

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
TUESDAY, JANUARY 30, 2007 AT 10:00 A.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

NOTE: The public portion of the meeting will begin at 10:00 a.m. The City Council will meet in Closed Session this morning from 9:00 a.m. – 10:00 a.m. Copies of the Closed Session agenda are available in the Office of the City Clerk.

OTHER LEGISLATIVE MEETINGS

The **SAN DIEGO HOUSING AUTHORITY** is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact the Housing Authority Secretary at (619) 578-7532. Internet access to the agenda is available at:
<http://sdhc.net/AuthorityAgenMinRpts.shtml>

ITEM-300:

ROLL CALL.

=== LEGISLATIVE SCHEDULE ===

Special Orders of Business

ITEM-30: Millie M. Acasio Day.
COUNCILMEMBER ATKINS' RECOMMENDATION: Adopt the resolution.

NON-AGENDA PUBLIC COMMENT

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Time allotted to each speaker is determined by the Chair, however, comments are limited to no more than three (3) minutes **total per subject** regardless of the number of those wishing to speak. Submit requests to speak to the City Clerk **prior** to the start of the meeting. Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by Council on any issue brought forth under "Non-Agenda Public Comment."

MAYOR, COUNCIL, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY COMMENT

UPDATES ON PENDING LEGISLATION (MAYOR'S OFFICE)

REQUEST FOR CONTINUANCE

The Council will now consider requests to continue specific items.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items

- ITEM-50: Refunding of the Ballpark Bonds. (Centre City East Community Area. District 2.)
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinance which was introduced on 1/16/2007, Item 332.
- ITEM-51: Fund Exchange Agreement with the City of Carlsbad and First Amendment to Consultant Agreement with Parsons Brinckerhoff Quade & Douglas, Inc. for the Carroll Canyon Road Extension Project. (Torrey Pines and Mira Mesa Community Areas. Districts 1 and 5.)
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinance which was introduced on 1/16/2007, Item 60, Subitem A.
- ITEM-52: Authorization of Contract for Independent Oversight Monitoring Services. (Citywide.)
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinance which was introduced on 1/16/2007, Item S500, Subitem A.
- ITEM-100: Inviting Bids and Second Amendment to Agreement for the Balboa Park Ornamentation/Cultural Projects. (Balboa Park Community Area. District 3.)
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-101: Award of Contract to Diamond Concrete Supply, Inc. for Furnishing Mixed and Delivered Concrete.
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-102: Construction Change Order No. 1 for the San Diego River/Ocean Beach Water Quality Improvement Project. (Ocean Beach Community Area. District 2.)
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-103: First Amendment to Consultant Contract Agreement with Kimley-Horn and Associates Inc. for the Genesee Avenue/Interstate 5 Overcrossing. (University Community Area. District 1.)
STAFF'S RECOMMENDATION: Adopt the resolution.

=== **LEGISLATIVE SCHEDULE (Continued)** ===

Adoption Agenda, Consent Items (Continued)

- ITEM-104: Second Amendment to Agreement RR-301305 for Consultant Service with San Diego State University Research Foundation (SDSURF).
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-105: East Elliot Multiple Species Conservation Program (MSCP). (East Elliott Community Area. District 7.)
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-106: Settlement of Property Damage Claim of Brian L. Lehmkuhler, et al. (District 8.)
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-107: YMCA of San Diego County Dr. Martin Luther King, Jr. Breakfast Day.
COUNCIL PRESIDENT PRO TEM YOUNG'S RECOMMENDATION:
Adopt the resolution.

Adoption Agenda, Discussion, Other Legislative Items

NOTE: This item may be taken in the morning session if time permits.

- ITEM-330: Fleet Services Business Process Reengineering Final Report. (Citywide.)
STAFF'S RECOMMENDATION: Adopt the resolution.

=== LEGISLATIVE SCHEDULE (Continued) ===

Noticed Hearings, Discussion

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-331: Amendments Related to Affordable Housing Density Bonus. (Citywide.)

Matter of approving, conditionally approving, modifying or denying an ordinance that would amend the Land Development Code regulations in Chapter 12, Article 6, Division 7; Chapter 14, Article 1, Division 3; and Chapter 14, Article 1, Division 7, all related to Affordable Housing Density Bonus. The City Council will also consider a resolution to certify that the information contained in the Supplement to Environmental Impact Report No. 96-0333 (Project No. 63422), has been completed in compliance with the California Environmental Quality Act (CEQA) and State CEQA Guidelines, and that said Supplement reflects the independent judgment of the City of San Diego as Lead Agency, stating for the record that the final Supplement to EIR No. 96-0333 has been reviewed and considered prior to approving the project, certifying the final Supplement to EIR No. 96-0333, and adopting the Findings and Statement of Overriding Considerations.

STAFF'S RECOMMENDATION: Adopt the resolution in Subitem A and introduce the ordinance in Subitem B.

ITEM-332: NTC Shoreline Plaza. (Peninsula Community Plan Area. District 2.)

Matter of the appeals by San Diego County Regional Airport Authority and the Peninsula Community Planning Board from the decision by the Planning Commission approving an application for an Amendment to Master Planned Development Permit (PDP)/Coastal Development Permit (CDP) 99-1076 at the Naval Training Center (NTC) Shoreline Plaza, 2768 Chauncey Street to allow for expansion of an existing parking lot from approximately 334 to 486 spaces, and to demolish Building 186 (in addition to the nine buildings and miscellaneous sheds/storage buildings previously entitled for demolition) to allow for a more efficient parking lot design to allow for successful adaptive reuse of adjacent buildings and six building to remain. The site location is identified as 2768 Chauncey Street within the Airport Approach Overlay Zone (AAOZ), Airport Environs Overlay Zone (AEOZ), Runway Protection Zone (RPZ), Coastal Overlay Zone (appealable), First Public Roadway, Parking Impact Overlay Zone, CR-1-1, and NTC Historic District.

STAFF'S RECOMMENDATION: Take the actions.

=== LEGISLATIVE SCHEDULE (Continued) ===

Noticed Hearings, Discussion (Continued)

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-333: 734 Sapphire Street Tentative Map. (Pacific Beach Community Plan Area. District 2.)

Matter of the appeal by Scott Peters of the decision by the Planning Commission denying an application for a Tentative Map and Coastal Development Permit to convert 8 existing residential units to condominiums on a 0.14 acre site and to waiver the requirement to underground existing overhead utilities. The property is located at 734 Sapphire Street in the RM-1-1 Zone with the Pacific Beach Community Plan, Council District 2.

STAFF'S RECOMMENDATION: Take the actions.

ITEM-334: Proposed Amendments to the Newsrack Ordinance. (Citywide.)

Matter of approving, conditionally approving, modifying or denying proposed ordinance amending the San Diego Municipal Code (Code). The proposed ordinance would amend CHAPTER 6, ARTICLE 2, DIVISION 10 of the Code, regulating newsracks within the public-right-of-way by imposing additional location and physical standards for newsracks, as well as permit, indemnification, and insurance requirements.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:
On August 9, 2006, LU&H voted 4-0 to approve the Staff's recommendation.

ITEM-335: **NOTE:** This item has been pulled from the docket.

=== LEGISLATIVE SCHEDULE (Continued) ===

Noticed Hearings, Discussion (Continued)

The following items will be considered in the afternoon session which is scheduled to begin at 2:00 p.m.

ITEM-336: Otay Mesa East Extension of Time. Otay Mesa Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying or denying an application for an Extension of Time for the Otay Mesa East Vesting Tentative Map (VTM) and Resource Protection Ordinance Permit (RPO). The original application included a rezone. This Rezone Ordinance No. O-19216 (New Series) has expired and a new rezone ordinance will accompany the VTM and RPO extension of time. On September 16, 2003, the project was originally heard and approved by the Council of City of San Diego. On September 29, 2003, the City Council adopted both Ordinances required for the project. The permits have not been implemented within the required three year period; therefore, the applicant has requested an Extension of Time. The proposed Otay Mesa East project would subdivide a vacant 45.5-acre site into nine commercial lots (Lots 1-8 and 12); three open space lots (Lots 9-10 and 13); construction of a private underground sewer pump station located at the northeast corner of the site (Lot 11); a private driveway (Lot A) for development consistent with the Otay Mesa Development District (OMDD)-C Zone for commercial uses. The Resource Protection Ordinance regulations have been replaced with the Environmental Sensitive Lands Regulations within the current San Diego Municipal Code, and a Site Development Permit (SDP) has replaced the RPO permit. The site located on the south side of Otay Mesa Road and east of the intersection of Corporate Center Drive in the Commercial Subdistrict of the Otay Mesa Development District within the Otay Mesa Community Plan Area and Council District 8.

STAFF'S RECOMMENDATION: Introduce the ordinance in Subitem A and adopt the resolutions in Subitems B, C, and D.

Non-Docket Items

Adjournment in Honor of Appropriate Parties

Adjournment

=== EXPANDED CITY COUNCIL AGENDA ===

NON-AGENDA PUBLIC COMMENT

This portion of the agenda provides an opportunity for members of the public to address the Council on items of interest within the jurisdiction of the Council. (Comments relating to items on today's docket are to be taken at the time the item is heard.)

Time allotted to each speaker is determined by the Chair, however, comments are limited to no more than three (3) minutes **total per subject** regardless of the number of those wishing to speak. Submit requests to speak to the City Clerk **prior** to the start of the meeting. Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by Council on any issue brought forth under "Non-Agenda Public Comment."

MAYOR, COUNCIL, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY COMMENT

UPDATES ON PENDING LEGISLATION (MAYOR'S OFFICE)

REQUEST FOR CONTINUANCE

The Council will now consider requests to continue specific items.

ADOPTION AGENDA, CONSENT ITEMS

The following listed items are considered to be routine, and the appropriate Environmental Impact Reports have been considered. These items are indicated on the docket by a preceding asterisk (*). Because these items may be handled quickly, if you wish to be heard submit your Request to Speak form prior to or at 10:00 a.m.

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING WITH THE READING AND ADOPTION:

Items 50, 51, and 52.

RESOLUTIONS TO BE ADOPTED:

Items 100, 101, 102, 103, 104, 105, 106, and 107.

SPECIAL ORDERS OF BUSINESS

ITEM-30: Millie M. Acasio Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-677)

Commending Millie M. Acasio for her passionate commitment and perseverance in the cause of all senior citizens of the City and thanking her for the many hours she has devoted toward senior-related issues;

Proclaiming January 30, 2007, to be "Millie M. Acasio Day" in the City of San Diego.

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING WITH THE READING AND ADOPTION:

* ITEM-50: Refunding of the Ballpark Bonds.

(See Report to the City Council 06-193 and memorandums from Lakshmi Kommi both dated 12/20/2006. Centre City East Community Area. District 2.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 1/16/2007, Item 332. (Council voted 7-0. Councilmember Atkins not present):

(O-2007-73)

Approving the form of and authorizing the execution and delivery of an Amended and Restated Site Lease, an Amended and Restated Ballpark Facility Lease, a Continuing Disclosure Certificate, and a Purchase Agreement and authorizing the execution, delivery and performance of a Second Reaffirmation of Assignment Agreement, Escrow Instructions and an Indenture by the Public Facilities Financing Authority of the City of San Diego and approving and authorizing the issuance and sale of not to exceed \$172,000,000 of the Authority's Lease Revenue Refunding Bonds, Series 2007A (Ballpark Refunding), authorizing the City Attorney to appoint bond counsel and disclosure counsel, and approving other documents and actions in connection therewith.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING
WITH THE READING AND ADOPTION: (Continued)

- * ITEM-51: Fund Exchange Agreement with the City of Carlsbad and First Amendment to Consultant Agreement with Parsons Brinckerhoff Quade & Douglas, Inc. for the Carroll Canyon Road Extension Project.

(Torrey Pines and Mira Mesa Community Areas. Districts 1 and 5.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 1/16/2007, Item 60, Subitem A.
(Council voted 8-0):

(O-2007-55)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a First Amendment to the Agreement with Parsons Brinckerhoff Quade & Douglas, Inc., for professional preliminary and final engineering and design services on the Carroll Canyon Road Extension Project, under the terms and conditions set forth in the document;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$152,471 from CIP-52-392.0, Carroll Canyon Road Extension with the funds received from the City of Carlsbad for the purpose of funding the aforementioned First Amendment to the Consultant Agreement with Parsons Brinckerhoff Quade & Douglas, Inc., contingent upon the City Auditor and Comptroller first certifying that the funds are, or will, be available in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves.

NOTE: 6 votes required.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES INTRODUCED AT A PREVIOUS MEETING, READY FOR DISPENSING
WITH THE READING AND ADOPTION: (Continued)

- * ITEM-52: Authorization of Contract for Independent Oversight Monitoring Services.

(Citywide.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 1/16/2007, Item S500,
Subitem A. (Council voted 8-0):

(O-2007-87)

Adopting the Annual Budget for the Fiscal Year 2006-2007 and Appropriating the Necessary Money to Operate the City of San Diego for said Fiscal Year, by authorizing the City Auditor and Comptroller to appropriate and to transfer up to \$1,417,400 from the City's General Fund Unallocated Reserve to the Public Liability Fund to pay for independent consultant services to be rendered by Edwards Angell Palmer & Dodge LLP in connection with Securities and Exchange Commission Cease-and-Desist Order entered against the City.

NOTE: This item is not subject to Mayor's veto.

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

- * ITEM-100: Inviting Bids and Second Amendment to Agreement for the Balboa Park Ornamentation/Cultural Projects.

(Balboa Park Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-706)

Authorizing the Mayor to execute, for and on behalf of the City of San Diego, a Second Amendment to the Agreement between the City of San Diego and Heritage Architecture and Planning for \$37,560 for professional services for the Balboa Park Ornamentation/Cultural Projects increasing total amount for professional services to \$681,623, under the terms and conditions set forth in the document;

Approving the plans and specifications for the construction of the Balboa Park Ornamentation/Cultural Projects (Museum of Man/California Tower, Museum of Art, Casa del Prado), on Work Order No. 218552;

Authorizing the City Auditor and Comptroller to increase the FY07 Capital Improvement Program budget in the amount of \$248,239.55 plus interest earned subsequent to the approval of this action in CIP-21-855.0, Balboa Park Ornamentation/Cultural Projects, Fund 63023, COP 1C-1996A Surety Policy, for the construction of Balboa Park Ornamentation/Cultural Projects;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$28,000 from CIP-21-844.9, Organ Pavilion Electrical System Upgrade, to CIP-21-855.0, Balboa Park Ornamentation/Cultural Projects, in Fund 630221, Park and Recreation Grant Matching Fund;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$36,000 from CIP-21-862.0, Aerospace Museum Roof Replacement, to CIP-21-855.0, Balboa Park Ornamentation/Cultural Projects, in Fund 30245, Capital Outlay;

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

Authorizing the City Auditor and Comptroller to appropriate and expend \$312,239.55 plus interest earned subsequent to the approval of this action from: CIP-21-855.0, Balboa Park Historical Cultural Projects, this amount including the \$248,239.55 plus the interest earned subsequent to the approval of this action from Fund 63023, COP 1C-1996A Surety Policy, \$28,000 from Fund 630221, Park and Recreation Grant Matching Fund, and \$36,000 from Fund 30245, Capital Outlay, for the construction of Balboa Park Ornamentation/Cultural Projects and related costs;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$4,102,570 from CIP Sublet Numbers 21-855.2, 21-855.3 and 21-855.4 (sublets of CIP-21-855.0), Balboa Park Ornamentation/Cultural Projects (Museum of Man/California Tower, Museum of Art, Casa del Prado), for the construction of Balboa Park Ornamentation/Cultural Projects;

Authorizing the Mayor to award a construction contract for the Balboa Park Ornamentation/Cultural Projects (Museum of Man/California Tower, Museum of Art, Casa del Prado) to the lowest responsible and reliable bidder, in an amount not to exceed \$4,102,570, provided the City Auditor and Comptroller first furnishes a certificate demonstrating that the funds necessary for expenditure are, or will be, on deposit in the City Treasury;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15331.

STAFF SUPPORTING INFORMATION:

On March 17, 2003, Council authorized the City Manager, or designee, to secure \$6 million in State of California 2002 Resource Park Bond funds for the construction of cultural and historical projects in Balboa Park. Projects included the reconstruction of the West Arcade, construction of the Veterans Memorial Garden, and restoration of historic ornamentation on the Museum of Man/California Tower (MoM), the Museum of Art (MoA), and the Casa del Prado (CdP) buildings.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Of the \$6 million, \$3,134,000 has been allocated to the MoM, MoA and CdP, which are being addressed as one project. On June 21, 2005, Council authorized the appropriation of 2002 Resources Park Bond Per Capita funding in the amount of \$1,837,570 to the project, increasing the funding for the MoM, MoA and CdP to \$4,971,570.

The consultant team conducted initial testing and analysis of the ornamentation for the MoM, MoA and CdP. On January 27, 2005, the consultant team presented to the City a report identifying significant potential falling hazard conditions. In response to this report, protective barricades were erected immediately to protect the public. Shortly thereafter, remedial work was conducted to repair or remove any falling hazards. In an effort to expedite repairs, Heritage Architecture and Planning was requested to direct this work, and to retain a subcontractor with the qualifications necessary to conduct this type of work on historical structures. The cost of the remedial repair work was \$37,560. The Second Amendment to the Agreement with Heritage Architecture and Planning for implementation of remedial repair work will increase the total amount of the agreement to \$681,623.

Final plans and specifications have been prepared by Heritage Architecture and Planning for the restoration work on the MoM, MoA and CdP. Staff has completed the contract documents and is prepared to advertise and award the construction contract for this project. Additional funding in the amount of \$312,239.55, is being requested for remedial repairs and to provide for implementation of additional restoration work not covered under the current funding.

FISCAL CONSIDERATIONS:

Funding in the amount of \$4,102,570 is available in CIP-21-855.0 for this project. Additional funding in the amount of \$312,239.55 is being requested: \$248,239.55 available in Balboa Park/Mission Bay Deferred Maintenance Funds, Fund # 63023, COP 1C 1996A Surety policy¹; \$28,000 in savings from CIP-21-844.9, Organ Pavilion Electrical System Upgrade; and \$36,000 in savings from CIP-21-862.0, Aerospace Museum Roof Replacement.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On March 17, 2003, Council authorized the City Auditor and Comptroller to accept, appropriate and expend \$6 million of State of California 2002 Resource Park Bond grant funds for the Balboa Park Ornamentation/Cultural Projects (R-297723).

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

On September 27, 2004, Council authorized a Consultant Agreement with Heritage Architecture and Planning in the amount of \$500,000 to provide architectural and engineering services for the Project (R-299686).

On June 21, 2005, Council authorized the City Auditor and Comptroller to accept, appropriate and expend \$1,837,570 of State of California 2002 Resources Park Bond Per Capita funds in CIP-21-855.0, allowing additional restoration work to be done (R-300554).

On May 16, 2006, Council authorized the First Amendment to the Agreement with Heritage Architecture and Planning for additional services, increasing the amount to \$644,063.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Restoration procedures and scope of work have been reviewed by the Park and Recreation Board, its Balboa Park Committee and Design Review Committee, and the Historical Resources Board.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Staff has coordinated this project closely with the Museum of Man and the Museum of Art. Both institutions are in favor of the project. Staff has also worked with the Balboa Park Committee, the recognized advisory body for Balboa Park. Heritage Architecture and Planning, Curry Price Court, Wiss Janney Elster, Krakower & Associates, Syska Hennessey Group, Ian Leverton Associates and the Casper Company, as consultants, are also stakeholders.

¹ This fund is comprised of remaining monies and interest earnings resulting from the Surety Substitution of the Debt Service Reserve Fund of the Certificates of Participation (Balboa Park and Mission Bay Park Capital Improvements Program), Series 1996 A.

Penera/Martinez

Aud. Cert. 2700472.

Staff: April Penera - (619) 525-8223
Peter A. Mesich - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-101: Award of Contract to Diamond Concrete Supply, Inc. for Furnishing Mixed and Delivered Concrete.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-718)

Authorizing the Chief Operating Officer to accept the low and responsible bid meeting specifications of Diamond Concrete Supply, Inc., San Diego, CA, and authorizing the Chief Operating Officer to execute a contract for furnishing mixed and delivered concrete based on Bid No. 8415-07-Q, as may be required for a period of one (1) year beginning from date of award with options to renew the contract for four (4) additional one (1) year periods, for an estimated annual purchase cost of \$1,037,336.19, including sales tax, terms net thirty (30) days; with price escalations not to exceed seven percent (7%) of prices in effect at the end of each prior contract year;

Declaring this activity is not subject to California Environmental Quality Act (CEQA) as provided in Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

Mixed and Delivered Concrete is used primarily by Street Division of the General Services Department for maintenance of City streets and right of ways including curbs and sidewalks, and by Water Operations Division of the Water Department for repairing portions of City streets excavated for work on water mains and lateral breaks. The Contractor provides all labor, plant equipment, and materials for mixing concrete at their central mixing plant. The mixture is loaded by the Contractor in Contractor's trucks and delivered to the designated site. Six (6) potential bidders were contacted, in addition to the bid being advertised on the City's web site and in the City's official newspaper. Three (3) bidders responded per the tabulation attached. It is recommended that the contract be awarded to Diamond Concrete Supply Company, Inc. (San Diego, CA), the low Bidder meeting specifications.

The most recent contract for asphalt concrete was with Diamond Concrete Supply, Inc. (San Diego, CA). The bid prices are approximately 7.4% above the previous contract price. The price increases are due to increased energy and petroleum costs.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-101: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

Authorize the estimated expenditure of \$1,037,336.19, for Fiscal Year 2007, from Fund No. 50010, Department No. 810, Organization No. 5099, Object Account No. 3231 and Job Order No. 009001 primarily to Street Division General Services and Water Departments.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Bid No. 6937-05-Q contract was awarded on September 1, 2005, to Diamond Concrete Supply Company, Inc. for furnishing Mixed and Delivered Concrete for a period of one (1) year beginning September 1, 2005 through August 31, 2006, with options to renew the contract for four (4) additional one (1) year periods. Council action was not required as the annual contract did not exceed One (1) Million Dollars.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Six (6) potential bidders were contacted. The bid was advertised in the San Diego Daily Transcript and posted in the City of San Diego's official internet site.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Street Division General Services and Water Departments, and Diamond Concrete Company, Inc.

Rimes/Reynolds

Aud. Cert. 2700481.

Staff: Tammy Rimes - (619) 236-5921
Michael P. Calabrese - Chief Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-102: Construction Change Order No. 1 for the San Diego River/Ocean Beach Water Quality Improvement Project.

(Ocean Beach Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-703)

Authorizing the Mayor, or his designee, to execute Construction Change Order No. 1 with Ortiz Corporation, Inc. for the San Diego River/Ocean Beach Water Quality Improvement (Phase II) project for an amount not to exceed \$352,440.95 due to a change in contract scope;

Authorizing the City Auditor and Comptroller to transfer \$100,000 from Fund 100, Street Division Operating Fund, to Fund 630221, Street Division Contributions from Fund 100, for the purpose of funding Construction Change Order No. 1, Job Order 320530, San Diego River/Ocean Beach Water Quality Improvement project, provided that the City Auditor and Comptroller first certifies that funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2007 Capital Improvements Program budget in CIP-32-053.0, San Diego River/Ocean Beach Water Quality Improvement, Fund 630221 by \$100,000;

Authorizing the expenditure of \$100,000 from Fund 630221 for the purpose of funding Construction Change Order No. 1, Job Order 320530, San Diego River/Ocean Beach Water Quality Improvement project, provided that the City Auditor and Comptroller first certifies that funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of \$225,000 from Fund 30101 for the purpose of funding Construction Change Order No. 1, Job Order 370289, San Diego River/Ocean Beach Water Quality Improvement project, provided that the City Auditor and Comptroller first certifies that funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-102: (Continued)

Authorizing the expenditure of \$26,112 from Water Fund 41500, CIP-73-083.0/73-856.6, Annual Allocation Water Main Replacement for the purpose of funding Construction Change Order No. 1, Job Order 185323, San Diego River/Ocean Beach Water Quality Improvement project, provided that the City Auditor and Comptroller first certifies that funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of \$1,328.95 from Fund 38352 for the purpose of funding Construction Change Order No. 1, Job Order 320530, San Diego River/Ocean Beach Water Quality Improvement project, provided that the City Auditor and Comptroller first certifies that funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring this activity is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15232(1) – pipeline less than one mile.

STAFF SUPPORTING INFORMATION:

One component of the San Diego River/Ocean Beach Water Quality Improvement was the installation of new storm drain pipe along Abbott Street, between West Point Loma Boulevard and Newport Avenue in the community of Ocean Beach. Several other capital improvement projects have been planned and constructed in this same area within the last few years. These projects included the improvement of water and sewer facilities and the undergrounding of electrical lines along Abbott Street. Staff coordinated the construction schedules for these projects to minimize impacts on the community. However, because several separate projects impacted Abbott Street within a short timeframe, City Staff determined that it was most beneficial to the citizens in Ocean Beach and the City to delay the resurfacing of Abbott Street until completion of all construction activities.

The San Diego River/Ocean Beach Water Quality Improvement project is the last project to impact Abbott Street. Because of this, it was decided that the City would request from the contractor for this project, Ortiz Corporation, a proposal for the cost of repaving Abbott Street.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-102: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Based on the proposal that was submitted by Ortiz and negotiated by City Staff, each separate division or department within the City that had a project impact Abbott Street agreed to contribute a proportionate amount of funding to the costs associated with the paving work.

Street resurfacing improves the structural integrity of the street for many years to come. Furthermore, resurfacing of the street provides for improvements to the existing surface drainage and enhances the overall aesthetics of the street. For these reasons, a Construction Change Order is being requested for the San Diego River/Ocean Beach Water Quality Improvement project for the repaving of Abbott Street.

FISCAL CONSIDERATIONS:

Funds for this action are available in Fund 100 (Street Division Operating Fund, in the amount of \$100,000); Fund 41500 (Water Fund, in the amount of \$26,112); Fund 30101 (Underground Surcharge Fund, in the amount of \$225,000); and Fund 38352 (Clean Beaches San Diego River Fund, in the amount of \$1,328.95).

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Resolution No. R-295926 (1/8/2002) approved the grant application to the State Water Resource Board Clean Beaches, Proposition 13, Coastal Non-point Source Program for the San Diego River Restoration/Ocean Beach Water Quality Improvement Project, provided authority to accept and expend all monies if grants were awarded, and to establish an interest bearing account for this project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Staff attends Ocean Beach Community Group meetings to provide updates on the status of this project.

KEY STAKEHOLDERS:

Ortiz Corporation, the contractor for the San Diego River/Ocean Beach Water Quality Improvement project, will be the contractor for the resurfacing improvements on Abbott Street. The subcontractor for the resurfacing work will be Portillo Concrete, Inc.

Boekamp/Haas

Aud. Cert. 2700410.

Staff: Dave Zoumaras - (619) 533-3138
Jeremy A. Jung - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-103: First Amendment to Consultant Contract Agreement with Kimley-Horn and Associates Inc. for the Genesee Avenue/Interstate 5 Overcrossing.

(University Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-708)

Authorizing the Mayor, or his designee, to execute the First Amendment to the Consultant Agreement with Kimley-Horn and Associates Inc., dated February 23, 2004 (Document No. RR-298854-1) under the terms and conditions set forth in the document, for preliminary engineering services for the Genesee Avenue/ Interstate 5 Overcrossing Project, CIP 52-372.0;

Authorizing the appropriation and expenditure of an amount not to exceed \$1,409,351 for CIP-52-372.0, Fund 79001, Genesee Avenue/Interstate 5 Overcrossing for the purpose of funding the aforementioned First Amendment to the Consultant Agreement with Kimley-Horn and Associates, Inc.;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring this activity is not a "project" and therefore exempt under CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

The existing contract includes preliminary engineering services for the Genesee Avenue Interstate 5 Overcrossing project, as originally described in the Project Study Report (PSR) completed in 2004. This includes the completion of the Project Report and Environmental Document in accordance with terms of the cooperative agreement with Caltrans and the Federal Highways Administration (FHWA). Subsequent to the PSR, Caltrans and SANDAG mandated that the project study scope be increased to include auxiliary lanes, additional freeway main lanes, direct access High Occupancy Vehicle (HOV) ramps to the freeway, and the proposed mass-transit crossing near Voigt Drive. Caltrans also mandated that the traffic volumes from the PSR be revised significantly.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-103: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

These mandates have expanded the scope of the environmental document significantly. Since these actions have delayed the implementation of the ultimate project, additional design services were added to allow for the design of interim improvements at the existing interchange that would allow for near term traffic relief. The design of the interim improvements as well as the added tasks noted above are being added to the Kimley-Horn contract by this Contract Amendment #1.

FISCAL CONSIDERATIONS:

Funding for this action \$1,409,351 is currently available within the existing CIP budget. The preliminary estimate of the total cost of the CIP portion of the overall freeway/bridge replacement project is \$392,000,000, which could vary depending on the alternative selected and cost escalations. Of this, \$24.8 million has been programmed from the North University City Facilities Benefit Assessment fund to the CIP and grant funds in the amount of \$2.5 million has been programmed by the State. The remaining \$364.7 million is unidentified at this time.

PREVIOUS COUNCIL ACTIONS:

The original contract with Kimley-Horn was executed in February 2004 (RR-298854-1).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Outreach was conducted as part of the Project Study Report in 2004. Monthly project design team meetings have been held including UCSD and Scripps Hospital, Caltrans, and SANDAG representatives. Milestone updates have been provided with the North University City Planning Group.

STAKEHOLDERS:

University of California, San Diego; Scripps Hospital La Jolla; Kimley-Horn, Inc. and subconsultants Ninyo & Moore, Inc., Simon Wong, Inc.

Boekamp/Haas

Aud. Cert. 2700455.

Staff: Frank Gaines - (619) 533-3771
Jeremy A. Jung - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-104: Second Amendment to Agreement RR-301305 for Consultant Service with San Diego State University Research Foundation (SDSURF).

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-710)

Authorizing the Mayor to execute, for and on behalf of the City of San Diego, an amendment to a contract in an amount not to exceed \$1,213,525, for consultant services with the San Diego State University Research Foundation to provide geographical information system services, interoperable communications services, project management, regional collaboration, and regional technology strategic planning support services, under the terms and conditions set forth in the amendment to the contract.

STAFF SUPPORTING INFORMATION:

The San Diego Urban Area initiated a Regional Technology Partnership program to be funded through the Urban Area Security Initiative Grants (UASI). The stated purpose of the partnership is to integrate technology to leverage scarce emergency response resources and provide a safer environment throughout the San Diego region. Under the initial contract funded under the FY05 UASI grant, SDSURF provides two technical experts to provide interoperable communications services and geographical information system services for work across all of the jurisdictions of the San Diego Urban Area (SDUA). The work is required and funded under the UASI grant to enhance homeland security within SDUA, consisting of San Diego County and the incorporated cities within the county. SDSURF also provides project management, regional collaboration and regional technology strategic planning support services across the SDUA as an independent judge of technology, a neutral interface between SDUA jurisdictions and vendors offering competing technology solutions, and best practices in applying available technology to leverage scarce first response resources within SDUA.

The FY05 UASI grant, which expires on March 31, 2007, funded the initial contract cost of \$563,775. All budgeted contract funds from that grant will be expended. This amendment extends the contract to allow for continued work using our FY06 UASI grant funds in the additional amount of \$1,213,525 as approved by the San Diego Unified Disaster Council. This grant expires on March 31, 2008.

The City of San Diego, as the core city of the San Diego Urban Area, is the designated administrative agency that manages the UASI Grant through the Office of Homeland Security.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-104: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Therefore, major grant expenditures, such as this contract amendment, must be processed under City procedures. This is an amendment to a sole source contract based on City Municipal Code §22.3037 and the unique qualifications of SDSURF. Please refer to the attached sole source justification that was approved and accepted as part of the initial contract.

FISCAL CONSIDERATIONS:

There are no fiscal impacts. All expenses will be paid through the federal FY06 UASI Grant. This grant has no local match requirement. The Department of Homeland Security has authorized an exemption from the Cash Management Act that allows FY06 federal funds to be advanced up to 120 days in advance of expenditure so that grant recipients do not have to expend funds and carry the debt while awaiting reimbursement. San Diego OHS and the Auditor have set up an interest bearing account to support the authorized draw down process.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The City Council previously passed Resolution R-301551 dated June 22, 2006, authorizing the application for, acceptance of and expenditure of federal FY06 Homeland Security grants, including the UASI Grant in the amount of \$6,392,000. Council also passed Resolution R-301305 dated March 24, 2006, authorizing the execution of the initial contract with San Diego State Research Foundation for \$563,775 to provide the services outlined in this request under the FY05 UASI grant funds.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Key stakeholders are San Diego State University and all of the incorporated cities and the unincorporated areas within San Diego County. These jurisdictions make up the San Diego Urban Area and are participants in the UASI Grant which funds the Regional Technology Partnership. This amendment to contract RR-301305 will provide continued delivery of vital services to enhance homeland security throughout the urban area. The services will be funded totally through the federal FY06 Urban Area Security Initiative Grant.

Olen

Aud. Cert. 2700462.

Staff: Donna Faller - (619) 533-6763
Nooria Faizi - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-105: East Elliott Multiple Species Conservation Program (MSCP).

(East Elliott Community Area. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-553 Cor. Copy)

Authorizing the Mayor, or his designee, to accept a grant deed, for a four acre parcel identified as being a portion of Lot 8 of the re-subdivision of a part of Fanita Rancho. Said four acres is to be included within the boundaries of the East Elliott Multiple Species Conservation Program;

Authorizing the City Auditor and Comptroller to accept an endowment fee of \$12,000 from Lennar Homes into Public Private Partnership Fund No. 10365, for the continual management of properties within the East Elliott Multiple Species Conservation Program;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$12,000 from Public Private Partnership Fund No. 10365, for the purpose of performing maintenance of the four acres as part of the East Elliott Multiple Species Conservation Program.

STAFF SUPPORTING INFORMATION:

The four acre site is an offsite mitigation requirement for Lennar Homes. Lennar has chosen to deed the property to become a part of the East Elliott MSCP. The City has an on going acquisition program within the East Elliott area, where they have acquired over 500 acres to date. This additional four acres would be added to that total figure.

FISCAL CONSIDERATIONS:

\$12,000 endowment from Lennar Homes for property management.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

By previous Resolutions R-297751 dated 3/24/03 and R-298808 dated 1/26/04, Council has approved an acquisition program within the East Elliott area.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Park & Recreation expansion of its East Elliott ownership and Lennar Homes mitigation requirements.

Barwick/Waring

Staff: James Barwick - (619) 236-6144
Todd Bradley - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-106: Settlement of Property Damage Claim of Brian L. Lehmkuhler, et al.

(District 8.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-631)

Authorizing the Mayor, or his designee, to pay the total sum of \$1,333,077.93 in the settlement of Risk Management Claim Numbers LP06-0534-1297, LP06-0534-1298 and LP07-0534-0688;

Authorizing the City Auditor and Comptroller to expend the total sum of \$1,333,077.93 to settle the Claims from the City's General Fund, its reserves, or from such other funds as may be allocated for payment of such loses.

STAFF SUPPORTING INFORMATION:

The proposed settlement would resolve all claims arising from storm drain flooding which occurred on January 5, 2006 at Del Sol Lane.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was considered in Closed Session on November 21, 2006 the City Council approved to pay the sum of but not exceeding \$1,333,077.93. City Council voted 7 to 0 to approve. The motion was made by Councilmember Hueso with a second by Council President Peters. Councilmember Maienschein is absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A.

Byche/Goldstone

Aud. Cert. 2700377.

Staff: Mike Gomez - (619) 236-7096
Carmen A. Brock - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-107: YMCA of San Diego County Dr. Martin Luther King, Jr. Breakfast Day.

COUNCIL PRESIDENT PRO TEM YOUNG'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-715)

Proclaiming January 12, 2007, to be "YMCA of San Diego County Dr. Martin Luther King, Jr. Breakfast Day" and encouraging all San Diegans to honor the legacy and dream of Dr. Martin Luther King, Jr.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

NOTE: This item may be taken in the morning session if time permits.

ITEM-330: Fleet Services Business Process Reengineering Final Report.

(See Report to the City Council No. 07-022. Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-722)

Accepting the Mayor's Report to Council, dated January 22, 2007;

Authorizing and directing the City Auditor and Comptroller and the City Attorney to prepare the necessary documents, as required, to implement the recommended Fleet Services BPR organizational and budgetary changes;

Authorizing the City Auditor and Comptroller, pursuant to the BPR Ordinance, to adjust the expenditure and revenue appropriations of the General Services Department/Equipment Division Fleet Services for Fiscal Year 2007 on a prorated basis to reflect the Fleet Services BPR reorganization plan, as set forth in the Mayor's Report to Council and shown on a full-year basis in the Detail of Budget Impacts ("Crosswalk");

Authorizing and directing the City Auditor and Comptroller, with the assistance of the City Attorney, to prepare an ordinance amending the FY 2007 Appropriations Ordinance, as and if necessary, in accordance with the Mayor's Report to Council and for the approval of the City Council;

Declaring the above activity is not a project pursuant to CEQA Guidelines Section 15378(b)(5) because it is an organizational and/or administrative act of local government which will not result in direct or indirect physical changes in the environment and, therefore, is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

The Chief Operating Officer was the Project Sponsor and the General Services Department was the Project Lead. The Fleet Services Reengineering Study was a comprehensive assessment of the fleet operations within the three separate Departments of General Services, Police and Fire-Rescue.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

ITEM-330: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Participation in this comprehensive review included representatives from all three of the current fleets, labor representatives from MEA and AFSCME Local 127, plus customers and support departments.

The informational Report to the City Council Numbered 06-196 and dated December 20, 2006, did not provide full details on Fleet Services' "most efficient organization" (MEO) proposal. This was in recognition that Fleet Services might have been selected for managed competition soon and the need to protect City employees against unfair advantage from competing firms. Since then, it has been determined that Fleet Services will implement its full MEO as soon as possible. Once Fleet Services experiences a year of consolidation and MEO implementation, plus any further improvements and cost reductions, a decision will be made whether Fleet Services warrants exemption from managed competition.

As this BPR involves position reductions and changes in working conditions, this proposal is subject to Meet and Confer with MEA, Local 127, and POA. The BPR proposal is therefore tentative and subject to the outcome of Meet and Confer. Meet and Confer discussions are presently underway.

The Fleet Services BPR has resulted in a plan that will implement improvements and cost-effective measures, as noted in the following highlights:

1. Consolidation of the City's three fleet organizations into one Fleet Services Division within the General Services Department.
2. Expansion of a variety of specialized expertise to the public safety fleets: acquisition and fitting, management information system, parts management, safety and budgeting.
3. Expansion of the structured vehicle replacement program to the public safety fleets.
4. A more efficient repair/maintenance process.
5. Consolidation of towing and road call services.
6. Closure of the General Services' Central Operations Station.
7. Operations Station's specialization of vehicles and worker expertise.
8. Elimination of Alternative Work Schedules and Voluntary Furlough participation.

FISCAL CONSIDERATIONS:

The BPR proposal eliminates 44 positions from the budget, which is 15% of the total positions. The annualized impact of this BPR proposal on the budget is \$3.2 million in salary and fringe, which is 15% of the personnel budget. There are no projected savings in non-personnel costs at this time. The actual impact will depend on a variety of factors, including the exact implementation date and Meet & Confer.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

ITEM-330: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The following is a summary of the personnel reductions:

- Of the 44 positions to be eliminated, 24 are vacant and 20 have incumbents.
- Elimination of 27 positions from General Services, 15 positions from Police, and 2 positions from Fire-Rescue.
- Reduction of 2 of 3 unclassified positions, which reduces the total number of second level or higher supervisory positions from 6 to 4.
- Proposed ratio of Local 127 and MEA represented positions to be 83% and 17%, respectively, which is only a 1% change from the current ratio of 82% and 18%.

The General Services/Equipment Division Hauling program (3.0 positions), the Police Vehicle Wash/Clean/Fuel service (11.0 positions), and Custodial services have been determined to be non-core functions and are proposed for elimination. The Hauling function has been absorbed by the Water Department's Operations Division and the General Services Department's Street Division. The proposal assumes that Police Officers will fuel their own vehicles and drive them through the automated vehicle washers, as indicated by the Police Chief in a recent meeting on the Fleet BPR recommendations. Custodial services are slated to be transferred to General Services Facilities Division as part of the citywide consolidation of the custodial function.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

City customer departments will have improved and more efficient service delivery. The resulting cost savings will benefit the City.

Sierra/Haas

Staff: Daro Quiring - (619) 527-7560
Timothy J. Miller - Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

ITEM-331: Amendments Related to Affordable Housing Density Bonus.

Matter of approving, conditionally approving, modifying or denying an ordinance that would amend the Land Development Code regulations in Chapter 12, Article 6, Division 7; Chapter 14, Article 1, Division 3; and Chapter 14, Article 1, Division 7, all related to Affordable Housing Density Bonus. The City Council will also consider a resolution to certify that the information contained in the Supplement to Environmental Impact Report No. 96-0333 (Project No. 63422), has been completed in compliance with the California Environmental Quality Act (CEQA) and State CEQA Guidelines, and that said Supplement reflects the independent judgment of the City of San Diego as Lead Agency, stating for the record that the final Supplement to EIR No. 96-0333 has been reviewed and considered prior to approving the project, certifying the final Supplement to EIR No. 96-0333, and adopting the Findings and Statement of Overriding Considerations.

The proposed amendments to the Land Development Code would apply to the Coastal Zone, therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, the final decision on the amendments to the Land Development Code and associated Local Coastal Program amendments will be with the California Coastal Commission. The City of San Diego must submit the amendments to the Land Development Code as an amendment for certification to the Coastal Commission. The amendment is not effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment.

If you wish to be noticed of the Coastal Commission hearing on this issue, you must submit a request in writing to the Development Services Department, Attention: Dan Joyce, Senior Planner, 1222 First Avenue, MS 501, San Diego, CA 92101 before the close of the City Council public hearing. If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

In accordance with the California Coastal Act and Guidelines, if you wish to review a draft of the amendment language or have any questions, you can contact the City Project Manager listed above.

(See Report to the City Council No. 07-021. SEIR No. 96-0333/Project No. 63422. Citywide.)

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

STAFF'S RECOMMENDATION:

Adopt the resolution in Subitem A and introduce the ordinance in Subitem B:

Subitem-A: (R-2007-698)

Adoption of a Resolution certifying that Supplement to the Environmental Impact Report No. 96-0333, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of Environmental Impact Report No. 96-0333;

That pursuant to California Code of Regulations Section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference, with respect to the project;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (O-2007-40 Cor. Copy)

Introduction of an Ordinance of the Council of the City of San Diego amending Chapter 14, Article 3, Division 7, Sections 143.0710, 143.0715, 143.0720, 143.0725, 143.0730, 143.0740, and 143.0750, and deleting Section 143.0760; by amending Chapter 12, Article 6, Division 7, Section 126.0708, and amending Chapter 14, Article 1, Division 3, by amending Section 141.0310(b), all relating to the Affordable Housing Density Bonus Regulations.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

OTHER RECOMMENDATIONS:

Planning Commission on October 12, 2006, voted 5-0-0 recommend approval with additional recommendations added to the conditions; was opposition.

Ayes: Naslund, Garcia, Schultz, Griswold, Ontai
Not present: Chase, Otsuji

This is a matter of Citywide effect. The following community group has taken a position on the item:

Opposed: Community Planners Committee (CPC) – (minutes of February 22, 2005) The Committee recommended the regulations be written to implement only the state requirements and did not support the city-initiated amendments.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of amendments to the Land Development Code related to the city's Affordable Housing Density Bonus Regulations.

STAFF RECOMMENDATION:

1. **CERTIFY** Supplement to Environmental Impact Report No. 96-0333 (Project 63422) and adopt the Findings and Statement of Overriding Considerations.
2. **APPROVE** the amendments to the Land Development Code and the City's Local Coastal Program related to the city's Affordable Housing Density Bonus Regulations (Chapter 12, Article 6, Division 7; Chapter 14, Article 1, Division 3; and Chapter 14, Article 3, Division 7).

EXECUTIVE SUMMARY:

State law requires cities in California to grant density bonuses and development incentives to residential projects when restrictions are implemented to maintain specified affordability levels. San Diego's Municipal Code includes Affordable Housing Density Bonus regulations. However, the state has amended its affordable housing density bonus three times since 2003 with the latest amendment being implemented in January 2006. The draft regulations are intended to bring the city's regulations into compliance with current state requirements. The draft regulations also include two city-initiated amendments.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The two city-initiated amendments are a density bonus incentive for applicants that satisfy required inclusionary housing onsite rather than through payment of an in-lieu fee, and an increase to the minimum density bonus for projects that provide moderate income for-sale housing.

There are two alternative actions for consideration. First, the Council may adopt the state mandated density bonus regulations and deny or modify the city-initiated density bonus incentives and still be in compliance with state mandates. Second, the Council may deny and/or modify the state mandated provisions of the regulations. However, this action would cause the regulations to be out of compliance with state law.

FISCAL CONSIDERATIONS:

The costs of processing this amendment are shared by the City Planning and Community Investment Department which is funded through the general fund and the Development Services Department Code Update Section which is funded as an overhead expense in the Development Services Department's budget.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On May 11, 2005, the Land Use & Housing Committee voted to accept the proposed ordinance. The Committee asked that clarification be provided regarding the approval process and findings; that Intergovernmental Relations Department bring state legislation affecting local housing and land use policy to the attention of the Committee for possible review and comment prior to adoption by the state or federal legislatures; and that projects using density bonus be tracked to identify which projects take advantage of the density bonus program, the number of incentives each uses, where the projects are located, and to what extent they rely on state versus local elements of the program.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On October 12, 2006, the Planning Commission voted 5-0-0 to recommend approval of staff recommendation with direction to investigate issues related to additional reductions in parking, to simplify the regulations, to track the use of the program, to consider expanding the incentive program, and to remove the option of the in-lieu fee in the Inclusionary Housing Ordinance.

On April 8, 2005, the Housing Commission voted 4-0-0 to recommend approval of staff recommendation while stating that the primary goal should be to provide incentives for low and very low income housing.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-331: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

On April 12, 2006, Code Monitoring Team voted 6-0-1 to recommend approval of staff recommendation.

On March 9, 2005, the Technical Advisory Committee voted 7-0-0 to recommend approval of staff recommendation with four recommendations.

On February 22, 2005, the Community Planners Committee voted 11-1-0 to oppose staff recommendation and to recommend the regulations be revised to include only the state requirements.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Key stakeholders include advocates for affordable housing and the building industry. The environmental document has identified potential for impacts to visual quality, transportation, and parking; and cumulative impacts to visual quality and parking.

Waring/McCullough /DJ

LEGAL DESCRIPTION:

The regulations are intended to apply city-wide; however, until approved by the Coastal Commission, only the existing State Density Bonus Law would apply in the Coastal Zone.

Staff: Dan Joyce – (619) 446-5388
Shannon M. Thomas – Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: NTC Shoreline Plaza.

Matter of the appeals by San Diego County Regional Airport Authority and the Peninsula Community Planning Board from the decision by the Planning Commission approving an application for an Amendment to Master Planned Development Permit (PDP)/Coastal Development Permit (CDP) 99-1076 at the Naval Training Center (NTC) Shoreline Plaza, 2768 Chauncey Street to allow for expansion of an existing parking lot from approximately 334 to 486 spaces, and to demolish Building 186 (in addition to the nine buildings and miscellaneous sheds/storage buildings previously entitled for demolition) to allow for a more efficient parking lot design to allow for successful adaptive reuse of adjacent buildings and six building to remain. The site location is identified as 2768 Chauncey Street within the Airport Approach Overlay Zone (AAOZ), Airport Environs Overlay Zone (AEOZ), Runway Protection Zone (RPZ), Coastal Overlay Zone (appealable), First Public Roadway, Parking Impact Overlay Zone, CR-1-1, and NTC Historic District.

The City Council's decision is appealable to the California Coastal Commission. Appeals to the Coastal Commission must be filed with the Coastal Commission at 7575 Metropolitan Drive, Suite 103, San Diego, CA 92108. Phone: (619) 767-2370. Appeals must be filed within 10 working days of the Coastal Commission receiving a notice of final action from the City.

(See Report to the City Council No. 07-013. Addendum to EIR/MMRP/Amendment to Master PDP-CDP No. 99-1076/Project No. 80411. Peninsula Community Plan Area. District 2.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2007-)

Adoption of a Resolution certifying that the information contained in Addendum to Environmental Impact Report No. 80411 has been completed in compliance with the California Environmental Quality Act of 1970 and State guidelines, and that said Addendum has been reviewed and considered by the Council and adopting appropriate findings of mitigation, pursuant to California Public Resources Code Section 21081;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: (Continued)

Subitem-B: (R-2007-)

Adoption of a Resolution granting or denying the appeals and granting or denying Amendment to Master Planned Development Permit/Coastal Development Permit No. 99-1076, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on December 7, 2006, voted 4-0-1 to approve recommendation, Planning Commission not taking action on the consistency determination; was opposition.

Ayes: Ontai, Naslund, Schultz, Griswold,
Recusing: Otsuji, Garcia
(vacant seat)

The Peninsula Community Planning Board has recommended denial of the project .

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Should the City Council approve or deny two appeals, one by the Peninsula Community Planning Board, and one by the San Diego County Regional Airport Authority, of the unanimous decision of the Planning Commission to approve an amendment to the Master Planned Development Permit/Coastal Development Permit 99-1076 to allow for development of an approximately 486-space parking lot at the Naval Training Center (NTC) Shoreline Plaza.

STAFF RECOMMENDATION:

DENY both appeals; **CERTIFY** Addendum to Environmental Impact Report No. 80411; **ADOPT** Mitigation, Monitoring, and Reporting Program, and **APPROVE** Amendment to Master Planned Development Permit/Coastal Development Permit No. 99-1076.

EXECUTIVE SUMMARY:

The project site is at the former Naval Training Center (NTC) Shoreline Plaza area, in the northeastern portion of the NTC Project area on a 6.88 acre site in an area identified by the NTC Precise Plan for parking at 2768 Chauncey Street.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The issue before the City Council is a matter of two appeals: one by the Peninsula Community Planning Board and one by the San Diego County Regional Airport Authority, of the Planning Commission's unanimous decision to allow development of Shoreline Plaza parking lot at the former Naval Training Center (NTC). Existing entitlements allow for approximately 336 parking spaces at this location, yet the current demand is for approximately 500 spaces, and the current proposal is for approximately 486 spaces. The purpose of the proposed project is to provide adequate parking for successful adaptive re-use of the historic district and north end of the NTC Redevelopment Project Area. The need for increased parking is driven by a change in land use imposed by the Coastal Commission to require a Visitor and Community Emphasis Overlay Zone (VCEO). Due to the increase in proposed parking, and given the existing permit condition to "seek to reduce or eliminate parking," the City Attorney's office has determined that the project requires an Amendment to the Master Planned Development Permit/Coastal Development Permit 99-1076, specifically condition 15n. The project scope also includes retention of six non-historic buildings, demolition of ten non-historic buildings, installation of landscaping, storm water runoff best management practices (BMPs) to treat the surface runoff, and continuation of the public access esplanade through the parking areas and along the water's edge. The project scope does not include tenant improvements or other actions associated with the buildings to be retained.

The Planning Commission unanimously approved the project on November 16, 2006, after requesting design modifications to enhance landscaping and the pedestrian experience. However, substantial issue was raised by the San Diego County Regional Airport Authority asserting that proper procedure has not been followed with respect to making two required consistency determinations: one for the Runway Protection Zone (RPZ), and one for the Airport Land Use Compatibility Plan (ALUCP). An appeal was filed by the Airport Authority to further address this issue.

The City Attorney Office and City staff maintain that proper procedure was followed as documented in the response to the Airport Authority appeal (Attachment 2). The issue of land use compatibility at NTC has been a source of disagreement between the City and the Airport Authority in the past, and continues with this project. The response by the City of San Diego has been consistent on past project and continues with this project. Likewise, the Airport Authority continues to object on a project-by-project basis.

An appeal was also filed by the Chair of the Peninsula Community Planning Board asserting factual error, conflict with other matters, and findings not supported, new information, and city-wide significance. Attachment 1 provides a response to each appeal issue.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The project was originally heard by the Peninsula Community Planning Board in December 2005, where the Board requested a field visit to better understand the project. The field visit was conducted on January 11, 2006, with the applicant and the community planning group, followed by the January 19, 2006, Board vote of 5-0-4 to deny issuance of a Coastal Development Permit to increase parking, requesting an alternative parking configuration, and alternative uses at the Shoreline Plaza location. This project has also been the subject of articles published by the San Diego *Union Tribune*. Staff has also responded to written inquiry of the Peninsula Community Planning Board received between the two Planning Commission hearings of November 16 and December 7, 2006.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Redevelopment Agency of the City of San Diego, and the NTC Master Developer, McMillin-NTC, LLC.

Impacts of a successful appeal would mean further reduction in parking at the Shoreline Plaza location resulting in the need for increased parking elsewhere on the NTC Project Area site, or a reduction in the land use proposed for adaptive re-use of the historic district.

Waring/Escobar-Eck/CHW

LEGAL DESCRIPTION:

The project site is located between Decatur Road and the boat channel, and between Chauncey Road and Gate One within the CR-1-1 zone in the Peninsula Community Planning Area, Airport Environs Overlay Zone (AEOZ), Airport Approach Overlay Zone (AAOZ), Coastal Overlay Zone (Appealable), Runway Protection Zone (RPZ) and Council District 2 and is more particularly described as Parcels 22, 23, 24, 26, 27, 28, and 29 of NTC Unit #6, Map No. 14870.

Staff: Cory Wilkinson – (619) 557-7900

NOTE: This item is not subject to Mayor's veto.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: 734 Sapphire Street Tentative Map.

Matter of the appeal by Scott Peters of the decision by the Planning Commission denying an application for a Tentative Map and Coastal Development Permit to convert 8 existing residential units to condominiums on a 0.14 acre site and to waive the requirement to underground existing overhead utilities. The property is located at 734 Sapphire Street in the RM-1-1 Zone with the Pacific Beach Community Plan, Council District 2.

Should the condominium conversion project be approved, tenants may be required to vacate the premises. No units may be sold in this building unless the conversion is approved by the city and until after a public report is issued by the Department of Real Estate. Each tenant has the exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

If you are an existing tenant within this project, you may have rights to certain benefits as outlined in San Diego Municipal Code Section 144.0503. To learn more information regarding these benefits, please contact the Housing Commission at (619) 578-7580, or find the details on their website at: <http://www.sdhc.net/haotherprog1h.shtml>.

(CDP No. 255712/TM-Waiver of Undergrounding No. 251996/Project No. 80627. Pacific Beach Community Plan Area. District 2.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2007-)

Adoption of a Resolution granting or denying the appeal and granting or denying Coastal Development Permit No. 255712, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

Subitem-B: (R-2007-)

Adoption of a Resolution granting or denying the appeal and granting or denying Tentative Map and Waiver of Undergrounding No. 251996, with appropriate findings to support Council action;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

OTHER RECOMMENDATIONS:

Planning Commission on November 16, 2006 voted 5-0-2 to deny staff's recommendation; no opposition.

Ayes: Schultz, Griswold, Ontai, Otsuji, Naslund
Not present: Garcia
One vacant position

The Pacific Beach Community Planning Group has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

A Tentative Map and a Coastal Development Permit for the conversion of eight existing residential units to condominiums at 734 Sapphire Street, within the Pacific Beach Community Plan area.

STAFF RECOMMENDATION:

Grant the appeal and **approve** the Tentative Map, including the request to waive the requirement to underground existing overhead utilities, and the Coastal Development Permit.

EXECUTIVE SUMMARY:

Granting the appeal would allow the applicant to process their Final Map and convert the existing apartment units to condominiums.

Basis for Appeal: The applicant's appeal form indicates the requirement for a List of Proposed Improvements, a Landscape Plan and a Building Conditions report were not requirements of the City regulations when this project was submitted and processed, and should be approved.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Staff Response:

Staff concurs with the applicant's request. The Planning Commission's decision to deny the proposed Tentative Map was based on Finding No. 2, which states: "The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources." Staff believes the intent of this required finding is to respond to leapfrog development and to provide necessary public facilities for additional housing in communities. For this project, there is no net loss or gain of housing units. The property owner of the existing complex is requesting a change in the form of ownership from single ownership to multiple ownerships. This Tentative Map is subject to the condominium conversion regulations in effect prior to June 13, 2006. For such projects, the Planning Commission has requested condominium conversion applicants to voluntarily provide a List of Proposed Improvements, a Landscape Plan and a Building Conditions report. These items were not provided to them for this project. During their hearing on this item, the Planning Commission discussed how it would be unfair to other applicants of condominium conversions who have provided a List of Proposed Improvements, a Landscape Plan and a Building Conditions report to them for past condominium conversion projects. The Municipal Code does not require a List of Proposed Improvements, a Landscape Plan and a Building Conditions report for condominium conversions when the project application was submitted and processed. The regulations applicable to this project allow applicants to maintain previously-conforming development. The City Council, on June 13, 2006, approved a new set of condominium conversion regulations. However, this project is not subject to those regulations. The subject project does not include any physical changes in the environment or any intensification of use.

Please reference Report to the Planning Commission No. PC-06-287 for project details.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are paid by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Planning Commission Decision: The Planning Commission heard the project on November 16, 2006. After a discussion by the Planning Commission and the owner's response about the requested documents, a motion to deny the project was made by Commissioner Naslund and seconded by Commissioner Otsuji. The vote was 5-0 (with Commissioners Naslund, Otsuij, Schultz and Griswold voting in opposition to the project. Commissioner Garcia was not present and there was one vacant Commissioner position).

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The Pacific Beach Community Planning Committee voted 12:1:0 to recommend approval of the project with no conditions.

No opposition was present at the Planning Commission hearing.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The property owners are Matthew Browar and Nancy Browar, Trustees of the M.S. Browar Family Trust. The owners' surveyor is Scott Peters with Sterling Land Services, Inc.

Waring/Escobar-Eck/CC

Staff: Cherlyn Cac – (619) 446-5226
Douglas Humphreys – Deputy City Attorney

NOTE: This project is exempt from environmental review pursuant to Article 19, Section 15301(k), Existing Facilities, of the California Environmental Quality Act (CEQA). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on August 26, 2005, and the opportunity to appeal that determination ended September 12, 2005.

NOTE: This item is not subject to Mayor's veto.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: Proposed Amendments to the Newsrack Ordinance.

Matter of approving, conditionally approving, modifying or denying proposed ordinance amending the San Diego Municipal Code (Code). The proposed ordinance would amend CHAPTER 6, ARTICLE 2, DIVISION 10 of the Code, regulating newsracks within the public-right-of-way by imposing additional location and physical standards for newsracks, as well as permit, indemnification, and insurance requirements.

(See Report to the City Council No. 07-017. Citywide.)

TODAY'S ACTION IS:

Introduce the ordinance:

(O-2007-24)

Introduction of an Ordinance amending Chapter 6, Article 2, Division 10, of the San Diego Municipal Code, by amending Sections 62.1001, 62.1002, 62.1003, 62.1004, 62.1005, 62.1007, 62.1009, 62.1010, 62.1011, 62.1012, 62.1013, and adding Sections 62.1006, 26,1008, 62.1014, 62.1015, 62.1016, 62.1017, 62.1018, 62.1019, 62.1020, and 62.1021 all relating to regulating Newsracks within the public right-of-way.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On August 9, 2006, LU&H voted 4-0 to approve the Staff's recommendation. (Councilmembers Faulconer, Atkins, Madaffer, and Hueso voted yea.)

SUPPORTING INFORMATION:

REQUESTED ACTION:

Approve the recommendations of the Housing and Land Use Committee to amend the Newsrack Ordinance.

STAFF RECOMMENDATION:

Adopt the recommended ordinance amendments.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

SUPPORTING INFORMATION: (Continued)

EXECUTIVE SUMMARY:

Revisions to the City's newsrack ordinance are proposed to control the proliferation and placement of newsracks within the public right-of-way, the lack of maintenance of newsracks, the inability to discern the identities of the parties responsible for the newsracks, lack of accountability for damages to persons or property, and lack of adequate enforcement. The amendments address maintenance, appearance, dimensions, location, enforcement, permit, indemnification and insurance requirements.

FISCAL CONSIDERATIONS:

The permit fee, if adopted, will offset expenses associated with permit issuance and pro-active enforcement for approximately twenty percent of the citywide newsracks located in the public right-of-way.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The proposed amendments to the Newsrack Ordinance were heard before the Land Use and Housing Committee on August 9, 2006 and approved the report recommendations with two proposed changes:

- Include minor edits proposed by the City Attorney.
- Add the requirement that distributors be required to document the maintenance for each newsrack to be made available to the City upon request.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Newsrack Ordinance Taskforce met 14 times over 24 months before reaching consensus.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Representatives of publishers, distributors, Business Improvement Districts and the Community Planners Committee.

Waring/Escobar-Eck/SC

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: **NOTE:** This item has been pulled from the docket.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

NOTE: This item has been pulled from the docket.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

NOTE: This item has been pulled from the docket.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-336: Otay Mesa East Extension of Time.

Matter of approving, conditionally approving, modifying or denying an application for an Extension of Time for the Otay Mesa East Vesting Tentative Map (VTM) and Resource Protection Ordinance Permit (RPO). The original application included a rezone. This Rezone Ordinance No. O-19216 (New Series) has expired and a new rezone ordinance will accompany the VTM and RPO extension of time. On September 16, 2003, the project was originally heard and approved by the Council of City of San Diego. On September 29, 2003, the City Council adopted both Ordinances required for the project. The permits have not been implemented within the required three year period; therefore, the applicant has requested an Extension of Time. The proposed Otay Mesa East project would subdivide a vacant 45.5-acre site into nine commercial lots (Lots 1-8 and 12); three open space lots (Lots 9-10 and 13); construction of a private underground sewer pump station located at the northeast corner of the site (Lot 11); a private driveway (Lot A) for development consistent with the Otay Mesa Development District (OMDD)-C Zone for commercial uses. The Resource Protection Ordinance regulations have been replaced with the Environmental Sensitive Lands Regulations within the current San Diego Municipal Code, and a Site Development Permit (SDP) has replaced the RPO permit. The site located on the south side of Otay Mesa Road and east of the intersection of Corporate Center Drive in the Commercial Subdistrict of the Otay Mesa Development District within the Otay Mesa Community Plan Area and Council District 8.

This activity is covered under the Otay Mesa East Mitigated Negative Declaration, Project No. 3159. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. The prior environmental documents adequately covered this activity as part of the previously approved project and the activity is not a separate project for the purpose of California Environmental Quality Act (CEQA) review pursuant to CEQA Guidelines Section 15060(c)(3).

(Vesting Tentative Map No. 362532/Site Development Permit No. 388242/Rezone No. 388241/Mitigated Negative Declaration No. 3159. Otay Mesa Community Plan Area. District 8.)

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-336: (Continued)

STAFF'S RECOMMENDATION:

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

Subitem-A: (O-2007-85)

Introduction of an Ordinance changing the 45.5-acre site located in the 6600 block of Otay Mesa Road in the Otay Mesa Community Plan Area, in the City of San Diego, California, from the AR-1-1 Zone (previously referred to as the A-1-10 Zone) into the OMDD-C Zone, as defined by San Diego Municipal Code Section 103.1103(a); and repealing Ordinance No. O-10862 (New Series), adopted July 29, 1972, and repealing Ordinance No. O-19216 (New Series), adopted on September 29, 2003, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

Subitem-B: (R-2007-681)

Adoption of a Resolution certifying that the Mitigated Negative Declaration No. 3159, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resource Code Section 21000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of an Extension of Time for the Otay Mesa East Project No. 108628 for Vesting Tentative Map No. 362532 (Extension of Time to Vesting Tentative Map No. 8182), Site Development Permit No. 388242 (Extension of Time and replacing Resource Protection Ordinance Permit No. 8163), and Rezone No. 388241 (Replacing expired Rezone Ordinance No. O-19216-New Series) for Otay Mesa East EOT project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is file in the Office of the City Clerk and incorporated by reference, is approved;

That pursuant to California Public Resources Code, Section 21081.6, the City Council finds that the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment and incorporated herein by reference;

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-336: (Continued)

Subitem-B: (Continued)

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-C: (R-2007-682)

Adoption of a Resolution certifying that Vesting Tentative Map No. 362532 (an extension of time to Vesting Tentative Map No. 8182, pursuant to Project No. 3159) is granted to Gerald Handler, Applicant/Subdivider, and Kimley-Horn and Associates, Inc., Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-D: (R-2007-683)

Adoption of a Resolution certifying findings supported by the minutes, maps and exhibits, all of which are herein incorporated by reference, with respect to Site Development Permit No. 388242 an Extension of Time to Resource Protection Ordinance No. 8163;

That Site Development Permit No. 388242 an Extension of Time to Resource and Protection Ordinance Permit No. 8163, is granted to Dr. Gerald Handler, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

OTHER RECOMMENDATIONS:

Planning Commission on December 7, 2006, voted 5-0-2 to recommend approval; no opposition.

Ayes: Garcia, Ontai, Otsuji, Griswold, Naslund
Not present: Schultz
(Vacant seat)

The Otay Mesa Community Planning Group has recommended approval of this project.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-336: (Continued)

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of an Extension of Time (EOT) for the previously approved Otay Mesa East project on a vacant 45.5-acre site located in the 6600 Block of Otay Mesa Road in the Commercial Subdistrict of the Otay Mesa Development District within the Otay Mesa Community Planning Area.

STAFF RECOMMENDATION:

Approve Vesting Tentative Map No. 362532, Site Development Permit No. 388242, Rezone No. 388241, and state for the record that this activity is covered under the Otay Mesa East Mitigated Negative Declaration, Project No. 3159. The prior environmental documents adequately covered this activity as part of the previously approved project and the activity is not a separate project for the purpose of California Environmental Quality Act (CEQA) review pursuant to CEQA Guidelines Section 15060(c)(3).

EXECUTIVE SUMMARY:

On September 16, 2003, the Otay Mesa East project was originally heard and approved by the City Council. On September 29, 2003, the City Council adopted both Ordinances required for the project. The permits for the Otay Mesa East project have not been implemented within the required three year period; therefore, the applicant has requested an Extension of Time. The extension of time application limits the City in its review. No new condition of modification of an existing condition may be attached to the approval of an extension, unless new conditions are mandated to comply with state or federal law or are necessary to protect the health or safety of the residents of the proposed subdivision or immediate community. The Otay Mesa East project as presented is the same project as approved by the City Council, and no new conditions are mandated to comply with state and federal law.

The Otay Mesa East project proposes to subdivide the 45.5-acre site into nine commercial lots (Lots 1-8 and 12); three open space lots (Lots 9-10 and 13); construction of a private underground sewer pump station located at the northeast corner of the site (Lot 11); a private driveway (Lot A); preservation of an existing 1.3-acre wildlife corridor; preservation of the MHPA; 6-acres would be designated as open space to protect the MHPA on the southern boundary of the site; and an additional 6-acres, on the eastern boundary of the project site, would also be designated as open spaces and includes a fenced preserve for 22 existing vernal pools and road pool located on the property.

The 22 existing vernal pools are considered disturbed; however, a Vernal Pool Management Plan has been included in Mitigation, Monitoring and Reporting Program (MMRP) which insure the protection of the vernal pools.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-336: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The single road pool is located within the impact area of a proposed cul-de-sac for the adjacent California Terraces Vesting Tentative Map (VTM 86-1032), and has been reviewed and approved by the USFWS, ACOE, and the City of San Diego. The USFWS prepared a biological opinion (BO 1-6-95-F-35) as part of an ESA Section 7 consultation with ACOE (File No 95-2010DZ) in January 1997. The biological opinion covering the road pool and vernal pools was made prior to the adoption of the MSCP; therefore, it is the opinion of the Development Services Department and the USFWS that the proposed project is not enjoined by the lawsuit and injunction pertaining to the vernal pool species and the MSCP [Case No. 98-CV-2234-B (JMA)].

The Otay Mesa East project applicant was submitted and deemed complete on June 9, 1999, prior to the new code update that became effective on January 1, 2000. The project was approved based on the old zoning code regulations that were in affect; however, the project did incorporate the new storm water requirements prior to its approval and has been designed in accordance with the City's Storm Water Standards. The Resource Protection Ordinance regulations have been replaced with the Environmentally Sensitive Lands Regulation within the current San Diego Municipal Code, and a Site Development Permit (SDP) will replace the original Resource Protection Ordinance Permit (RPO). Staff has reviewed both regulations and has determined that the proposed project meets the intent and purpose of both regulations to protect and preserve the environmentally sensitive lands and the viability of the species supported by those lands.

Rezone Ordinance No. O-19216 (New Series) became effective on September 29, 2003, and required the property owner, within three years from the effective date, to subdivide the property and have final maps submitted to the City. There is not a similar extension of time for the Rezone Ordinance. Therefore, the Rezone Ordinance expired and a new rezone ordinance will accompany the EOT.

FISCAL CONSIDERATIONS:

None. All costs associated with this project are recovered through a deposit account funded by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On July 17, 2003, the Planning Commission voted 6-0 to recommend to the City Council approval of the project. On September 16, 2003, the City Council approved the project in a vote 8-0. On September 29, 2003, the City Council adopted both Ordinances in a vote of 9-0.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-336: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On December 7, 2006, the Planning Commission voted 5-0 to recommend to the City Council approval of the EOT. On September 20, 2006, the Otay Mesa Planning Committee voted 15-0-0 to recommend approval of the EOT with no conditions.

KEY STAKEHOLDERS & PROJECTED IMPACTS):

Dr. Gerald Handler (Owner/Applicant) and Danielle Putnam from RBF Consulting (Consultant/Project Manager). No projected impacts.

Waring/Escobar-Eck/JAP

Staff: Jeffrey A. Peterson – (619) 446-5237
Shannon M. Thomas – Deputy City Attorney

NOTE: Stating for the record that the Final Otay Mesa East Mitigated Negative Declaration, Project No. 3159, has been reviewed and considered prior to approving the project; directing the City Clerk to file a Notice of Determination.

NOTE: This item is not subject to Mayor's veto.

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT