El Cajon for construction of the Myers/Tait Street Sewer Line Replacement Project; approval of a professional services agreement with Infrastructure Engineering Corporation of Oceanside in an amount not to exceed $647,848 for construction management, inspection services, and engineering support services during construction related to the project, and authorization for the City Manager to execute the agreements**

CARI DALE, Water Utilities Director, stated this presentation focuses on the Myers/Tait sewer line, which is not only being proposed to rehabilitate and renew existing infrastructure, but also to accommodate new growth that's occurring in the downtown area.

JASON DAFFORN, Water Utilities Division Manager, recommends award of our Myers/Tait Street Sewer Project. This project is located in our La Salina service area, which is downtown. A computer graphic was used to show the exact location they are proposing the project on – Myers Street and Tait Street, between Wisconsin and Oceanside Boulevard and into the wastewater treatment plant.

The project is designed to increase capacity in the downtown area to accommodate new development, such as the Springhill Suites project that's currently underway. The project will upsize and replace about 4,292 lineal feet of pipe on Tait Street, and rehabilitate 2,090 lineal feet of pipe on Myers Street by cured-in-place pipelining. At the end of the project, we will also do an asphalt overlay in the area where the pipe was constructed.

The department has done public outreach in the area. It's a very dense area with a lot of summer homes. We took advantage of early planning to reach out to the community. We've done that with door hangers and mailings. We sent out a mailer for a community meeting that was held. We have also put together a telephone hotline where people can call in and request information on the project. We put together a community meeting in February where we met with community people who were interested in talking about the project. One of the things we've done to help with the project is restrict our noise as much as possible during construction so we can limit the impact to the local community.

One of the most difficult things we're working on and continue to work on is our residential parking that will be impacted and the traffic control in the area. Once we award the project, we can request a schedule from the contractor. Once we receive that schedule, we will be able to determine what the impacts are during construction. We have been and will continue to work with the Public Works and Traffic Departments on the traffic control plan and parking. Once we get that schedule, we will continue to work with North County Transit District, Oceanside Unified School District, the Police and Fire departments, Waste Management and the postal service as they will all be impacted during construction.

In an attempt to reduce our impacts, we're limiting our construction area to about 400 feet. That will keep the construction area confined and the impact to residents as minimal as possible. We will set up detour routes and get them approved through the Traffic Department. There are enough cross streets in the area that he believes the detours will be set up well, and traffic will flow fairly well through the area.

Public input

JIMMY KNOTT, 127 Sherri Lane, represents the Utilities Commission, who has heard this item and provided suggestions to staff, who followed through with those. We endorse this recommendation.

Public input concluded

DEPUTY MAYOR KERN stated we're talking about an area that's very tourist dependent in the summer. Is this critical to do now or can it be delayed to a point in time where it doesn't impact the summer tourist season?

MR. DAFFORN responded it is a critical project. Our timing is based on the fact that the first 3 months are submittals and permitting, so the construction won't begin until after summer. That's how we anticipated it and why we brought it forward at this time. It's a long project and will take a while. We anticipate it will only impact one summer season, worst case scenario, which would be summer of 2014.

DEPUTY MAYOR KERN stated just when Springhill Suites opens, we're going to have issues on Myers Street.

MR. DAFFORN stated Springhill Suites is one of the reasons why this project needs to be completed, because of the capacity within the existing pipelines. They need to be upsized in order to accommodate that development.

MS. DALE stated this is one of the projects that was deferred, so it's been on the Capital Improvement Project List for a while and has come forward since the rate increases have been approved by Council. That's why it's urgent that we get it done; it is helping to accommodate the additional growth in the downtown area.

DEPUTY MAYOR KERN appreciates that we do need to get it done. Unfortunately our summer timing is always critical. It doesn't seem like it's ever the perfect time. Hopefully, we can hold the impacts to a minimum and control it with phasing to minimize the impacts on the general public and tourists.

He **moved** approval for authorization to award a contract **[Document No. 13-D0491-1]** in an amount not to exceed $3,066,016 to S.C. Valley Engineering, Inc., of El Cajon for construction of the Myers/Tait Street Sewer Line Replacement Project; approval of a professional services agreement with Infrastructure Engineering Corporation of Oceanside in an amount not to exceed $647,848 for construction management, inspection services, and engineering support services during construction related to the project, and authorization for the City Manager to execute the agreements].

COUNCILMEMBER FELLER seconded the motion. He asked the timing on the project.

MR. DAFFORN responded we are allowing the contractor 2 years to construct it completely. Normally, that involves 3 months in the beginning of permitting and paperwork and also at the end of the project for about 3 months. The construction in the field is about 18 months. In preliminary talks with the contractor, he thinks that is a little bit longer than he will take to complete the project, but until we see a schedule in hand, we will give them the full 2 years.

COUNCILMEMBER FELLER stated we have a parking lot we're working on going south from Wisconsin to Oceanside Boulevard.

MR. DAFFORN responded that's correct. He believes that is Parking Lot 27, and it is almost complete. We're currently in talks with Public Works in utilizing that parking lot if necessary for the residents to park in.

CITY MANAGER WEISS stated there is a separate project, which is the extension of the Coastal Rail, which will go south from Wisconsin Street.

COUNCILMEMBER FELLER was saying it's going to be in time for these people to start parking out there.

CITY MANAGER WEISS stated what Mr. Dafforn mentioned was the existing lot that's already done. We are going to let them use that to park in as well.

COUNCILMEMBER FELLER asked if at the end of it all, two streets get a brand new look.

MR. DAFFORN responded that's correct. We're going to overlay the entire street from curb-to-curb when we're done.

COUNCILMEMBER FELLER suggested letting UPS and Fed Ex know about this.

COUNCILMEMBER FELIEN asked if when this project is complete, will it be able to handle the full capacity of downtown as we envision it?

MR. DAFFORN responded that is correct.

COUNCILMEMBER FELIEN asked which portion is paid by the public and which portion is paid by future developers, since development is going to come in the future with the development impact fees. Development and development impact fees will come in the future, but we're having to cut a check now or in the near future. How is that float being funded?

MS. DALE responded there is a portion of the project that's being paid for by existing users, and that's part of the refurbishment or a portion of the pipe that they already bought into. A portion is being paid for by development as part of their development impact fees. We have a portion set aside, but a portion will also be recoupled in the future for future buy-in.

MAYOR WOOD knows staff planned this to not hit summer, and he appreciates that. He wants this to move forward because the fines we can get for a broken sewer line can be millions of dollars. He's happy it's going forward.

Motion was approved 4-0, Sanchez absent.

[Recess was held from 4:58 PM to 5:21 PM]

INVOCATION – Zack Beck

PLEDGE OF ALLEGIANCE – Parks & Recreation kids

PROCLAMATIONS AND PRESENTATIONS –

Proclamation – Solutions for Change
Proclamation – North Coast Hospice
Presentation – Mayor's Business Member Spotlight
Presentation – Mayor's Youth Sports Recognition and Appreciation Award

Presentations were made

CLOSED SESSION REPORT

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

CITY ATTORNEY MULLEN reported on the items discussed in Closed Session: See Items 1 and 2A(i) and 2A(ii) above.

PUBLIC COMMUNICATIONS ON OFF-AGENDA ITEMS

No action will be taken by the City Council/HDB/CDC/OPFA 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.

37. **Advance written request to reserve time to speak:** Cathy Nykiel spoke earlier this evening under Proclamations and Presentations.

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

TIM BROOM, 1429 Papin Street, President of the Eastside Oceanside Airport Subcommittee, spoke regarding the ongoing issue of airport noise in the Eastside. This problem began over 10 years ago. At that time, an airport management organization was hired to help get rid of these issues, but that has not happened. Last year he wrote a letter to Council explaining the problems that we've been having in the Eastside.

Councilmember Feller was the only one who responded to his previous email. He sent out another email a month or so ago, and that was not responded to. The problem we're having in the Eastside is with low-flying aircraft and aircraft flying at all hours. From midnight to 5:00 AM, he has aircraft flying 100 feet off the roof of his home. He's filed almost 100 written complaints with Airport Property Ventures, which is the organization that is supposed to manage the airport. Airport Property Ventures does not follow up on his complaints. He is under the impression that they have informed Council that no written complaints have been received, and that is false. He listed specific complaints he's filed.

He has a lot of documentation regarding the problems. We are not looking to close the airport. We want to regulate the airport and partner with Council and the FAA to get some clear guidelines and restrictions put in place so we can continue to operate the airport.

DIANE STRADER, Eastside Neighborhood, stated the airport has pilots who do not honor the memory or background of Bob Maxwell, who the airport is named in honor of. We have a problem, and she doesn't want Council to be able to say they didn't know there was a problem. The goal is not to close the airport, but to make them good neighbors. She's talked to some of the pilots there. Some have been friendly, but some have been rude. She showed a packet that contains information on pilots who are not good neighbors and the correspondence sent to ask them to comply.

LARRY BARRY, 3973 Brown Street, stated regarding the joint Oceanside Unified School District and Council workshop held recently about violence, this is a big issue. Sometimes we have a meeting and talk about things, and then it gets forgotten and nothing gets done. Because the newspapers in the area don't necessarily carry our local news doesn't mean it doesn't happen. Graffiti has exploded in the City along with other problems too. Code Enforcement and the City Attorney need to take action against slumlords. We're going to solve these problems if we take a hard stand and are vigilant. We need to enforce the law and the Codes and put people on notice. Our property values are dropping, and our schools are suffering from it as well.

ERIN MORIN, 1241 Chambord Court, is here as the Ag representative on behalf of South Morro Hills. A local winery took first place in the wine competition at Del Mar Fair.

JOAN BRUBAKER, 1606 Hackamore Road, stated when the current airport management was vying for the contract 3 or 4 years ago, she made mention of a hangar building with the roof in such bad condition that it looked ready to collapse. They were going to fix that right away. Now there is a big banner draped over it

advertising skydiving. Somebody needs to do a little mending on that hangar.

JIMMY KNOTT, 127 Sherri Lane, stated Marshall Street Pool will be opening on July 1, 2013. There will be opening ceremonies there. There will also be a Facebook page for the pool.

MAYOR WOOD stated a couple of comments were made about the airport. We turned that over to another company to operate a couple of years back. They've been tied up in litigation for a couple of years now. They won and are moving forward, but they're just now starting. All of those repairs you talk about they were sitting on because they couldn't do anything with the litigation. They're supposed to improve everything out there.

As to the noise, you're not the first one to complain. We've gotten no cooperation from the FAA, so we couldn't enforce any rules or regulations.

5:00 P.M. – PUBLIC HEARING ITEMS – None

MAYOR AND/OR COUNCILMEMBER ITEMS

39. **Request by Mayor Wood to make appointments to or motions for removal from some or all of the City's Advisory Groups**

MAYOR WOOD put a list out a week in advance to all of the Councilmembers. He has been contacted by people saying they need people on their committees in order to have a quorum.

He **moved** to accept this list of appointments.

DEPUTY MAYOR KERN seconded all of them **except** the Integrated Waste Commission and Utilities Commission. He would like to vote on all of them except Integrated Waste Commission and Utilities.

MAYOR WOOD as maker of the motion **concurred.**

Motion to accept all except Integrated Waste Commission and Utilities Commission appointments **was approved 4-0**, Sanchez – absent.

DEPUTY MAYOR KERN stated on the Integrated Waste Commission, he **seconded** the reappointment of Erin Morin as a regular, but not the reappointment of Nadine Scott.

Motion to reappoint Erin Morin to the Integrated Waste Commission was **approved 4-0**, Sanchez – absent.

DEPUTY MAYOR KERN seconded the appointment of Brian Boyle and the reappointment of Ira Landis to the Utilities Commission, but not of moving Wayne Daigle to regular to replace Jimmy Knott.

Motion to reappoint Brian Boyle and Ira Landis to the Utilities Commission was **approved 4-0**, Sanchez – absent.

Motion to reappoint Nadine Scott to the Integrated Waste Commission **died for lack of a second.**

Motion to move Wayne Daigle to regular to replace Jimmy Knott **died for lack of a second.**

Therefore, the following appointments were approved:

ARTS COMMISSION	**TERM EXPIRES**
Appoint Tara Smith as Regular – OMA Rep (Replacing Edward Fosmire)	7/1/2014
ECONOMIC DEVELOPMENT COMMISSION	
Reappoint James Kasselmann as Reg: Manufacturing	9/26/2016
HISTORICAL PRESERVATION ADVISORY COMMISSION	
Reappoint Brad Hansen as Reg: Member At Large	7/1/2016
Appoint Frank Turner as Reg: Historian (Replacing R. Melbourne)	7/1/2016
Appoint J. Michael Winfield as Reg: Architect (Replacing Lynn Paul Shoger)	7/1/2015
HOUSING COMMISSION	
Reappoint Jacquelyne Camp as Regular	7/1/2016
Reappoint Allison James as Regular	7/1/2016
MANUFACTURED HOME FAIR PRACTICES COMMISSION	
Reappoint Walter Hambly as Regular	8/22/2016
Reappoint George McNeil as Regular	8/22/2016
Appoint Eric Morrison as Regular (Replacing Sharon Doyle)	8/22/2016
PARKS & RECREATION COMMISSION	
Reappoint John Rhoad as Regular	7/1/2016
Appoint Brian Crewe as Alternate II (Replacing Gregory Schuman)	7/1/2015
POLICE & FIRE COMMISSION	
Reappoint Ken Crossman as Regular	8/1/2016
Reappoint William Harms as Regular	8/1/2016
REHABILITATION LOAN REVIEW COMMITTEE	
Reappoint John Todd as Regular	5/24/2016

INTEGRATED WASTE COMMISSION	**TERM EXPIRES**
Reappoint Erin Gilligan-Morin as Regular	7/1/2016

UTILITIES COMMISSION	
Reappoint Brian Boyle as Regular	7/1/2016
Reappoint Ira Landis as Regular	7/1/2016

CITY MANAGER WEISS reminded Council that since Nadine Scott and Jimmy Knott are currently serving on those commissions, they will remain on the commissions until they have been replaced.

40. **Request by Deputy Mayor Kern to set aside sufficient funding from the Laguna Vista sales proceeds to fund construction of the four beach restrooms located at Sportfisher, Tyson, Breakwater, the pier amphitheater restroom, and renovation of restroom facilities located at Wisconsin Street, and provide direction to staff**

DEPUTY MAYOR KERN stated we've all received a lot of emails about the beach restrooms. It's one of our premier locations in the City. When people visit, almost everyone uses the restrooms.

He **moved** to set aside sufficient funding from the sale of the Laguna Vista Mobile Home Park for the construction of the 4 beach restrooms located at Sportfisher, Tyson, Breakwater, and the pier amphitheater; renovation of restroom facilities located at Wisconsin Street; and provide direction to staff to come back with the funding.

We have the designs almost done. That was money that was leftover from Redevelopment, but we had no money to build the actual restrooms. We have the opportunity now with the sale of the mobile home park to put money into the beach restrooms, which is vitally important to our tourists. We are becoming more of a tourist-driven economy, and the tourist-serving facilities at the beach are vitally important.

COUNCILMEMBER FELIEN seconded the motion.

Public input

JOHN DALEY, 631 South Coast Highway, stated the tourists are not the only ones who use the bathrooms. He's watched the bathrooms become less and less desirable no matter how many times you clean and try to maintain them. There is no question we're at a point where it's time to do something smart and nice along the beach. This is something he supports and hopes the Council does as well.

LESLEE GAUL, Visit Oceanside, is speaking on behalf of the Oceanside Tourism Industry. We support Council moving forward with setting funds aside from the sale of Laguna Vista to fund the beach restrooms. The beach is the number one activity that our visitors experience in Oceanside when they visit. It generates the greatest return on investment and draws over 5,000,000 locals and visitors there each year. According to a 2012 study that we did, visitors to Oceanside spend an average of $120 per day per person, and day visitors spend an average of $68 per day per visitor. Currently the beach restrooms are a public relations issue for Oceanside, as well as a health and safety issue. Local businesses and organizations, including Visit Oceanside, have received complaints from visitors who feel we aren't maintaining our bathrooms and beaches, and they do not plan to return. This impacts vital tax dollars for the General Fund. Visit Oceanside and the tourism industry support Council moving forward with this.

JIM SCHRODER, 4020 Wooster Drive, is Chairman of the Economic Development Commission. The Commission supports Council 100% in remodeling the bathrooms. It's been a several year project, and we did lose funds when the Governor took them away from us. We have a number of projects coming into the beach area and downtown in the near future. We should have the best bathrooms on the beach in the North County. With all of this taking place, we need to redo these bathrooms.

The Transit Occupancy Tax (TOT) is a benefit to all of our guests that stay in hotels. The City gets 100% of that. If we can get our guests to return and spend their money season after season, the TOT benefits, and we win all around. The bathroom near the amphitheater really needs to be looked at. We don't have funding right now, but we need to look at that. We have concerts on the beach that bring people in for a few hours, and it's difficult for them to step foot into those bathrooms.

ROSEANNE KISS, 406 South Cleveland Street, North County Printers, is the Chair of MainStreet Oceanside. Our organization represents many of the business and property owners in downtown Oceanside. The restrooms that serve our visitors and the beach are in a very sad state of disrepair. Most of the facilities are decades old and were not meant to service the huge numbers of people that now visit our beach each summer. The beach restroom improvement project will not only benefit our visitors, who bring much-needed tourist dollars to our economy, but it will also benefit the citizens of Oceanside who deserve decent restroom facilities during our visits to the beach. The MainStreet Oceanside Board of Directors voted on the 25th of June to support Deputy Mayor Kern's request to set aside sufficient funding from the Laguna Vista sales proceeds to fund construction of the 4 beach restrooms located at Sportsfisher, Tyson, Breakwater and the pier amphitheater restroom and renovation of the restroom facilities located on Wisconsin Street. She thanked Council for their consideration.

Public input concluded

COUNCILMEMBER FELLER asked if the pier amphitheater restroom is the one on the pier.

CITY MANAGER WEISS stated we are in the process of starting the design for both the bathhouse and a new restroom structure, which would take the place of the beach lock-up and the Harbor & Beaches Maintenance Facility. If you approve Deputy Mayor Kern's item, those restrooms will be included in that.

COUNCILMEMBER FELLER asked if then we would be closing the pier facility.

CITY MANAGER WEISS responded we would be renovating that facility. We have not come to a conclusion if we're just going to upgrade it and put additional restroom facilities in it, or if it will be one big facility out front. We cannot just eliminate that facility.

COUNCILMEMBER FELLER asked for a preliminary estimate.

CITY MANAGER WEISS responded for the new restrooms, with the exception of the beach amphitheater area, it's about $1,200,000. That includes the replacement of the restrooms that are on the sand area and the renovation at Wisconsin Street, as well as the renovation of the restrooms that are on the pier. We're looking at an additional $1,500,000 to $1,700,000 for the amphitheater restrooms. The total amount, if you're going to set this aside, would be $3,000,000.

The total proceeds from the sale of Laguna Vista are about $5,600,000. You've allocated just over $600,000 for opportunistic sand. We plan on coming to Council at the August 7th meeting to allocate the balance of those monies.

COUNCILMEMBER FELLER spent some time down there a week ago and there is pot smoking in the bathrooms. The facilities are almost uninhabitable unless you go in immediately after the cleaning crew finishes.

He remembers the design of the new restrooms was more open so we could see who was coming in and going out. He hopes we're taking that into consideration.

CITY MANAGER WEISS responded we are. The newer ones are going to be exterior accessible, with one person access so they will not have the congregation opportunities that you have now.

COUNCILMEMBER FELLER supports this. It's a wise use of our found money. We need to make a difference down there.

COUNCILMEMBER FELIEN thinks it worthwhile to move ahead with this project. Since he's been on Council, we've tried to fight through the Redevelopment challenges that we've had to fund this project. To date, those have been unsuccessful, and this money from the sale of Laguna Vista provides an avenue to move ahead on this critical project. It creates an image for the City and will determine whether or not people want to come back again. The restrooms are one of the facilities that's used by 100% of the visitors who come to the beach. We need something new down there.

MAYOR WOOD thinks this is a great idea. We sold the mobile home park and got money, so where do we spend it. It's one-time money. Originally it was thought that it should go back to Housing, where it was borrowed from, to build Mission Cove senior affordable housing in the valley. We have a big push from the State regarding affordable housing. Most people would rather spend it somewhere else, including the restrooms. He's not against that.

His concern is now about public discussion on it. We've got $5,000,000+ to spend and need to decide where to spend it. A Councilmember can put an item on the agenda and everybody likes it, but then we have a Housing issue we've skipped over and they don't get the money.

He also wants to support the people who live in Oceanside above and beyond the people that visit here. The restrooms are a good cause; however, he thought the money should more appropriately be spent on a quiet zone for the railroad through the City. At the last Council meeting, we had a representative speak about that. He indicated that about 3 intersections are close to being fixed and the other 2 need work. If he had a choice of the bathrooms or the quiet zone, with the hotel that's going to be sitting right next to the railroad track and a second one going in at the pier, he leans toward the quiet zone. There isn't enough money for both. He would love to do all 5 of our intersections as soon as possible so the train doesn't have to blow the horn. That's up to the railroad and the Federal government. The engineer can blow that horn anytime he wants, unless we approve a quiet zone. That means fixing all 5 of the intersections that cross through Oceanside.

We haven't asked the public where they would like to spend the money. He's not sure if in the pecking order he wants to see the restrooms take priority. The $5,000,000+ might take care of our quiet zone. Those bathrooms are pretty terrible, but maybe they should be fixed under Capital Improvement money.

However the vote goes, he's in favor of it because some of those restrooms are pretty bad. If he was going to fix the restrooms at the beach, he would make sure there are more facilities for the women's side than the men's side. He never sees a line for the men's side but the women's side has a long line.

DEPUTY MAYOR KERN stated as far as the design, they're going to be single-door, so they'll be unisex and the availability for men and women will be equal.

Regarding Mission Cove, we have about $17,000,000 to $18,000,000 invested in that already. It's all public money. There has been no private money put into that yet, so he's hesitant to put any more into that until he starts seeing something from the private sector. We've given them the land and affordable housing money so we are moving forward with an affordable housing project the best we can. We're going to have to see some performance on their side before we go forward. They haven't met their performance criteria to date.

Councilmember Kern gets a lot of emails regarding the restrooms on the beach, and people talk to us when we're out in public. This is something that's part of our image that people will remember. He doesn't want them to have a bad memory of a lousy restroom.

MAYOR WOOD is going to abstain because he wants more information. It doesn't mean he doesn't like it.

Approved 3-0-1, Sanchez absent, Wood abstaining

41. **Request by Deputy Mayor Kern to present SDG&E's Summer Outlook presentation**

DEPUTY MAYOR KERN stated there's been a lot of talk about what's going to happen this summer with SDG&E and their power supply with San Onofre going down.

AMBER TER-VRUGT, San Diego Gas & Electric, stated in addition to tonight, she will be coming back to Council in July to do more on the summer situation. We'll talk more at that time about what's happening from a fire safety perspective.

We expect to meet our summer demand, but with San Onofre Nuclear Generating Station (SONGS) being offline since June 7th when they decided to permanently retire it, it is going to be tight. Without SONGS we have challenges more than just supply. SONGS provided critical voltage support for us, which is the ability to move the electrons around the system. It also provided us with a carbon-free energy resource. From an emission perspective, there are some other things that we need to work with the State on going forward. We had anticipated that we would have San Onofre on line until 2025, so we've got that 9-year resource adequacy gap that we are working to address.

We brought Sunrise Powerlink on line a year ago, and we wouldn't have made it through last summer or this year without it. We will be continuing to monitor the situation closely over the next several months. We will not call for conservation unless we need it, but if we do call we would strongly encourage everyone to conserve energy.

We've done some upgrades to your system at the Encina Substation and in Penasquitos on the transmission side to address the voltage support issues without SONGS. Last summer 2 units in Huntington Beach were brought online to support our summer needs. This year, because of their air credits being expired, we will not have that power supply. Fortunately, they were able to put in synchronized condensers, which will help with that voltage issue and push the electrons south to San Diego.

If we do call a hot day, we hope the public will support us in conservation efforts. San Diegans are good at conserving the first couple of days, but on days 3 and 4 our patience wanes and we tend to crank our air conditioners back up.

We have the third largest non-governmental weather station in the United States. That means we are monitoring the weather throughout our territory. A computer graphic showed a map of the 145 weather stations they have positioned throughout the County. This allows us to be better prepared for potential problems like Santa Ana wind conditions or other conditions.

There was an article in the newspaper a couple of weeks ago talking about increases from 11% to 18% for businesses. The other segment of our customers that are going to experience this tough challenge this year are our residential customers in Tier 3 and 4. We're doing a lot to try to support our residential and business customers. This week we've started doing outreach to our customers who will be affected via letter, email and local television stations.

Tier 3 and 4 customers are about 25% of our customer base. There are about 300,000 customers on the residential side that fall into that category. Computer graphics were used to show how the rates are calculated and a breakdown of the bills, as well as families can do to reduce their bills through the summer months.

COUNCILMEMBER FELIEN stated on the issue of San Onofre shutting down and the issue and design of the pipes, who's going to eat the loss for that?

MS. TER-VRUGT responded we don't know that yet. In November of last year, the Public Utilities Commission (PUC) opened up a hearing where they are looking at all of the issues that go into who pays, when and how it works.

COUNCILMEMBER FELIEN read an article that the manufacturer who normally should be paying, since it was their misdesign, is somehow off the hook. Is that correct or are they still on the hook for possibly being liable?

MS. TER-VRUGT thinks everything is still being evaluated at this time.

COUNCILMEMBER FELIEN stated in terms of the rate structure you mentioned with the increases, that seemed to be something that was a long time in the making. Was any of that due to shutting down San Onofre? If the answer is no, are there going to be future increases related to having to acquire energy from costlier sources?

MS. TER-VRUGT responded absolutely. Referring to the previous computer graphic, she demonstrated that commodity costs are a huge part of the cost increases at 48% of the costs of the bundled residential rate. Replacing renewable power that we're now bringing into our system is more expensive.

COUNCILMEMBER FELIEN stated for shutting down San Onofre, we're going to have a higher rate, less reliable supply and more air pollution.

MS. TER-VRUGT responded we have very strong reliability standards so we're confident in our ability to maintain reliability. It does impact the power because we have to import more power into our region. We procured about 20% of our power from San Onofre when it was up and running. We now have to replace that power with other resources.

MAYOR WOOD stated the last power outage we had was a good learning experience for the City because we found out that after 4 hours our cell phones didn't work, which was a big surprise for us. We couldn't communicate with police or fire because those were down. Hopefully if there are brown-out's scheduled in the future, we've planned better for that.

Also, he received a letter from SDG&E the other day.

MS. TER-VRUGT responded if you received a letter from us then you would be in the Tier 3 category of customers who will be seeing an impact. You can look at what your zone is on the SDG&E website and find out what to expect for an increase.

DEPUTY MAYOR KERN stated San Onofre is going to be an ongoing problem for us. They just announced a 60-day layoff of 600 people. That's going to have an economic impact on Oceanside because a lot of those people live here.

He's concerned about reliability during the summer when we have such hot days. It's going to be very warm in the coming week, and air conditioning use is going to go up and may cause those rolling brown-outs.

We fought the Sunrise Powerlink for years, but if we didn't have that now we'd be in real trouble. We couldn't have survived last summer or this summer without it. Getting power into the region is going to be an ongoing battle for us. He mentioned possibly having to purchase coal power.

MS. TER-VRUGT stated we won't be purchasing coal power. We have purchased some replacement fuel that has come from other areas, but our mix is actually natural gas. We have a few new power plants on our system that have come online over the past 8 years that have a much newer technology of utilizing natural gas. That's a much cleaner burning fuel. It is different from San Onofre because it as a carbon-free resource. There were no emissions associated with power that we procured from San Onofre.

[This is an information only item.]

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.

42. **City Council: Adoption of an ordinance amending Chapter 10A of the Oceanside City Code prohibiting smoking in outdoor unenclosed dining establishments (Introduced as prepared by the City Attorney on 6/5/2013, failed 2-2-1; Kern and Felien – no, Feller – abstained. Introduced with revisions, approved 3-1; Sanchez – no, Wood – absent)**

CITY ATTORNEY MULLEN stated as their last meeting, Council introduced a revised ordinance. The basic change to the ordinance is that it now proposes to prohibit smoking in unenclosed public dining areas. As was read into the record at the introduction, an unenclosed public dining area is any public area with any street or sidewalk which is available to or customarily used by the general public or an employee, and which is designed, established or regularly used for consuming food or drink and that is not enclosed by a roof and walls. Council also revised the reasonable distance requirement that prohibits smoking within a reasonable distance of an unenclosed public dining area. That is now set at 10 feet in any direction from an area adjacent to an unenclosed public dining area.

MAYOR WOOD stated his concern on the revision was that there seemed to be conflict. If you had a public dining area on the sidewalk enclosed, with the distance issue, it would be illegal to smoke in there. On the other hand, if it was a private establishment and upstairs then it wouldn't apply. Is that correct?

CITY ATTORNEY MULLEN responded that is correct.

MAYOR WOOD was worried about that. He's not in favor of smoking, but it's wrong to have a conflict where if you have a restaurant that's upstairs you can have smokers, but if it's downstairs at the street level, you can't have it. That gives one place

the advantage over another. He's also concerned about the potential for litigation over this issue.

Public input

JOE JEFFREY, Junkyard Sports Bar & Grill, spoke at the last Council meeting where he pointed out the amount of approvals he had to go through to get his outdoor establishment. He put out a lot based on the repeated customer requests to establish that outdoor area. Oceanside residents who live within 2 to 2.5 miles of his establishment are 70-80% of his customer base. He also gets people from the Marriot who come from all over the country and State where many places are more liberal about smoking. He established the outdoor patio with smoking for customer service, and as a business, customer service is number one. He doesn't smoke or endorse smoking, it was strictly to give the people what they were asking for. Based on that, he asked Council to allow business owners to make that determination of whether or not we want to go smoke-free or not. If he felt the majority of people coming to his place would rather have it smoke-free, he would go in that direction. At this point, it hasn't even come close to that. It's a matter of a freedom to make their own choice.

DEEDEE ENGLES, Cigar Grotto, Inc., 220 North Coast Highway, stated we have had our business for 14 years and are very involved with the City and community. We host cigar socials at many of the restaurants in Oceanside. They used to do it in Carlsbad until they did their smoking ban, which has brought a lot of extra business to Oceanside. They have had a few cigar socials in the Oceanside Harbor at a couple of restaurants. We average about 75 people. Half of those people come from out of town and have never been to Oceanside and would not have come without the venue for the cigar social. She's not just speaking for the cigar smokers. She believes that, as the business owners, the people who pay the rent, mortgage, employees, insurance, etc., we should have the right to make the decision of smoking or nonsmoking. There are many establishments where owners can say that smoking is not allowed. Why don't we have the same right to say smoking is allowed?

If you make the same blanket statement that Carlsbad did, then we have nowhere to go. She looked on the internet and found that there are 26 places in Oceanside where you cannot smoke. We're adults who work hard. If occasionally we want to go sit a patio in the harbor and enjoy a cold beverage and a cigar or cigarette, we should be able to do so.

She started a non-profit, and with the money that they make from doing their outside venues, they give back to this community. She listed some of the local organizations they donate to. Other restaurant owners do the same thing. She just wants the opportunity to have an even playing field.

KIMBERLY MARRS, Tremont Street Bar & Grill, 311 North Tremont Street, is fighting a tremendous financial hurdle since investing in Oceanside in 2009. The economic downturn hit her very hard, and she's been trying to get out of it. She wants to make her business thrive here. When Carlsbad enforced their smoking ban, it sent many people to Oceanside. She got a lot of business from it. They can come on her patio, bring their dogs and sit outside. We need to keep people and visitors in Oceanside buying our goods and services so we can become economically strong. We need to focus our resources more on fighting crime in our streets as opposed to giving out cigarette tickets. Smoking, whether we like it or not, is not an illegal activity. She does not smoke or endorse smoking. People are not breaking the law by choosing to smoke. If the proposed ordinance is enforced, it will force people outside of a nice outdoor area to loiter 10 feet from our door, which is going to encroach on her neighbor. We don't need to do that.

She understands the concerns of the people who spoke in favor of the ban, but she doesn't realistically think any of those people have spent their money in our establishments. This ordinance is unfair to her because Cabo Grill, a competitor of hers,

will be able to allow smoking and she won't. That's not right. You're making it an unfair playing field. It will affect her financially, but it won't affect Cabo Grill.

She implored Council to think about this and let the business owners make the decision of whether they wish to be smoking or non-smoking.

SARA BLACK, Owner of Red Rooster Bar & Grill, was at the last meeting but didn't speak up. At that time, the Mayor made a reference that the information had been spread to all of the business owners in Oceanside about this ordinance and that since the restaurant owners were not here, they obviously didn't care. She couldn't have found that to be further from the truth. When she left here that night, she went home and called numerous other bar and restaurant owners, and none of them knew about it. As you can tell tonight, they came in force because they want to be heard as well.

She is a non-smoker. Back in 2006, she spent over $40,000 putting in a smoking patio at her bar and grill. She's not a restaurant. She put it out there so that the smokers would not stand out in front of the door and throw their butts out into the streets. She has a nice area where you can come and sit and have a drink and a cigarette, which goes hand-in-hand for many people that drink. You can also eat out there. She doesn't think this is feasible or fair. It's not fair for one bar with three stories to be able to do it, but the rest of us can't. Her smoking patio is close to 40 feet from the street and public sidewalk. It can't be accessed unless you go through the bar. Her bar is for 21 and older; you can't bring children in there. It's not clear who can and can't have smoking. People who smoke choose to come there because they like to have a drink and a smoke and food.

WARD O'DOHERTY, Oceanside resident, stated these businesses are hanging on by the skin of their teeth in this economy. Now that they're starting to see a ray of sunshine, they get hit with the no smoking thing. We need to look at this next year and give the businesses an opportunity to get back on their feet. He asked for a definition of a private restaurant as opposed to a public restaurant. The ordinance seems murky.

CITY ATTORNEY MULLEN responded the amendment was made during the Council meeting and read into the record. Subdivision (g), Section 10(a)(2), identifies an unenclosed public dining area as any public area within any street or sidewalk. The intent of that section is that if you have to get a permit to encroach on the City's sidewalk to set up your café, then you would be subject to this prohibition.

MR. O'DOHERTY stated we're also dealing with Code Enforcement that has never been addressed. For instance, the Tremont Grill has Code Enforcement issues there that have never been addressed. Her smoking patio is 7 or 8 years old. Is that private or public?

MAYOR WOOD responded it's private. Her place doesn't fit on the sidewalk or other public area. But others do, and that's what concerns him.

BILL ROSE, 401 North Tremont Street, is not a restaurant or bar owner. He's a smoker. He goes to these places. He had a small business and retired. His job now is to support the local community. He takes his dog with him a lot, and there are a lot of places he can't take her. If someone has a patio where he can get something to eat and drink, take his dog and smoke, that's a home run for him. He smokes cigars, not cigarettes. When he owned his business, he loved that he was able to make his own decisions. This ban takes that away from the business owners. There are only 3 places in town where you can go and smoke. This is a controversial subject and is going to affect some of the small business owners. We need to let them make that decision.

Public input concluded

MAYOR WOOD thinks the revised version of the ordinance is flawed so that's why he doesn't support this.

COUNCILMEMBER FELIEN stated this is a controversial issue, and his feeling from the beginning was to get the feedback from the community and the businesses that would be specifically impacted. We're trying to create a solution with a handful of opinions to determine what the majority of the population and business community would support. Based on the feedback we had at the time, we tried to craft a compromise. There was a concern of intruding on private property rights. We have the right, if we choose, to put restrictions on public property that we wouldn't request on private property. Based on the input we've had since then, and based on the comments here, a compromise requires broad support. If there's not going to be broad support for the compromise and the original maker of the original motion isn't here, maybe it's time to go back to square one and see if there's a direction we want to go. If there can be a broad-based consensus and compromise on a solution, then maybe we can go forward. He doesn't see that here now. He will not be supporting the existing compromise.

COUNCILMEMBER FELLER asked how many smoking violations we've had in the last few years. We've issued around 300 smoking violations in parks and on our beaches. The more he thinks about it, the more he thinks we're heading down the road to socialism. 80% of the people probably don't smoke, but we shouldn't be telling them that they can't smoke. People who are non-smokers won't be a patron of your restaurants if they don't like it. This is not something that he feels is his place to tell people.

CITY ATTORNEY MULLEN announced that there is no motion so the matter will die.

CITY COUNCIL REPORTS

31. **Mayor Jim Wood**

MAYOR WOOD went to Camp Pendleton to see the Marine Corps amphibious landing, and there were at least 9 foreign countries there observing.

125 years for Oceanside is going to be celebrated on July 3rd. Fireworks will be at El Corazon. The Yankee Doodle Dinghy parade will be on July 4th in the harbor.

Our Finance Director, Teri Ferro, is retiring.

32. **Deputy Mayor Jerome Kern**

DEPUTY MAYOR KERN announced the First Marine Division Band coming Saturday night.

The City Manager stated the Race Across America starts here in Oceanside. It's a continual race that ends in Annapolis, Maryland. Oceanside had a team that came in third place.

The Boys & Girls Club renovation is done.

Friday he will be back on Camp Pendleton with a contingent of State Legislators touring the base.

He thanked Teri Ferro for her work with the City over the years.

He went with Jimmy Knott to Metropolitan Water District to talk about the rate increases that they are handing down to all of us. They are going to go forward with the 5% rate increase even though they have $75,000,000 over their maximum reserve. They were supposed to reduce some of the property tax rate structure, but they decided

to keep all of the money for themselves. The good news is that San Diego County Water Authority is only looking at a 3.6% rate increase, so they're going to absorb some of that cost increase and not pass the full 5% on from Metropolitan Water District.

33. **Councilmember Gary Felien**

COUNCILMEMBER FELIEN congratulated Ms. Ferro on her retirement.

He bungee jumped at the Del Mar Fair Media Party and attended the Memorial Day celebration that VANC put together. Boy Scout Troop 752 provided the luminaries and placed flags on the veteran's graves at Eternal Hills. He attended the Pacific View Charter School graduation ceremony and Military Appreciation Day.

He had the opportunity to go on June 19th to the San Diego County Water Authority where they were reviewing the toll road. As someone who used to commute to Orange County, anything that would help relieve traffic on Interstate 5 would be a benefit to our community and allow working members to spend more time with their families. Yet, we have a Board that is more interested in pandering to extreme fringes, so they turned down a length of road that was being built in the interior of Orange County and nowhere near the coast.

On June 13th he attended the Topping Out Ceremony at our new hotel that's being built. He attended the graduation ceremony at Oceanside High School. He also attended the Fil-Am Culture Day and the Martin Luther King scholarship ceremony. He attended the ceremony for the construction of the Carlsbad desalination plant.

34. **Councilmember Jack Feller**

COUNCILMEMBER FELLER attended almost everything Councilmember Felien attended. He also attended the Concert in the Park. He went to the Oceanside All-Class Reunion.

He thanked Teri Ferro for all she's done for the City.

Tomorrow we have the Oceanside Transit Center Platform Improvement Project, which is another rail that will allow trains to pass within our terminal area.

35. **Councilmember Esther Sanchez - absent**

ADJOURNMENT

MAYOR WOOD adjourned this joint meeting of the Oceanside City Council, Community Development Commission, Small Craft Harbor District Board of Directors and Oceanside Public Finance Authority at 7:52 PM on June 26, 2013. [The next regular meeting is scheduled for 2:00 PM on Wednesday, August 7, 2013].

ACCEPTED BY COUNCIL/HDB/CDC/OPFA:

_____
Zack Beck
City Clerk, City of Oceanside