

**CITY OF ANGELS
CITY COUNCIL
MINUTES**

Tuesday, July 2, 2013

Council Members Present: Mayor Elaine Morris, Vice Mayor Jack Lynch, Wes Kulm and Bert Sobon
Council Member Absent: Stuart Raggio
Staff Present: Michael McHatten, Derek Cole, Dave Myers, Police Chief Fordahl, Dave Hanham and Mary Kelly

5:00 p.m. CALL TO ORDER

ADJOURN TO CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) (1) of Government Code Section 54956.9 (two potential cases)
- B. CONFERENCE WITH LABOR NEGOTIATOR: Pursuant to California Code 54957.6
Safety-Police MOU, Misc-Non Exempt MOU and Misc-Exempt MOU. City Negotiator: Michael McHatten, City Administrator

6:00 p.m. REGULAR MEETING

ACTION TAKEN IN CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to subdivision (b) (1) of Government Code Section 54956.9 (two potential cases)
Council Action: DIRECTION GIVEN TO STAFF
- B. CONFERENCE WITH LABOR NEGOTIATOR: Pursuant to California Code 54957.6
Safety-Police MOU, Misc-Non Exempt MOU and Misc-Exempt MOU
Council Action: DIRECTION GIVEN TO STAFF

APPROVAL OF AGENDA

MOTION by Council Member Lynch, seconded by Council Member Kulm and carried 4-0 APPROVING THE AGENDA AS PRESENTED.

STAFF UPDATES

Michael McHatten – City Administrator

Mr. McHatten explained that the numbers he reported in his staff report for supporters/non supporters of the LLD preliminary engineer's report has been updated to 74 supporters and 6 non supporters.

COUNCIL UPDATES

Jack Lynch

- Attended 3 meetings of the Angels Camp Commemorative Committee. He urged everyone to attend the July 4th celebration at Utica Park from 12:00-5:00. There will be a ceremony at 3:00 honoring the veterans.
- He attended UPA on the 25th of June. UPA is searching for a new attorney.

Wes Kulm

Attended the DAC executive committee meeting on the 25th. He said he is looking forward to the July 4th event at Utica Park and also urged everyone to come to the celebration.

Bert Sobon

Explained that he has been out of town but was able to attend the UPA meeting as alternate on the 25th.

PUBLIC COMMENT

Public comment period was opened at 6:10 pm. There were no comments from the public present.

CONSENT AGENDA

Vice Mayor Lynch removed Item ‘b’ for discussion.

MOTION by Council Member Lynch, seconded by Council Member Kulm and carried 4-0- ADOPTING CONSENT AGENDA ITEM ‘a’ AS PRESENTED:

- a. Minutes of Regular meeting June 18, 2013.

Council Member Lynch stated that the Police Officer’s MOU was a very significant document and he asked the City Administrator to explain some of the changes from the previous MOU. Mr. McHatten reported this was a 4-year MOU and the only major change was a 4.5% increase to the Police Employees which will be applied towards PERS retirement. The Police Employees now pay 100% of their employee portion of PERS.

MOTION by Council Member Lynch, seconded by Council Member Sobon and carried 4-0- ADOPTING CONSENT AGENDA ITEM ‘b’ AS PRESENTED:

- b. Adopt Resolution No. 13-21. A Resolution adopting the Police Officer Association Memorandum of Understanding.

REGULAR AGENDA

- 1. **CONSIDERATION OF ADOPTING A RESOLUTION THAT PROVIDES CONTINUING APPROPRIATIONS FOR CITY OPERATIONS BEGINNING JULY 2013 UNTIL WHICH TIME THE CITY FORMALLY ADOPTS A 2013-2014 BUDGET.**

MOTION by Council Member Kulm, seconded by Council Member Sobon and carried 4-0 ADOPTING RESOLUTION NO. 13-20. A RESOLUTION CONTINUING THE FISCAL YEAR 2013-2014 BUDGET.

- 2. **APPROVAL OF ANNUAL ENGINEER’S REPORT & ADOPTION OF RESOLUTION OF INTENTION TO COLLECT INCREASED ASSESSMENT FOR CITY OF ANGELS LANDSCAPE & LIGHTING DISTRICT NO. 1 (GREENHORN CREEK)**

Derek Cole, City Attorney explained there is an annual process spelled out in the Streets & Highway Code for assessing or adjusting an assessment to special districts . Every year the City is required to receive an Engineer’s report and this report is the basis for the annual assessment. What the Council is specifically being asked to do tonight is accept the engineer’s report. A second item tonight is to adopt a Resolution of Intention which is technically calling a public hearing on the imposition of the assessment in the amount that is proposed. The public hearing will be held at the July 16th council meeting. The final action is to levy the amount of assessment being proposed and this will not happen until the meeting on the 16th.

Mr. Cole addressed some of the legal issues involved with the LLD:

- 1. Loss of wetland acreage and who is responsible.
- 2. There is a surplus in LLD funds in the amount of approx. \$307K. There is the question of what legally can be done with it and a policy issue of what should the City do with it?

Mr. Cole explained there is no need for a Prop. 218 ballot assessment because the assessment fee has not been increased from the \$300.00 fee imposed in 1999. Prop. 218 does require certain compliance that deals with benefits. Special benefits are separate from general benefits and under Prop. 218, property owners can only pay for a special benefit.

Mr. Cole spoke on the legal issues of the wetlands. The question has been who is responsible for the restoration of the wetlands. The Army Corp of Engineers has sent correspondence to the City and the Developer stating this issue needs to be addressed. LLD Attorney Shanahan provided his opinion that the ACOE cannot tell the City that they have an obligation to restore the wetlands. The City has not received a permit or transfer of permit. The City cannot be required to do something to restore the wetlands because they are not a permit holder. However when the City approved this project, they agreed to form an LLD that would be responsible for the “maintenance and monitoring” of the wetlands. The City may not be the permit holder but clearly indicated it would take some responsibility for the maintenance and monitoring of the wetlands. There is an argument that the Developer could say they turned the wetlands responsibility over to the City. He feels there are real possibilities of legal action against the City if they do not move forward as proposed.

Regarding the surplus funds, Streets & Roads section 22656 says that any surplus funds accumulated can be used towards the expenses of the LLD. The bottom line is that the City can use the surplus funds to restore the wetlands.

John Bliss, Civil Engineer from SCI Consultation group gave a PowerPoint explaining general questions on the Engineer’s Report.

Public Comment was opened at 6:55 p.m.

Scott Behiel – 338 Mill Road

Spoke in favor of accepting the Engineer’s Report.

Rick Parker – 540 Raggio Court

Spoke in favor of accepting the Engineer’s Report

Bob Trincherro – 612 Selkirk Ranch Road

Spoke in favor of accepting the Engineer’s Report

Denise Turco – Angels Camp Resident

Stated that she wanted the wetlands cleaned up, but is adamantly opposed to using LLD funds for this purpose. She asked the following questions:

1. How can the City Council possibly justify spending LLD funds in support of a public entity – that being the golf course.
2. What is the Council going to put in place to safeguard future requests from the golf course when they come to the LLD again and want to expend funds for some other purpose and the Golf Course is justifying somehow that LLD funds should be used for that purpose. What safeguards will be put into place to protect the LLD from having the golf course come back years from now requesting more LLD funds for the benefit of the Golf Course.
3. Would I have a right as an LLD member to request a refund of the monies I paid into the LLD that were designated for road maintenance for all those years? I understand they are currently sitting in a surplus but do I have a legal right as an LLD member who paid into those road maintenance funds to request a refund of those funds?
4. If the Council accepts this and moves forward with this, who will decide who does the work for the mitigation. Will it be the Council that makes that determination or the Golf Course?

5. Having reviewed many of the documents related to this question, who will be granting the easement to the LLD to do the maintenance of the wetlands as currently there is no easement allowing other groups access to many of those wetlands that would be mitigated.

Randy Hennessey – 600 Springhouse

Asked if the Golf Course has asked the LLD to fix the wetlands or does the LLD just want to clean up the wetlands. Happy to allow an easement on her property.

Mike Kristoff – General Manager of Greenhorn Creek

Commended City Staff, the City Attorney and LLD Engineer on addressing very difficult issues that have been in discussion for at least the 12 years he's been at Greenhorn Creek and have never really been addressed. They have done an outstanding job. He said that the Engineer's presentation and explanation from the City Attorney was the best production for an LLD report he has witnessed at a meeting of the City Council. He stated that Greenhorn Creek pays into the District, is a member of the District and asked the City Attorney to clarify that they pay in the same amount as the residents.

Craig Turco – Angels Camp Resident

Stated for the record that he agreed with the other speakers – he wants the wetlands fixed. Where he disagrees is who should pay for it. He read an email that was written in support of the Engineer's report that said "It's for the good of the City of Angels" and he said a comment made earlier was that this was "for the good of the City of Angels". He said he felt he'd be hard-pressed for Mr. Bliss to confer a special benefit for the City of Angels. You can't do it, that's why it's a special district. He said it was stated tonight that it would be increased value for the Angels Camp General Fund if we go through this scenario and also for the County of Calaveras. He asked how would you qualify that as a special benefit. Another comment he read was "the wetlands are an asset to Angels Camp and to the many visitors who visit WorldMark." They don't pay into special district. He said the bottom line what this all about is a onetime fee – supposedly – to mitigate the wetlands that have deteriorated over time. He recommended that the money be refunded back to the members of the LLD. By law you can do it. Forget about the \$20K for the monitory and go back and abide by Skenfield's timetable which was accepted by everybody at the time. And then the Golf Course can open an account and those that want to contribute put there refund into that account. He said what it boils down to is who is responsible for paying for this. He stated that his recommendation is viable and it makes sense. The greatest financial benefit received is to the Golf Course. Mr. Turco said that Mr. Cole's comments about legal issues and all the ramifications sounded like he was pumping up the Council but the Council has another option. The Council can alter the Engineer's report and ask Mr. Bliss to go back based on Council's recommendations.

Ray Walker – 360 Smith Flat Road

Spoke in favor of accepting the Engineer's Report.

Public Comment Closed – 7:15

The City Attorney addressed the questions asked during public comment. In answer to Mrs. Turco's questions:

1. *How can the City Council possibly justify spending LLD funds in support of a public entity – that being the golf course.*
The Golf Course pays into the assessment as well as the residents. It's not a public entity – it's a private corporation, not a California special district. It pays the assessments like everybody else. Mr. Bliss clarified the question: "How can an LLD, which typically pays for improvements on public land pay for something that's on a private parcel. The reason that they could is there is no question there is a special benefit of those wetlands, but they reside on a private property. There is legal precedent for paying for the improvement for items that are on private land.

Mrs. Turco said that she felt her question was not answered. She asked the Mayor to reopen public comment. The Mayor said public comment was closed and any other comments Mrs. Turco needed to make should be done at the Public Hearing. Mrs. Turco said she would like to be more specific in her question and respectfully asked the Mayor to reopen public comment. The Mayor said she could clarify her question at the public hearing on the 16th.

2. *What is the Council going to put in place to safeguard future requests from the golf course when they come to the LLD again and want to expend funds for some other purpose and the Golf Course is justifying somehow that LLD funds should be used for that purpose. What safeguards will be put into place to protect the LLD from having the golf course come back + years from now and request more LLD funds for the benefit of the Golf Course.*
The City Attorney's interpretation of this question was what precedent would be set, i.e., if you do this do you open up the door for the Golf Course to come in and say they wanted to improve the greens or club house, etc. The answer to that is we are strictly limited to doing that which is in the resolution of formation of the district. We are limited to what the resolution says. Because the resolution is pretty clear on what can and can't be done, he feels there is no concern of opening the door to future requests.
3. *Would I have a right as an LLD member to request a refund of the monies I paid into the LLD that were designated for road maintenance for all those years? I understand they are currently sitting in a surplus but do I have a legal right as an LLD member who paid into those road maintenance funds to request a refund of those funds?*
The City Attorney view is that no person has the right to decide they like a particular service but doesn't agree with another service and doesn't want to pay for it. But, everyone has their right to seek legal council. Get independent advice.
4. *If the Council accepts this and moves forward with this, who will decide who does the work for the mitigation. Will it be the Council that makes that determination or the Golf Course?*
The person who is going to do the work has not been decided. He said there will be a clear understanding between the City and Golf course of what is expected. He has a standard protocol used in agreements to make sure the City is protected.
5. *Having reviewed many of the documents related to this question, who will be granting the easement to the LLD to do the maintenance of the wetlands as currently there is no easement allowing other groups access to many of those wetlands that would be mitigated.*
This issue is not 100% clear. We are trying to get through some of these legal issues. I can't specifically decide how this issue will be handled because we're not there yet. There is the option of not getting an easement. The Golf Course can grant a license. A license is a revocable right to go on the property. It is something worth considering.

In answer to Ms. Hennessey question: *Has the Golf Course asked the LLD to fix the wetlands or does the LLD just want to clean up the wetlands.*

The City has met with the Golf Course and a former developer and have had reasonable and productive discussions. Everyone is in agreement to address this issue with the least fanfare possible.

In answer to Mr. Kristoff's question: *Does the Golf Course pay the same amount as residents.* They pay just like everybody else.

Council Member Lynch asked the following:

1. He stated that the content of SCI Engineer's Report proposes an assessment of \$296.00 per single family equivalent based on an apparent expense of \$165K each year. When you look at the details of the proposal in terms of the scope of work, the actual project cost is about \$480K or a rate of \$864.00 SFR. Why has there been no discussion on the \$864.00?

2. Councilman Lynch reported that he had supplied a list of questions to be submitted in response to the Engineer's draft report but these were not included in the packet. He requested these be included in the minutes (attached).
3. Why hasn't the City sent a letter to the ACOE as recommended by Attorney Shanahan in April? Shanahan stated in his findings that the City should send a letter to the ACOE responding to its letters of April 2012 and January 2004. The letter should "refute any permittee obligation under the 404 permit, decline to pay or accept liability for in lieu fees the ACOE may claim are due because of permit non-compliance, and invite the ACOE if it disagrees, to provide documents to demonstrate the transfer of permittee responsibilities to the City and the City's acceptance of that transfer." Council Member Lynch asked why this letter has not been sent.
4. What is the cause of the wetlands to fail? Could this be because of a lack of water being supplied?
5. What guarantee is there that Grupe will manage and run the water to the wetlands after they're fixed as required in the 404 permit? There was a specific 3 gallons per minute requirement that has to be flowing out of the big lake. There may be other requirements that show continuous flow. If they don't supply the water on the basis of requirements under the permit, can the LLD intervene, i.e. pump the water and bill Grupe for the cost of the water?
6. If the Golf Course is sold, who will be responsible for maintaining the 404 permit and the wetlands? Does the action by the Council set a precedent that the LLD will respond to future ACOE citations?
7. The Engineer's Report states that this proposed restoration project is a one-time fix. How can staff guarantee that this is a one-time fix?
8. Why are street signs, district signs, monument signs now included in the budget as clarifications. These total \$3000 a year. These are City streets and these kinds of signs should be treated as City streets. There is no particular special benefit.
9. The responsibility of the LLD is defining the roads as inside curb to inside curb but what is the responsibility as respect to parking abayment. His understanding was that these parking areas would be maintained by the City.
10. Can you explain the details of the new \$20,000 improved maintenance of wetlands to be used. What kind of work will be done. \$5,000 a year has been budgeted in the past. What is the jump of \$15,000.?
11. Do you have any proposals to respond to and resolve any of these questions that would go some distance towards setting up a framework to reduce the exposure of everyone concerned to litigation either from the owner of the Gold Course or from the residents? We should be looking for some compromises or solutions that mitigate or prevent possible lawsuits or litigation.

Council Member Sobon stated that Councilman Lynch has identified several issues in regards to the preparation of the final Engineer's Report as of now based on the draft. We need to move forward, obviously we need to address Councilman Lynch's questions. The principle issue and concern is to move ahead with the restoration of the wetlands and as an "early on" property owner, I reviewed some of the disclosure documents that were provided to him and in his readings of those dated in 1996, it was clear that the LLD district encompasses the wetlands preservation and compensation plan, so the funds the LLD is receiving by these assessments was intended, at least at that timeframe, to be applied towards the restoration and maintenance of the wetlands. Councilman Sobon recommended the Council move forward with the Engineer's Report.

Councilman Kulm reported that the analysis on page 10 of the draft report shows setting up reserves for the landscape maintenance. The conclusion is there is a contract that is less than the required reserves. What happens when the contract expires? If it goes out to bid at a higher rate, does that whole analysis have to be revisited?

John Bliss, LLD Engineer and Derek Cole, City Attorney addressed the questions asked by the Councilman Lynch:

1. *SCI Engineer's Report proposes an assessment of \$296.00 per single family equivalent based on an apparent expense of \$165K each year. When you look at the details of the proposal in terms of the scope of work, the actual project cost is about \$480K or a rate of \$864.00 SFR. Why has there been no discussion on the \$864.00?*

Mr. Bliss responded stating that this is kind of like a budget flow-through. There is a reserve amount at the top of the budget. Costs are added up and those costs include the regular services provided, but this year also include the \$307K proposed to be used for the wetlands. All the regular costs, plus the \$307K is where we get the \$478K figure. Before this is divided by the number of units, he applied the entire reserve amount and got the big number which is about \$378K and then he applied the reserve amount which is about \$314K and get the \$164K. So, it's the big number less the reserve and we'll spend all of that reserve because of the one-time improvement and we get the \$164K. We divide the \$164K by the number of benefit units or SFE and that's where we got the rate of \$296.93

2. *Councilman Lynch reported that he had supplied a list of questions to be submitted in response to the Engineer's draft report but these were not included in the packet. He would like these questions responded to.*

Mr. Cole stated he did review the list of comments, but his practice is to answer questions from Council in open session unless a closed session is warranted. He does not want the possibility of there being a serial meeting and advising Council on things that have to be raised in a public meeting. He said Councilman Lynch's comments are very well stated and will be part of the record. He stated that the questions asked by Councilman Lynch tonight cover a lot of the territory in his list of comments.

Mr. Cole then went on to answer Councilman Lynch's specific questions raised tonight:

3. *Why hasn't the City sent a letter to the ACOE as recommended by Attorney Shanahan in April?*

Mr. Cole stated that a letter to the ACOE would be advisable but at this point there are other issues that need to be addressed. He said he feels it is better to have an open dialog with the ACOE, with the assistance of the Developer to see if we can get a resolution that avoids a lot of fanfare. He stated if he were to draft a letter to the ACOE that says in polite terms "pound sand", that might provoke a reaction that might bring attention and action by the ACOE that he doesn't think would be helpful at this time. His preference is that the City maintain their position and present it at the right time. If the Council directs him otherwise, he will do it. Mr. Cole's advice was that it is better to wait for the time being.

4. *What is the cause of the wetlands to fail? Could this be because of a lack of water being supplied?*

Mr. Cole said that he thinks the Horizon report addresses that. He felt he was not the right person to answer this question. The City Administrator stated that Mr. Cole was correct, the Horizon report addresses the question. It's a combination of lack of maintenance over time, silt build-up that occurs over time. The Horizon report clearly defines how it got to the point that it has.

5. *What guarantee is there that Grupe will manage and run the water to the wetlands after they're fixed as required in the 404 permit? There was a specific 3 gallons per minute*

requirement that has to be flowing out of the big lake. There may be other requirements that show continuous flow. If they don't supply the water on the basis of requirements under the permit, can the LLD intervene, i.e. pump the water and bill Grupe for the cost of the water? Mr. Cole stated that this is something being worked out with the Developer. He said if the City were to send a letter to the ACOE saying the wetlands will not be maintained by the City, the ACOE may then push back to the Developer saying it is their responsibility. The Developer could then say it's the City's responsibility and then suddenly the discussion takes on a litigation or pre-litigation posture. If this situation develops, everyone will obviously "lawyer up" because everyone is thinking of their legal position, their rights and obligations. There is a different dynamic with the wetlands issue. Even though there have been some disagreements in the public of who is responsible, everyone, including the City, Developer, staff, Administration, the Engineer and the public want this issue resolved. Mr. Cole's opinion is that it is best to work together cooperatively. He said his specific response to the question is that this does not have an answer right now. It's a question that needs to be answered and needs to be put on the table to be worked out. There are steps that need to be taken to resolve this. The City is doing the most major steps tonight and at the next Council meeting but that doesn't mean the City is out of the woods; there is more to do.

Councilman Lynch said that he doesn't want to belabor this but he respectfully asked that the Attorney check out past history with respect to compliance with supplying sufficient water to guarantee the 3 gallon flow per minute as required by the Engineer's permit. Mr. Cole said he understands the direction given by Councilman Lynch.

6. *If the Golf Course is sold, who will be responsible for maintaining the 404 permit and the wetlands? Does the action by the Council set a precedent that the LLD will respond to future ACOE citations?*
If an agreement is reached with the Developer that squarely deals with all of the issues being raised, it will be clearly stated that successors are subject to the agreement.
7. *The Engineer's Report states that this proposed restoration project is a one-time fix. How can staff guarantee that this is a one-time fix?*
Mr. Bliss read the following "for 2013-2014, the District will invest \$20K in annual monitoring, maintenance and mitigation and \$307K in direct one-time improvements and mitigation. The intent is that the improvements made with the \$307K corrects the problem and addresses many of the issues with the wetlands. The \$20K a year maintains the wetlands to the degree that we don't need a second one-time fix in the future.
8. *Why are street signs, district signs, monument signs now included in the budget as clarifications. These total \$3000 a year. These are City streets and these kinds of signs should be treated as City streets. There is no particular special benefit.*
Mr. Bliss explained that the Engineer's report talks about three types of signs. The first type is the monument signs. There are three (3) monument signs and are special as they are not signs the City typically has. The second type is called a district sign – these are the smaller signs that give information about the area. The third type of signs are stop signs, crossing signs and similar signs you might see in the City. The signs within Greenhorn Creek have borders around them and are painted different. There is a difference between those signs and the signs found in the City. Probably more important is that when the City accepted the streets in 2009, the resolution is very specific on what was included and not included. The Engineer's understanding of the resolution is that it's very clear that it does not include signs.
9. *The responsibility of the LLD is defining the roads as inside curb to inside curb but what is the responsibility as respect to parking abayment. His understanding was that these parking areas would be maintained by the City.*
Mr. Bliss read a portion of the City resolution which accepted the roads from Greenhorn Creek: "the City Council hereby accepts said streets, including parking areas adjacent thereto, into the City maintained system". Mr. Bliss agreed with Councilman Lynch's understanding

that the parking areas would be maintained by the City. In the draft budget, there was a line item for parking maintenance – this has since been removed. The City has not accepted the signs or curb & gutter, but they have accepted the roads and black asphalt paving. That is not in the budget.

10. *Can you explain the details of the new \$20,000 improved maintenance of wetlands to be used. What kind of work will be done. \$5,000 a year has been budgeted in the past. What is the jump of \$15,000.?*

This figure came directly from the Horizon analysis. It includes dredging, removing silt build-up, cat-tail cutting and a number of other maintenance items outlined in the Horizon report.

11. *Do you have any proposals to respond to and resolve any of these questions that would go some distance towards setting up a framework to reduce the exposure of everyone concerned to litigation either from the owner of the Gold Course or from the residents? We should be looking for some compromises or solutions that mitigate or prevent possible lawsuits or litigation.*

Mr. Cole said that a secret many City Attorneys and County Counsels all feel about their jobs is that they are always fearful that they give some advice which the Council accepts, but then the courts take the opposite position from the advice that the attorney gives. It is difficult to accurately predict what courts would do and what the results of litigation would be. Mr. Cole said he could tell the Council what his opinion is and give good advice based on his experience. He said he will do everything he can to come up with something that maybe everyone can agree on regarding the wetlands issue. If there is any way to avoid litigation, he said he would certainly do everything he can to do so.

John Bliss addressed the question asked by the Councilman Kulm:

He explained that the budget was divided into three areas. One was for landscaping costs, one for hardscape and other costs (signs, etc.) and one which included the cultural area, wildlife corridors, utilities and administration. Of the three, the City had the luxury that the engineer estimated what typically would be seen in this type of cost and it came up to about \$93K. There is a fixed price contract for \$90K. As time goes on, the landscaping costs also go up. The bottom line is if the costs go up the budget goes up and the cost per SFE goes up. However the City has a maximum of \$300.00. At some point the costs will get to \$300 per year and a decision will need to be made. Reduce service level or find another funding measure. One of the funding measures will be a new balloting to increase assessments. Mr. Bliss said the good news is he doesn't believe the costs will max out soon. The City Administrator pointed out that the current landscaping contract is for 3 years with 2 1-year options.

Council Member Kulm stated it's obvious we're in this situation because a lot of mistakes have been made in the past. There's plenty of blame to go around whether from the ACOE, the Developer or the City. Agreements weren't written that spelled out proper lines of responsibility. Maybe we have the opportunity to clarify the roles of the various parties. Councilman Kulm said it was mentioned by Mr. Turco that the issue is what is best for the LLD not what is best for the City of Angels. Mr. Kulm stated that you cannot separate the LLD from the City. The bigger picture is that the decisions Council makes regarding the LLD could have financial implications about the greater City. As the Greenhorn Creek community benefits. The City benefits as well. The community is an attraction for tourism, it brings in revenues and it is essential that the Greenhorn Creek community with the golf course remain in our economy. Mr. Kulm stated that it is clear that the overwhelming opinion by many residents in Greenhorn is to move forward and do something positive. It's not in the best interest to return the money back to the property owners. It can be spent on litigation and when that money runs out we can go into the general fund and continue spending money on litigation but that doesn't serve any purpose. There is an opportunity tonight to do something constructive and put the City on a positive path so it doesn't have to be dealt with in the future. Councilman Kulm recommended that the Council accept the Engineer's report as presented with the minor revisions mentioned.

Council Member Lynch stated he has a lot of difficulty with the Grupe Corp. who has avoided their responsibility in maintaining the wetlands in to their proper condition. It is not due to negligence by the LLD. He reported that the Grupe Corp. has chosen not to respond to citations issued over 10 years ago in 2003. Grupe has stonewalled the ACOE. He stated he therefore was very reluctant to recommend that City LLD funds be used to correct Grupe's issues and problems. He opposes using the LLD funds to fix the wetlands.

Council Member Sobon said he would counter Council Member Lynch's opinion with regard to what he had referenced earlier. He said it was clear to him that the initial intent was for the LLD district to be collecting funds for wetlands maintenance and restoration. He said it wasn't the Developer's responsibility, it was the City's through the District. He stated he was in favor of proceeding with Resolution 13-17 and directing that the Engineers report be finalized to address all of the comments that have been raised. Council Member Kulm seconded the motion.

The City Engineer explained as a point of order, if the Council taking a favorable action, he suggested amending the motion to accept the Engineer's Report and to approve the Resolution of Intention so that it is formally adopted. The City Clerk has made arrangements to have the resolution of intention published.

Council Member Sobon amended his motion. Council Member Kulm amended is second.

MOTION by Council Member Sobon, seconded by Council Member Kulm ADOPTING RESOLUTION NO. 13-17 AND RESOLUTION 13-18.

Mayor Morris read the motion into the record:

ADOPT RESOLUTION NO. 13-17. (A RESOLUTION DIRECTING THE PREPARATION OF THE ENGINEER'S REPORT FOR THE CONTINUATION OF THE LANDSCAPING & LIGHTING DISTRICT NO. 1 - GREENHORN CREEK) with any amendments needed. AND

ADOPT RESOLUTION NO. 13-18. (A RESOLUTION APPROVING THE PRELIMINARY ENGINEERS REPORT, DECLARING ITS INTENTION TO CONTINUE ASSESSMENTS FOR FY 2013-2014 FOR THE LANDSCAPING & LIGHTING DISTRICT NO. 1 -GREENHORN CREEK AND NOTICE PUBLIC HEARING FOR JULY 16, 2013.)

Council Member Lynch asked for a roll call vote.

Sobon {YES}, Kulm {YES}, Lynch {NO}, Morris {YES}.

The motion passed on a 3-1 vote.

CALENDAR

Calendar was reviewed by City Clerk Mary Kelly.

MEETING WAS ADJOURNED AT 8:10 P.M.

Elaine Morris
Mayor

ATTEST:

Mary Kelly
City Clerk