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TORRANCE CITY COUNCIL – JANUARY 8, 2013

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At 11:23 p.m., the City Council adjourned to Tuesday, January 15, 2013 at 5:30 p.m. for a joint meeting with the Traffic Commission in the West Annex Commission meeting room, with regular business commencing at 7:00 p.m. in the Council Chamber.	

January 8, 2013

**MINUTES OF AN ADJOURNED REGULAR
MEETING OF THE TORRANCE CITY COUNCIL**

I. CALL TO ORDER

The Torrance City Council convened in a joint meeting with the Torrance Library Commission at 5:30 p.m. on Tuesday, January 8, 2013 in the Cultural Arts Center Garden Rooms.

II. ROLL CALL

Present: Councilmembers Barnett, Brewer, Furey, Numark, Rhilinger, Sutherland and Mayor Scotto.

Absent: None.

Also Present: City Librarian Theyer and other staff representatives.

Topics of discussion during the City Council's joint meeting with the Library Commission included a review of the Library Division's new Plan of Service.

The City Council recessed at 6:13 p.m.

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The City Council reconvened at 7:02 p.m. in the Council Chamber to conduct regular business.

1. ROLL CALL

Present: Councilmembers Barnett, Brewer, Furey, Numark, Rhilinger, Sutherland and Mayor Scotto.

Absent: None.

Also Present: City Manager Jackson, Assistant City Attorney Sullivan, City Clerk Herbers and other staff representatives.

2. FLAG SALUTE/ INVOCATION

The flag salute was led by Youth Council member Jillian Free.

The non-sectarian invocation was given by Councilmember Rhilinger.

**3. REPORT OF CITY CLERK ON POSTING OF THE AGENDA/ MOTION TO
WAIVE FURTHER READING**

City Clerk Herbers reported that the agenda was posted on the Public Notice Board at 3031 Torrance Boulevard on Thursday, January 3, 2013.

MOTION: Councilmember Furey moved that after the City Clerk has read aloud the number and title to any resolution or ordinance on the meeting agenda, the further reading thereof shall be waived, reserving and guaranteeing to each Councilmember the right to demand the reading of any such resolution or ordinance in regular order. The motion was seconded by Councilmember Numark and passed by unanimous vote.

4. WITHDRAWN, DEFERRED OR SUPPLEMENTAL ITEMS

No items were withdrawn or deferred. Supplemental material was available for Agenda Items 12A and 13A.

5. COUNCIL COMMITTEE MEETINGS AND ANNOUNCEMENTS

Mayor Scotto thanked Councilmember Barnett for serving as Mayor Pro Tem for the past six months and welcomed Councilmember Rhilinger who will be serving as Mayor Pro Tem through June.

Mayor Scotto wished City Manager Jackson, City Clerk Herbers, and Councilmember Barnett a happy birthday and noted that Louis Zamperini will be celebrating his 96th birthday on January 26.

Councilmember Brewer announced that the City Council will hold a joint meeting with the Traffic Commission on Tuesday, January 15, at 5:30 p.m. in the West Annex meeting room of City Hall.

Councilmember Rhilinger announced that the City Council Transportation Committee will meet on Wednesday, January 16, at 4:30 p.m. in the City Manager Assembly room of City Hall.

City Clerk Herbers invited staff and public to view the acrylics of Torrance Artist Guild member Penny Kastagir on display in the City Clerk's office for the month of January.

Councilmember Furey asked that the meeting be adjourned in memory of his father Patrick Furey Sr. who passed away on January 7 in Philadelphia at the age of 93.

Mayor Scotto asked that the meeting be adjourned in memory of former Torrance Assistant City Manager Albert Ng who passed away January 6 at the age of 78.

City Manager Jackson shared remembrances of Albert Ng, noting his pivotal role in the management of Torrance during his 37 years with the city, and offered condolences to his family.

A moment of silence was observed in Albert Ng's memory.

6. COMMUNITY MATTERS

6A. RESOLUTION NO. 2013-01 RE GERALD GALAZ

RESOLUTION NO. 2013-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE
HONORING **GERALD GALAZ** UPON HIS RETIREMENT FROM THE CITY OF
TORRANCE AFTER THIRTY-THREE YEARS OF SERVICE

MOTION: Councilmember Rhilinger moved for the adoption of Resolution No. 2013-01. The motion was seconded by Councilmember Barnett and passed by unanimous vote.

To be presented at a later date.

6B. RESOLUTION NO. 2013-02 RE MIMI TEDFORD

RESOLUTION NO. 2013-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE
HONORING **MIMI TEDORD** UPON HIS RETIREMENT FROM THE CITY OF
TORRANCE AFTER THIRTY-TWO YEARS OF SERVICE

MOTION: Councilmember Rhilinger moved for the adoption of Resolution No. 2013-02. The motion was seconded by Councilmember Barnett and passed by unanimous vote.

To be presented at a later date.

6C. RESOLUTION NO. 2013-03 RE JOE GRIEGO

RESOLUTION NO. 2013-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE
HONORING **JOE GRIEGO** UPON HIS RETIREMENT FROM THE CITY OF
TORRANCE AFTER TWENTY-SIX YEARS OF SERVICE

MOTION: Councilmember Rhilinger moved for the adoption of Resolution No. 2013-02. The motion was seconded by Councilmember Barnett and passed by unanimous vote.

To be presented at a later date.

6D. RECOGNITION OF NORTH TORRANCE HIGH FOOTBALL TEAM

Mayor Scotto presented a certificate recognizing North Torrance High Football Team for being a finalist in the CIF Football Championship to Coach Todd Croce and team members.

6E. RECOGNITION OF WEST TORRANCE HIGH FOOTBALL TEAM

Mayor Scotto presented a certificate recognizing West Torrance High Football Team for being a finalist in the CIF Football Championship to Coach Dave Castillo and team members.

7. ORAL COMMUNICATIONS #1

7A. Bill Orton, on behalf of State Senator Rod Wright, reported that Senator Wright was recently sworn into office and looks forward to serving the residents of Torrance.

Mayor Scotto expressed appreciation for Senator Wright's efforts to try to save the Torrance Redevelopment Agency.

7B. Monica Grundmann, Torrance Women's Club, announced that the club will be holding its annual rummage sale on Saturday, January 12, from 8:00 a.m. to 1:00 p.m. in the clubhouse located at 1422 Engracia Avenue.

7C. Arthur Plourde, Torrance, expressed concerns about hanging wires that are obscuring a traffic signal and about a recent increase in speed limits.

7D. Mark Stephenson, Torrance, voiced concerns that on December 12, 2012, Moody's Investors Service downgraded the City's issuer rating by one level and downgraded the ratings of four lease supported obligations by two levels.

7E. Nancy Mansfield Scott, Torrance, stated that she was disappointed that the Council approved the Rock & Brews restaurant in Riviera Village, noting that demolition has already begun.

8. **CONSENT CALENDAR**

8A. **APPROVAL OF MINUTES**

Recommendation

Recommendation of the City Clerk that City Council approve the City Council minutes of November 20, 2012.

8B. **NOVEMBER 2012 MONTHLY INVESTMENT REPORT**

Recommendation

Recommendation of the City Treasurer that City Council accept and file the monthly investment report for November 2012.

8C. **MAINTENANCE SERVICE AGREEMENT FOR DATA NETWORK DEVICES**

Recommendation

Recommendation of the Communications & Information Technology Director that City Council approve the purchase of an annual maintenance service agreement for data network devices from Cisco Systems, Inc. of San Jose, CA in the amount of \$73,099.80 for the period beginning February 1, 2013 ending January 31, 2014.

8D. **SOFTWARE MAINTENANCE/SUPPORT FOR CITYWIDE FINANCIAL SYSTEM**

Recommendation

Recommendation of the Communications & Information Technology Director and Finance Director that City Council approve the purchase of annual software maintenance and support for the City-wide financial system from New World Systems of Troy, MI, in the amount of \$57,928 for the period beginning January 1, 2013, through December 31, 2013.

8E. **PURCHASE ORDER TO FURNISH/INSTALL POST PRODUCTION AND CENTRALIZED STORAGE SYSTEM**

Recommendation

Recommendation of the City Manager that City Council award a purchase order to Key Code Media of Burbank, CA in the amount of \$167,624.63 plus \$8,381.27 5% contingency for a total of \$176,005.90; to furnish and install a Post Production and Centralized Storage System.

MOTION: Councilmember Sutherland moved for the approval of Consent Calendar Items 8A through 8E. The motion was seconded by Councilmember Brewer and passed by unanimous vote.

10. PLANNING AND ECONOMIC DEVELOPMENT

10A. RESOLUTIONS APPROVING MOD12-00007, PRE12-00004: 340 VISTA DEL MAR – MESKO RESTAURANT GROUP (RIVIERA VILLAGE PROPERTIES)

Recommendation

Recommendation of the Community Development Director that City Council adopt Resolutions reflecting City Council decision at December 18, 2012 meeting to approve a Modification of a previously approved Conditional Use Permit (CUP74-34) and approve a Precise Plan of Development to allow renovations and outdoor seating to an existing restaurant on property located within the Hillside Overlay District in the C-1 Zone at 340 Vista del Mar.

RESOLUTION NO. 2013-04

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE APPROVING A MODIFICATION OF A PREVIOUSLY APPROVED CONDITIONAL USE PERMIT (CUP 74-34) AS PROVIDED FOR IN DIVISION 9, CHAPTER 5, ARTICLE 3 OF THE TORRANCE MUNICIPAL CODE TO ALLOW RENOVATIONS AND OUTDOOR SEATING TO AN EXISTING RESTAURANT ON PROPERTY LOCATED WITHIN THE HILLSIDE OVERLAY DISTRICT IN THE C-1 ZONE AT 340 VISTA DEL MAR. MOD12-00007 MESKO RESTAURANT GROUP (RIVIERA VILLAGE PROPERTIES)

MOTION: Councilmember Rhilinger moved for the adoption of Resolution No. 2013-04. The motion was seconded by Councilmember Barnett and passed by unanimous vote, with Councilmember Numark abstaining.

RESOLUTION NO. 2013-05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE APPROVING A PRECISE PLAN OF DEVELOPMENT AS PROVIDED FOR IN DIVISION 9, CHAPTER 1, ARTICLE 41 OF THE TORRANCE MUNICIPAL CODE TO ALLOW RENOVATIONS AND OUTDOOR SEATING TO AN EXISTING RESTAURANT ON PROPERTY LOCATED WITHIN THE HILLSIDE OVERLAY DISTRICT IN THE C-1 ZONE AT 340 VISTA DEL MAR. PRE12-00014 MESKO RESTAURANT GROUP (RIVIERA VILLAGE PROPERTIES)

MOTION: Councilmember Rhilinger moved for the adoption of Resolution No. 2013-05. The motion was seconded by Councilmember Barnett and passed by unanimous vote, with Councilmember Numark abstaining.

12. ADMINISTRATIVE MATTERS

12A. LOS ANGELES COUNTY CLEAN WATER CLEAN BEACHES MEASURE

Recommendation

Recommendation of the City Manager and the Finance Director that City Council “NOT PROTEST” the Los Angeles County Clean Water Clean Beaches Measure.

Senior Administrative Analyst Eng provided background information about the Los Angeles County Clean Water Clean Beaches Measure, which would establish an annual parcel fee to pay for clean water programs, and reviewed the two-step process necessary for the fee to be approved. She advised that the City of Torrance’s annual fee based on 210 parcels has been estimated at \$142,000 and the City would receive approximately \$2.2 million in funding for clean water projects. She reported that staff was recommending that the City not protest the proposed measure.

Councilmember Sutherland voiced his opposition to this measure, relating his belief that the government has enough money, but spends it foolishly. He disclosed that he has already submitted protest forms for the two properties he owns. He expressed concerns that this type of incremental increase in the tax burden will only lead to more people and more businesses moving out of state. He indicated that he might have been more inclined to support the measure if Torrance received all of the revenue generated instead of only 40%.

Councilmember Brewer pointed out that while the City will be receiving money from the measure, Torrance Unified School District will not and it will have to pay approximately \$260,000 for its 37 parcels, which is money it does not have.

Public Works Director Beste clarified that 50% of the revenue generated from the parcel tax will be designated for regional projects and the City will be eligible to apply for these funds in addition to the \$2.2 million.

In response to Councilmember Numark’s inquiry, Public Works Engineering Manager Dettle provided clarification regarding the City’s Stormwater Quality Master Plan, which has identified \$120.2 million in water quality improvement projects to bring the city into compliance with Los Angeles Regional Water Quality Control Board standards.

Councilmember Numark asked about potential penalties for non-compliance.

City Manager Jackson advised that even if the measure is approved, the improvements cannot be implemented immediately; that no deadline has been established for their completion; and that the consequences for failure to complete them have not been identified at this time. He reported that the City has received penalties for specific violations, but not for failure to complete improvements and these penalties have amounted to tens of thousands of dollars.

Mayor Scotto related his understanding that a city on the East Coast recently fought similar regulations and the judge ruled in the city’s favor.

Assistant City Attorney Sullivan indicated that he was not aware of that case, but there was a recent U. S. Supreme Court decision involving the Los Angeles County region which may be applicable to Torrance.

Councilmember Rhlinger expressed concerns that the Regional Water Quality Board has established overly stringent water quality standards for storm water run-off and cities must now find a way to pay for what is essentially an unfunded mandate.

Assistant City Attorney Sullivan advised that many cities have expressed concerns about the unreasonably high standards and litigation was one possible remedy.

In response to Councilmember Furey's inquiry, Public Works Director Beste confirmed that the City has been seeking other sources of funding for water quality improvements and recently received a \$300,000 federal grant and another grant of \$3.3 to upgrade sumps, but conceded that in order to accomplish all the projects in the Stormwater Quality Master Plan, a more reliable source of funding, such as the tax proposed by this measure would be needed.

Responding to questions from the Council, City Manager Jackson provided clarification regarding the two-step approval process for the measure.

Mayor Scotto stated that as a fiscal conservative, he shares Councilmember Sutherland's and Councilmember Brewer's concerns about this measure, and has already submitted protest forms for the properties he owns. He acknowledged, however, that the funding that would be provided by the measure is greatly needed. He expressed concerns that special taxes on everything imaginable will be proposed this year because the tax increases approved by voters in November 2012 have led some to believe people are more receptive to new taxes. He reported that the Council received a letter from L.A. County Supervisor Don Knabe asking that the City protest the measure.

Mayor Scotto invited public comment.

Arthur Plourde, Torrance, voiced objections to the proposed measure. He questioned why storm water run-off is now perceived to be a major problem when it is a natural occurrence neither caused nor controlled by man. He urged the Council to take a strong stand on this issue and encouraged the public to show up en masse at the public hearing on the measure to voice their displeasure.

Bonnie Waters, Torrance, voiced objections to the proposed increase in property taxes.

Mark Stephenson, Torrance, expressed concerns about the National Pollution Discharge Elimination System Permit (MS4 NPDES Permit) and requested clarification of some of the provisions. Mayor Scotto advised that the NPDES Permit was not the subject of this hearing.

Mr. Stephenson recommended that the City let the process go forward and protest at the time of the actual vote.

Rick Marshall, Torrance, urged the Council to protest the proposed measure, relating his understanding that there are several legal challenges to the classification of rainwater as a pollutant. He reported that the Attorney General of Virginia recently won a suit regarding storm water run-off that may be pertinent. He expressed concerns that the protest form along with information about the measure was mailed out during the busy holiday season and could have been mistaken as junk mail. He noted that property owners already pay a flood control tax and voiced objections to being charged an additional fee for this purpose.

Todd Blair, Torrance, urged the Council to protest this measure and say "no" to cascading tax increases.

MOTION: Councilmember Brewer moved to have the City of Torrance “PROTEST” the Los Angeles County Clean Water Clean Beaches Measure. The motion was seconded by Councilmember Rhilinger and passed as reflected in the following vote:

YES: Councilmembers Barnett, Brewer, Rhilinger, Sutherland and Mayor Scotto
NOES: Councilmembers Furey and Numark

Agenda Item 15.1.A was considered out of order at this time.

15.1. OTHER – SUCCESSOR AGENCY to the former Redevelopment Agency of the City of Torrance

Councilmember Rhilinger announced that due to her position on the Oversight Board to the Successor Agency she would recuse herself from consideration of item 15.1A and exited the Council Chamber at 8:21 p.m.

15.1A. REPORT ON DUE DILIGENCE REVIEW

Recommendation

Recommendation that City Council, acting as the Successor Agency to the former Redevelopment Agency of the City of Torrance, accept and file the Due Diligence Review Report of the former Redevelopment Agency of the City of Torrance to be forwarded to the Los Angeles County Auditor Controller, State Controller and Department of Finance pursuant to ABX1-26 and AB 1484.

MOTION: Councilmember Furey moved to concur with the staff recommendation. The motion was seconded by Councilmember Brewer and passed by unanimous vote (absent Councilmember Rhilinger).

Councilmember Rhilinger returned to the Council Chamber at 8:22 p.m.

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The City Council recessed at 8:23 p.m. and reconvened at 8:40 p.m. with all members present.

13. HEARINGS

13A. MIS12-00085: 209 VIA EL TORO – JIM DELURGIO

Recommendation

Recommendation of the Planning Commission that City Council deny the appeal and adopt Resolution denying a Minor Hillside Exemption to allow single-story additions under 14-feet in height to the front, sides, and rear of the residence on property located within the Hillside Overlay District in the R-1 Zone at 209 Via el Toro.

Recommendation of the Community Development Director that City Council approve the appeal and adopt Resolution approving a Minor Hillside Exemption to allow single-story additions under 14-feet in height to the front, sides, and rear of the residence on property located within the Hillside Overlay District in the R-1 Zone at 209 Via el Toro.

Mayor Scotto announced that this was the time and place for a public hearing on this matter. City Clerk Herbers confirmed that the hearing was properly advertised.

Planning Manager Lodan provided background information about the project, explaining that that a two-story addition was previously approved for this site in July 2010, but the applicant declined to build it and has proposed a one-story project instead. With the aid of slides, he briefly reviewed the project and shared photographs of the site taken from various vantage points in the neighborhood. He advised that staff believes the proposed project would have less impact on view corridors than the previously approved two-story project and therefore has recommended approval. He reported on the Planning Commission's action, noting that the Commission denied the project on November 7, 2012 by a vote of 5-0 with two Commissioners absent.

Councilmember Brewer disclosed that he had met with Peter Lattey and Vicki Radel, 515 Camino de Encanto, as well as the project architect Nagy Bakhoum.

Councilmember Brewer asked if the project could be lowered into the ground to mitigate view impact, and Planning Manager Lodan advised that the project is already below grade and drainage would be impacted if it was lowered any further.

Councilmember Sutherland disclosed that he discussed the project with Vicki Radel, who is also a personal friend.

Councilmember Numark disclosed that he viewed the project from 513, 515 and 523 Camino de Encanto and spoke with Ms. Kusion, the owner of 523 Camino de Encanto, while he was there.

Councilmember Furey disclosed that he did not meet with any of the parties involved as is his policy, however, he viewed the project site from several different angles and reviewed all the material in the agenda item.

Councilmember Furey asked about the applicant's claim that conditions imposed on the previously approved project restricting the height of vegetation violate the Hillside Ordinance, the City Charter and land use laws. Assistant City Attorney Sullivan reported that the City disagrees with this claim.

Nagy Bakhoum, project architect, discussed challenges presented by this site due to view corridors that extend over, around and through the property. He reported that his goal was to design a project that would cause the least intrusion on neighbors and this was accomplished by locating the addition in the area of the lot that would have the least impact on view corridors, maintaining the lowest possible plate heights and roof pitch, and reducing the size of the project, which now has an FAR (floor area ratio) of only 0.265. Using renderings to illustrate, he noted that the project has undergone numerous revisions to minimize the impact on neighbors and the roof on the southeasterly addition is virtually flat. To demonstrate the impact of the project, he used photographs taken by staff that had been altered using Photoshop to represent the finished residence. He emphasized that his clients have made many compromises and urged approval of the project, which is well within Hillside Ordinance guidelines.

Mayor Scotto disclosed that he had been to the project site and visited neighbors' homes in the past, but not recently and that he had received a number of emails for and against the project which were included in the supplemental material.

Mayor Scotto invited public input.

Peter Lattey, 515 Camino de Encanto, stated that he supports the current proposal with the conditions outlined in his letter dated January 1, 2013 (agenda material), including a condition that the addition be reduced in height approximately one foot to eliminate all view impact. He requested that foliage restrictions placed on the previously approved project be imposed on this project to prevent Mr. Delurgio from carrying out his stated intent to obscure neighbors' views with foliage. He contended that photographs presented by Mr. Bakhoun to demonstrate view impact were misleading.

Councilmember Rhilinger, noting that Mr. Lattey is an architect, questioned whether he believes this project is an improvement over the previously approved two-story project.

Mr. Lattey responded that he thought this project would have less impact on 513 Camino de Encanto, but more impact on 523 Camino de Encanto, and with regard to 515 Camino de Encanto, he thought this project was an improvement, but Ms. Radel disagrees.

Gene Kusion, 523 Camino de Encanto, stated that the previously approved two-story project would have preserved this property's main V-shaped view corridor, which will be decimated by the proposed project unless its height is reduced. He recalled that Councilmember Brewer and Mayor Scotto visited his home two years ago and cautioned him that the two-story addition proposed at that time would have much less impact than a one-story project. He urged that restrictions on the height of foliage be imposed on this project because of Mr. Delurgio's history of planting view obscuring foliage.

Councilmember Brewer recalled that Mr. Kusion spoke against the two-story project at the time it was considered by the City Council. Mr. Kusion stated that he opposed the two-story project because he felt that any view loss was unacceptable.

Councilmember Brewer requested clarification regarding Mr. Kusion's interest in the 523 Camino de Encanto property. Mr. Kusion responded that the property was purchased by his parents in 1964 and is part of their estate; that it is currently being renovated; and that he hopes to live there in the future.

Councilmember Barnett disclosed that he visited the project site and neighboring properties in connection with earlier project, but had not been there recently.

Cindy Constantino, 513 Camino de Encanto, urged the Council to impose restrictions on the height of foliage in order to protect neighbors' property values.

Vicki Radel, 515 Camino de Encanto, stated that the proposed project would impact her blue-water ocean view, as well as light and airflow to her property, noting that she has owned this property for over 40 years. She maintained that her view has been strategically obstructed by foliage to hide the real impact of the proposed project. She urged that the project be limited to the height of the existing eaves and that restrictions on the height of foliage be imposed.

Judy Brunetti, Riviera Homeowners Association, conceded that the proposed project was modest in size and appears to respect neighbors' views, but urged that restrictions be imposed on the height of vegetation because Mr. Delurgio publicly stated his intention to allow vegetation to become overgrown to obstruct neighbors' views.

Kelli Evans, 933 Calle Miramar, stated that she did not understand the continuing opposition to this very modest addition. She reported that residents in her neighborhood work

together to resolve vegetation issues. She noted that she has been friends with the Delurgios for some time and vegetation in their yard did not appear overgrown when she visited the property.

Returning to the podium, Mr. Bakhom reported that the height of the addition is already 2½ feet below the permitted 14-foot height for a one-story project and another one-foot reduction would be greatly detrimental to this project. He noted that the area neighbors want lowered an additional foot is now only 9'2" above grade. He clarified that the photographs he presented were taken by staff and he simply used Photoshop to fill in the silhouette to represent the finished residence. He urged the Council to uphold his clients' right to build a conforming project.

Steve Goldberg, Redondo Beach, legal counsel for the Delurgios, stated that neighbors are objecting to any impact to their views, but this is not the standard in the Hillside Ordinance, which requires only that applicants minimize the impact as much as possible, and related his belief that the Delurgios have clearly done this. Referring to his letter dated January 3, 2013 and a transcript of legal proceedings (agenda material), he advised that the view corridor Mr. Kusion is claiming would be impacted by the project was obtained through a legal settlement on the condition that it not be used to oppose this application. He urged the Council to approve the project without any additional conditions, other than those set forth by staff, emphasizing that there is nothing in the Hillside Ordinance that restricts the height of vegetation to preserve views.

Mayor Scotto related his understanding that it would be possible to lower the addition another foot. Mr. Bakhom responded that doing so would require a lot more excavation of soil and some form of mechanical drainage system and he thought this was an unreasonable burden to impose on a conforming project that has maximum height of 11 ½ feet.

Mayor Scotto asked about Mr. Goldberg's claim that Mr. Kusion was precluded from citing the view corridor obtained in legal settlement when opposing this project.

Assistant City Attorney Sullivan advised that according to his review of the legal transcript, specifically pages 50-52 in the agenda material, Mr. Goldberg was correct if the view corridor in question is where the bird of paradise and oak tree were removed as part of the legal settlement.

Planning Manager Lodan confirmed that the view corridor Mr. Kusion claimed would be impacted by the project is the view corridor referenced by Assistant City Attorney Sullivan.

Councilmember Furey pointed out that the legal transcript referred to is dated April 23, 2010 and the application for this project was not filed until July 2012.

Assistant City Attorney Sullivan advised that it was staff's interpretation that Mr. Kusion was precluded from arguing against any project based on the view corridor that was created as part of this legal settlement. He noted that there is some question as to whether Mr. Kusion has any legal standing with regard to this project since he apparently neither lives on the property nor owns it.

Councilmember Brewer reported that he voted against the previously approved project due to the height restriction on vegetation because he felt if vegetation is going to be

regulated, it should be done by way of a city-wide ordinance rather than singling out one property owner.

Councilmember Rhilinger noted that she also voted against the previous project because of the height restriction on vegetation. She disclosed that she visited the site several times in connection with the earlier project, but did not visit it this time and had not spoken with any of the parties involved. She pointed out that the transcript from the legal settlement mentions that a two-story project was the Delurgios' first choice and the one-story project was a fall back and questioned why the Delurgios did not go forward with the previously approved two-story project.

Mr. Goldberg responded that the Delurgios chose not to go forward with the approved project due to the restrictions placed on the project, which would severely limit their ability to develop their property in the future.

Mayor Scotto indicated that he did not recall restrictions on building.

Community Development Director Gibson advised that Condition No 14, which was added by the City Council, states that no additional permanent structure over six feet in height shall be constructed in the rear yard.

A brief discussion ensued regarding the Council's intention at the time the Condition No. 14 was imposed.

Expressing support for the project, Councilmember Brewer voiced his opinion that the project proposed this evening was dramatically different from the previously approved project and that the applicants had made many compromises particularly with regard to the roof height. He reiterated his position that it was wrong to impose restrictions on the height of vegetation for one property owner when no other property in the City was subject to the same restrictions.

Councilmember Furey suggested that this site was unique due to the history of problems involving vegetation and related his belief that it would be best to impose a condition restricting the vegetation to avoid future lawsuits. He acknowledged that lawsuits can be effective in having spite trees removed, but it is an expensive process.

Assistant City Attorney Sullivan advised that staff would not recommend imposing conditions involving vegetation and would prefer that the parties work out these issues among themselves. He doubted that such a condition would end lawsuits in this neighborhood.

Mayor Scotto requested clarification regarding the terms of the legal settlement, and Mr. Goldberg explained that in addition to the removal of the bird of paradise and the oak tree, the agreement limits the height of poplar trees on the Delurgios' property to 14 feet.

Councilmember Sutherland stated that he did not see how the Council could deny the proposed project, which has a maximum height of 14 feet or less, however he was inclined to agree with Councilmember Furey that a condition restricting the height of vegetation should be imposed due to Mr. Delurgio's history of growing vegetation to spite his neighbors.

Mr. Goldberg stated that there was no evidence that Mr. Delurgio has ever planted trees for spite and to the contrary, he has voluntarily removed trees and vegetation throughout

his property. He related his belief that it was not appropriate to deprive this property owner of the right to grow trees when there are no statutes giving the City the authority to do this.

In response to Councilmember Brewer's inquiry, Assistant City Attorney Sullivan advised that the legal settlement reached between Mr. Delurgio and Mr. Kusion applies only to those parties therefore the height restrictions on vegetation would not apply if the properties change hands. He reiterated that staff would prefer that the City not get involved in regulating the height of vegetation due the difficulty of enforcing such regulations.

Community Development Director Gibson discussed the practical difficulties in enforcing a condition regulating the height of vegetation, noting that staff does not have the manpower to go out and measure trees.

In response to Mayor Scotto's inquiry, Ms. Radel stated that she believed the proposed one-story project would have more impact on her blue-water ocean view than the previously approved two-story project.

Councilmember Rhilinger reported that she was concerned about the impact on Ms. Radel's property therefore she asked staff to prepare a comparison of the one and two-story projects (supplemental material #1), which indicates that the footprints of the two projects are very similar so the elimination of second story should be an improvement.

Mr. Bakhom noted that the portion of the addition closest to Ms. Radel's property was 6-inches higher in the previously approved project.

Returning to the podium, Ms. Constantino stated that she thought vegetation was the larger issue because both she and Mr. Kusion had to file lawsuits against Mr. Delurgio to have vegetation trimmed that was planted as "spite fences."

Councilmember Barnett congratulated the architect on doing an excellent job of redesigning the project. He stated that the foliage issue could be easily resolved if Mr. Delurgio would agree to trim it, however, recent history suggests that's probably not going to happen. He commented on the inordinate amount of time and expense spent on this project.

MOTION: Councilmember Brewer moved to close the public hearing. The motion was seconded by Councilmember Sutherland and passed by unanimous vote.

Councilmember Sutherland stated that he believes Mr. Delurgio will not keep his vegetation trimmed, however, after listening to Community Development Director Gibson's comments, he would not support adding a condition regulating it because he felt it would do more harm than good. Voicing support for the project, he related his belief that it has been designed to have the least impact on neighbors' views. He encouraged Mr. Delurgio to work with his neighbors rather than waiting until they file lawsuits.

Councilmember Rhilinger stated that having reviewed all of the agenda material and listened to the testimony, she was convinced that there was no project that would be agreeable to all of the neighbors and voiced her opinion that the proposed one-story addition would have the least impact on as many neighbors as possible. She indicated that she was not in favor of regulating vegetation on a case-by-case basis.

Councilmember Brewer related his belief that the proposed one-story residence would have the least impact on neighbors, noting that this is a difficult lot to develop due to the way it is situated. He expressed the hope that neighbors would work to heal the rift in this neighborhood.

Expressing support for the project, Councilmember Numark explained that he had disregarded Mr. Kusion's comments concerning 523 Camino de Encanto based on the Assistant City Attorney's advice; that the only other property affected is 515 Camino de Encanto; and that he believed of all the options considered, the proposed project would cause the least intrusion on this property. He recalled that the condition involving vegetation was included on the previously approved project to address particular trees that were obscuring view corridors, however, that is not the case with this project and he did not believe it was within the Council's purview to impose conditions based on an applicant's past behavior.

Mayor Scotto voiced his opinion that it should not have been difficult to develop this property and both the two-story and one-story project would have been easily approved if the property owner had trimmed his trees and made an effort to work with his neighbors. He stated that regardless of the outcome, he suspected that this case was not over and will come back to the Council in the future.

MOTION: Councilmember Brewer moved to approve the appeal and approve the project. The motion was seconded by Councilmember Rhilinger and passed by a 6-1 vote, with Councilmember Furey dissenting.

Community Development Director Gibson advised that a resolution reflecting the Council's action will be brought back at a future date.

17. ORAL COMMUNICATIONS #2

17A. Councilmember Sutherland expressed condolences to Councilmember Furey on the loss of his father.

17B. Councilmember Barnett echoed condolences to Councilmember Furey.

17C. Councilmember Barnett, with the concurrence of Council, requested that staff bring forward an item regarding John Power's proposal to continue the Works in Progress theater program at no cost to the City.

17D. Councilmember Brewer offered condolences to Councilmember Furey.

17E. Councilmember Brewer requested that the Citizen Development and Enrichment Committee explore the feasibility of bringing back a downscaled version of the 4th of July celebration at Wilson Park, including the fireworks display.

A brief discussion ensued, and it was the consensus of the Council to direct staff to bring back an agenda item on this topic for discussion at a future Council meeting.

17F. Councilmember Furey announced that Toyota Motor Sales USA has again generously donated a 2013 Lexus hybrid to be raffled off at the annual Celebrate Education dinner on March 29 to benefit the Torrance Education Foundation, noting that tickets are \$30, \$20 of which goes directly to the designated school organization.

17F. Councilmember Numark expressed condolences to Councilmember Furey.

17G. Councilmember Numark requested an excused absence for the January 15, 2013 Council meeting.

17H. Councilmember Rhilinger echoed condolences to Councilmember Furey.

17I. Mayor Scotto offered condolences to Councilmember Furey.

18. **EXECUTIVE SESSION**

At 11:07 p.m., the City Council recessed to closed session to confer with the City Manager and the City Attorney on agenda matters listed under 18A) Conference with Labor Negotiator, pursuant to California Government Code §54957.6.

The City Council reconvened at 11:23 p.m. No formal action was taken on any matter considered in closed session.

19. **ADJOURNMENT**

At 11:23 p.m., the City Council adjourned to Tuesday, January 15, 2013 at 5:30 p.m. for a joint meeting with the Traffic Commission in the West Annex Commission meeting room, with regular business commencing at 7:00 p.m. in the Council Chamber.

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Attest: /s/ Frank Scotto
Mayor of the City of Torrance

/s/ Sue Herbers
Sue Herbers, CMC
City Clerk of the City of Torrance

Approved on February 5, 2013