

**CITY COUNCIL OF THE CITY OF SAN DIEGO
SUPPLEMENTAL DOCKET NUMBER 3
FOR THE REGULAR MEETING OF
MONDAY, NOVEMBER 22, 2004 AT 2:00 P.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTION:

* ITEM-S406: Appointment to the Mission Bay Park Committee.

(See memorandum from Mayor Murphy dated 11/10/2004, with resume attached.)

MAYOR MURPHY’S RECOMMENDATION:

Adopt the following resolution:

(R-2005-538)

Council confirmation of the appointment by the Mayor of Mohsen Khaleghi to serve as a member of the Mission Bay Park Committee, replacing Wayne Blum and completing his term which ends on March 1, 2006, in the category of Lessee Hotel Representative.

ADOPTION AGENDA, DISCUSSION, COMMITTEE ITEMS

COMMITTEE ON NATURAL RESOURCES, AND CULTURE,
RESOLUTIONS:

ITEM-S407: Two actions related to Status of Solid Waste Diversion Report and Construction/Demolition Material Recycling Policy.

(See City Manager Reports CMR-04-175 and CMR-04-176; and letter from Jim Ambroso dated 7/26/2004.)

(Continued from the meeting of November 15, 2004, Item 151, at the request of Councilmember Madaffer, for further review.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2005-437)

Accepting the City Manager's Report No. 04-175 in connection with the City's Solid Waste Diversion Status.

Subitem-B: (R-2005-438)

Establishing Council Policy pertaining to construction and demolition (C&D) material recycling as set forth in Exhibit A and as set forth in the Council Policy;

Instructing the City Clerk to assign a policy number and add the aforesaid to the Council Policy Manual.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 8/4/2004, NR&C voted 4 to 0 to accept the City Manager's Report No. 04-175 in connection with the City's Solid Waste Diversion Status; and approve the City Manager's recommendation to establish Council Policy pertaining to construction and demolition (C&D) material recycling as set forth in Exhibit A and as set forth in the Council Policy. (Councilmembers Lewis, Frye, Madaffer, and Inzunza voted yea. Councilmember Zucchet not present.)

ADOPTION AGENDA, DISCUSSION, COMMITTEE ITEMS (Continued)

COMMITTEE ON NATURAL RESOURCES, AND CULTURE,
RESOLUTIONS: (Continued)

ITEM-S407: (Continued)

SUPPORTING INFORMATION:

On August 4, 2004, the Natural Resources & Culture Committee reviewed the City Manager's Status of Solid Waste Diversion Report and Construction and Demolition Material Recycling Policy Report. The committee voted 4-0 to accept the Solid Waste Diversion Report and 4-0 to approve the Construction and Demolition Material Recycling Policy and to forward the policy to City Council for adoption.

The Construction and Demolition Material Recycling Policy was developed in consultation with industry and City Department stakeholders. ESD is working with the Building Industry Association (BIA), the Association of General Contractors (AGC) and other industry groups to develop the educational materials and outreach programs that will be used to implement the policy by the industry. ESD has also consulted with City Departments, including the Engineering & Capital Projects, Water, and General Services Departments, to assist them in preparing for implementation of the Policy. These Departments are working cooperatively with ESD to ensure that their construction and demolition activities and contracts are in compliance with the new policy.

FISCAL IMPACT:

There is no fiscal impact associated with the Solid Waste Diversion Report. The Construction and Demolition Material Recycling Policy will have no fiscal impact at this time however successful diversion of construction and demolition waste from Miramar Landfill could result in some reduction in annual tipping fee revenue. The benefit would be slower utilization of landfill space, potentially extending the life of the Miramar Landfill.

Mendes/Heap/JT

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

ORDINANCE TO BE INTRODUCED, WITH RESOLUTIONS TO BE ADOPTED:

ITEM-S408: Fifth Implementation Agreement to the Disposition and Development Agreement (DDA) and Related Documents – Las Americas Project.

(See Redevelopment Agency Report RA-04-41/CMR-04-233. San Ysidro Community Area. District 8.)

(Continued from the meeting of November 15, 2004, Item S400, at the request of Councilmember Inzunza, for further review.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance in Subitem A and adopt the resolutions in Subitems B, C, and D:

Subitem-A: (O-2005-58)

Introduction of an Ordinance authorizing the City Manager to execute the amended and restated Second Amendment to the Public Use Lease Agreement (Parcel A-1) with International Gateway Associates, LLC.

Subitem-B: (R-2005-494)

Approving: 1) amendment to Public Use Lease (Parcel B/C); 2) Second Amendment to overall Reciprocal Easement Agreement (REA); 3) subsequent Parcel A-1/Civic Parcel/Parcel A-3 REA; 4) Quitclaim Deed for Library Airspace Parcels; and 5) Grant Deed for Civic Parcel, all in conjunction with the Disposition and Development Agreement (DDA) with International Gateway Associates, LLC for the Las Americas Project;

Stating for the record that the Environmental Impact Report SCH No. 95-101015 (adopted April 2, 1996 by Council Resolution No. R-287149) and Mitigated Negative Declaration (adopted May 12, 1998 by Council Resolution No. R-290105) covering this activity has been reviewed and considered, and directing the City Clerk to file a Notice of Determination in accordance therewith.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

ORDINANCE TO BE INTRODUCED, WITH RESOLUTIONS TO BE ADOPTED:
(Continued)

ITEM-S408: (Continued)

Subitem-C: (R-2005-495)

Approving a Cooperation Agreement with the Redevelopment Agency of the City of San Diego for the Conveyance and Oversight of the Civic Parcel at the Las Americas site, within the San Ysidro Redevelopment Project Area.

Subitem-D: (R-2005-496)

Initiating a Community Plan Amendment to make appropriate changes to the San Ysidro Community Plan in order to implement the Mi Pueblo Pilot Village in the San Ysidro Community Planning Area.

CITY MANAGER SUPPORTING INFORMATION:

The following is a summary of actions associated with this item:

Amended and Restated Second Amendment to Public Use Lease (Parcel A-1)

- The City had until 9/30/03 to acquire the funding to build a library on the second story above retail. Since the deadline has passed, the reversionary clause of the lease will be exercised, and the City will quitclaim the two airspace parcels back to the developer.
- Minor adjustment to the location of the Park and Ride facility.
- The lease payment schedule, which was adjusted with the Fourth Implementation Agreement, will revert back to the original schedule: Total Principal of \$6,306,000; annual payments of \$496,402 for 30 years with a 2-tier interest rate: \$1,145,000 at 10%; \$5,161,000 at 6%. Annual payments expected to begin in approximately November 2006, once City has received the necessary sales tax revenue.

Grant Deed for Civic Parcel

- The developer will grant to the City an approximately 26,500 sf parcel valued at \$3.5 million for civic uses. Value based on the land, entitlements, perpetual Common Area Maintenance relief and an easement for 134 parking spaces.
- The City has 84 months to either build on the property or sell it; at the end of 84 months, the developer may repurchase the property for \$1.25 million plus an annual inflation factor.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

ORDINANCE TO BE INTRODUCED, WITH RESOLUTIONS TO BE ADOPTED:
(Continued)

ITEM-S408 (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

Second Amendment to Overall Reciprocal Easement Agreement

- Allocates rights and obligations of three parcels including the Civic Parcel, giving the City all the benefits of being in the integrated development without having to bear its proportionate share of the obligations.
- Assures that users on neighboring parcels cannot object to the development of a civic building on the Civic Parcel nor to a residential development on Parcel A-3.

Subsequent Parcel A-1/Civic Parcel/Parcel A-3 Reciprocal Easement Agreement

- Provides Civic Parcel with access to Las Americas Shopping Center common areas, maintenance of streetscape and landscape surrounding the Civic Parcel building, a parking easement for 134 parking spaces and restrictions on the uses permitted within the Civic Parcel.
- Developer absorbs the Civic Parcel's share of Common Area Maintenance fees in perpetuity.
- Allows City to sell Civic Parcel to third party, but gives the developer the right of first refusal to match the third party's terms.

Cooperation Agreement between the City and the Agency

- The City will retain ownership of the Civic Parcel; the Agency will lead in the planning and redevelopment of the parcel on the City's behalf.

Fifth Implementation Agreement to the Las Americas DDA

- Adjusts the boundaries of former parcels A-1, A-2 and A-3 to new parcels A-1, Civic Parcel, and A-3;
- Authorizes the conveyance of Civic Parcel to the City for future redevelopment.
- Authorizes a change in use for parcel A-3 from commercial to residential.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

ORDINANCE TO BE INTRODUCED, WITH RESOLUTIONS TO BE ADOPTED:
(Continued)

ITEM-S408: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

- Authorizes the developer to reduce the square footage of improvements on Parcel A-1 from 270,000 sf to 188,272 sf;
 - Pro-rates the principal amount of the related Loan Agreement from \$1,780,000 to \$1,246,758 to reflect the reduced square footage on Parcel A-1 and the change in use of Parcel A-3 from commercial to residential; 30-year loan at 10% annual interest. Annual payments of \$132,255 expected to begin in November 2006.
 - Results in savings of \$530,000 in loan principal or \$1.7 million over 30 years.
- Revises the Schedule of Performance and Public Use Lease payment schedule to reflect changes in construction phasing and to extend to June 30, 2005, the developer's ability to pursue the presidential Permit for the River Pedestrian Bridge on behalf of the City.

Other Actions

- Reinforce the City's commitment to analyzing the feasibility of pursuing and reapplying for a Presidential Permit through the US State Department for implementation of the Las Americas River Pedestrian Bridge connecting San Diego and Tijuana.
- Approve initiation of an amendment to the San Ysidro Community Plan for implementation of Mi Pueblo Pilot Village Project.

FISCAL IMPACT:

For the City: The Amended and Restated Second Amendment to Public Use Lease (Parcel A-1) proposes to modify the Lease's economic plan by reverting the rent payment schedule back to its original state as agreed upon in 2001 (MR #01-035). The principal amount of \$6,306,000 will not change, but the full annual rent payments will be \$496,402 to be paid from City sales tax beginning in FY 2007 after Phase 1B1 is developed with 188,232 square feet of building space. The Agreement also requires an annual reserve allocation. For parcel A, the reserve allocation is equivalent to all excess dollars above and beyond the lease payment. This amount is to be deposited into a reserve account until a cap is reached at \$588,096 once in the life of the lease.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

ORDINANCE TO BE INTRODUCED, WITH RESOLUTIONS TO BE ADOPTED:
(Continued)

ITEM-S408: (Continued)

FISCAL IMPACT: (Continued)

The Lease Payments and reserve allocation will be made provided that the project development generates at least that amount of sales tax revenues to the City. The reserve requirement will be calculated annually. The only substantive change to the economic plan is such that the minimum threshold of building space to be developed as a condition for receiving the full rent payment is being reduced by approximately 20,000 square feet.

For the Agency: The Parcel A-1 Loan Agreement's principal amount owed by the Agency will be reduced from the DDA's proposed \$1,780,000 amount to \$1,246,758, saving the Agency \$533,242 in principal, or \$1,696,977 over 30 years.

Cunningham/RC

NOTE: See the Redevelopment Agency Agenda of November 22, 2004, for a companion item.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS:

ITEM-S409: Ninety Day Financial Disclosure Extensions for 21 Special Promotional Programs-Funded Organizations.

(See City Manager Report No. 04-236.)

(Continued from the meeting of November 15, 2004, Item 203, at the request of Councilmember Madaffer, for further review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-462)

Waiving Council Policy No. 100-03 titled "Transient Occupancy Tax," Attachment B: General Requirements and Conditions, Section F.1 in order to grant ninety (90) day extensions for the following 21 organizations for submittal of financial disclosure documents:

Citywide Economic Development

Accessible San Diego
San Diego Convention and Visitors Bureau
San Diego Hall of Champions
San Diego World Trade Center

Economic Development and Tourism Support

ACCION San Diego
Travelers Aid Society of San Diego

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-S409: (Continued)

Organizational Support Program

Athenaeum Music and Arts Library
California Ballet Association
La Jolla Music Society
Malashock Dance and Company
Museum of Contemporary Art San Diego
San Diego Art Institute
San Diego Center for Jewish Culture
San Diego Chamber Orchestra
San Diego Historical Society
San Diego Model Railroad Museum
San Diego Museum of Art
San Diego Opera Association
San Diego Symphony Association
San Diego Youth Symphony

Festivals and Celebrations

Adams Avenue Business Association

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-S410: Cost Recovery Fee for Determination of Public Convenience or Necessity.

(See City Manager Report CMR-04-225.)

(Continued from the meeting of November 15, 2004, Item 103, at the request of Deputy Mayor Atkins, for further review.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2005-363 Cor. Copy)

Adopting the fee schedule for the purpose of recovering the cost of the San Diego Police Department's "public convenience or necessity" determinations;

Declaring that the fee for this service shall be Two Hundred and Twenty Dollars (\$220), and shall be effective thirty days from and after the passage of this resolution;

Declaring that the San Diego Police Department may, in the exercise of its discretion, forgo or excuse the service fee when deemed appropriate;

Authorizing the City Manager to review and adjust the fee annually or as costs of services increase.