

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: Amendment to the Agreement with Camp Dresser and McKee, Inc. (CDM) for Design and Construction Support Services for Miramar Water Treatment Plant Upgrade and Expansion. (Scripts Miramar Ranch C.A. District 5.)
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 7/18/2007, NR&C voted 3 to 0 to approve.
NOTE: 6 votes required pursuant to Section 99 of the City Charter.
- ITEM-100: First Amendment to the Agreement with Psomas for Consultant Services for the Rancho Bernardo Reservoir Rehabilitation Project. (Rancho Bernardo Community Area. District 5.)
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 9/26/2007, NR&C voted 4 to 0 to approve.
- ITEM-101: Establishing Fund and Transfer Funding for Citywide Energy Improvement Project.
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-102: House of Spain Day.
COUNCILMEMBER ATKINS' RECOMMENDATION: Adopt the resolution.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Discussion, Other Legislative Items

NOTE: The following items may be taken in the morning session if time permits.

ITEM-330:

Debt Policy.

BUDGET AND FINANCE COMMITTEE'S RECOMMENDATION: On 9/26/2007, Budget voted 4 to 0 to forward the proposed Debt Policy to the full Council for approval with the following changes/additions: 1) The Redevelopment Agency and the Housing Authority are requested to also adopt debt policies which would then be incorporated as appendices to the City Debt Policy; 2) that the policy be reviewed by Mayor's staff annually with any needed changes recommended to Budget and Finance Committee; 3) that the materials provided to the full City Council for their review when considering the proposed Debt Policy include analysis and recommendations, as appropriate, by the Independent Budget Analyst and a legal opinion from the City Attorney regarding whether the annual review of the Debt Policy should include a review of all of the City's financial obligations; 4) that operations and maintenance costs for capital improvement projects be discussed before the time financing is proposed and a recommendation for the upcoming budget made at that time; 5) that Debt Management is requested to develop a proposed policy for Variable Rate Debt and Derivative Options for consideration by the Committee at a future time; and 6) to repeal Council Policy 800-3, Public Infrastructure Financing Assessment Districts and Community Facilities.

ITEM-331:

Special District Formation and Financing Policy. (Citywide.)

STAFF'S RECOMMENDATION: Adopt the resolution.

=== LEGISLATIVE SCHEDULE (Continued) ===

Noticed Hearings, Discussion

NOTE: The following items may be taken in the morning session if time permits.

ITEM-332: American Tower Corporation - Mt. Ada. An application for a wireless communication facility located at 6426 Mt. Ada Road between Mt. Rias Place and Mt. Albertine Avenue. (Clairemont Mesa Community Plan Area. District 6.)

Matter of approving, conditionally approving, modifying or denying an application for a wireless communication facility consisting of an existing, expired 145 foot high monopole and a 572 square foot equipment shelter, originally approved by CUP No. 83-0629, which expired on November 20, 2004. The facility is located at 6426 Mt. Ada Road between Mt. Rias Place and Mt. Albertine Avenue.

STAFF'S RECOMMENDATION: Adopt the resolution.

ITEM-333: American Tower Corporation - 30th Place. Appeal of Planning Commission's decision denying an application for a wireless communication facility located at 700 30th Place. (Southeastern San Diego Community Plan Area. District 8.)

Matter of the appeal by Robert Jystad, Channel Law Group, LLP on behalf of applicant American Tower Corporation from the decision by the Planning Commission denying an application for a wireless communication facility consisting of an existing 130 foot high monopole and a 500 square foot equipment shelter, originally approved by CUP No. 84-0469, which expired on November 20, 2004. The project site is located at 797 1/3 30th Place.

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-334: Amendments to Regulations Related to Affordable Housing Density Bonus. Amending the San Diego Municipal Code, Land Development Code; Certifying Supplement to Environmental Impact Report No. 96-0333, Project No. 63422 and adopting Findings and Statement of Overriding Considerations. (Citywide.)

Consideration of an ordinance that would amend the Land Development Code regulations in 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-335: Navy Broadway Complex. Appeal of Environmental Determination. (Marina and Columbia Sub Areas of the Centre City Redevelopment Project. District 2.)

Matter of the Appeals of the Environmental Determination by the Centre City Development Corporation ("CCDC") on July 25, 2007 regarding the Navy Broadway Complex project by 1) the San Diego Navy Broadway Complex Coalition and 2) Katheryn Rhodes and Conrad Hartsell. The appeals consist of challenges to the Determination that no further environmental review is required for the project under the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 et seq.).

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION: Adopt the resolution.

Non-Docket Items

Adjournment in Honor of Appropriate Parties

Adjournment

=== EXPANDED CITY COUNCIL AGENDA ===

SPECIAL ORDERS OF BUSINESS

ITEM-30: KB Home Day.

[?View referenced exhibit back-up material.](#)

**COUNCIL PRESIDENT PRO TEM YOUNG'S AND COUNCILMEMBER
MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-294)

Proclaiming November 6, 2007, to be "KB Home Day" in the City of San Diego.

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 TO BE INTRODUCED:

Item 50.

RESOLUTIONS TO BE ADOPTED:

Items 100, 101, and 102.

ADOPTION AGENDA, CONSENT ITEMS

ORDINANCES TO BE INTRODUCED:

- * ITEM-50: Amendment to the Agreement with Camp Dresser and McKee, Inc. (CDM) for Design and Construction Support Services for Miramar Water Treatment Plant Upgrade and Expansion. (Scripts Miramar Ranch C.A. District 5.)

[?View referenced exhibit back-up material.](#)

(See Water Department's Executive Summary Sheet dated 7/6/2007; and Water Department's 7/18/2007, PowerPoint.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2008-53)

Introduction of an Ordinance authorizing the Mayor, or his designee, to execute a Second Amendment to the Agreement with Camp Dresser and McKee, Inc. (CDM) increasing the funding for the Agreement by an amount not to exceed \$3,700,000 from Water Fund 41500, CIP-73-284.0, Miramar Water Treatment Plant - Upgrade and Expansion Project (Second Amendment);

Authorizing the Mayor, or his designee, to execute the Second Amendment to the Agreement to extend the Agreement term beyond five (5) years and increase the compensation to CDM by an amount not to exceed \$3,700,000;

Authorizing the expenditure of an amount not to exceed \$3,700,000 from Water Fund 41500, CIP-73-284.0, Miramar Water Treatment Plant Upgrade and Expansion Project for the Second Amendment to the Agreement with CDM, solely and exclusively, for the purpose of providing funds for project related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the Mayor, or his designee, to execute funding phases of the Agreement with CDM in an amount not to exceed \$3,700,000 as authorized in the FY 2009 and FY 2010 Budget Document;

Authorizing the City Auditor and Comptroller to reallocate previously authorized funds (R-298874) in the amount of \$2,800,000 from Water Fund 41500, CIP-73-284.0, Miramar Water Treatment Plant Upgrade and Expansion Project - Contract A to Miramar Treatment Plant Upgrade and Expansion - Contract B (\$1,350,000), Contract C (\$1,350,000) and Contract D (\$100,000) in FY 2008;

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES TO BE INTRODUCED: (Continued)

* ITEM-50: (Continued)

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

Finding that this activity is covered under the Miramar Water Treatment Plant Upgrade & Expansion EIR, LDR No. 99-0704, that there is no change in circumstance, additional information or project changes to warrant additional environmental review and that this project is not a separate project for purposes of review under the California Environmental Quality Act (CEQA), per CEQA Guidelines Sections 15060(c)(3) and 15378(c).

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

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 7/18/2007, NR&C voted 3 to 0 to approve. (Councilmembers Faulconer, Frye, and Hueso voted yea. Councilmember Maienschein not present.)

SUPPORTING INFORMATION:

As a part of the Water Department Capital Improvements Program, the Miramar Water Treatment Plant (MWTP) is scheduled for expansion from the current capacity of 140 million gallons per day (MGD) to 215 MGD to meet future water demands and upgrade its water treatment processes. This will improve operations and maintenance at the facility, and will meet the new drinking water standards set by the U.S. Environmental Protection Agency and as mandated by the California Department of Public Health Compliance Order. Failure to meet the DHS Compliance Order dates may result in fines levied against the City of San Diego. Because of the magnitude and complexity of upgrading and expanding a major water treatment plant, the project was broken up into three construction contracts, Early Start Improvements Phase (ESIP) I, ESIP II, and MWTP Upgrade and Expansion. In order to allow for more competitive local bids, proper sequencing of the work and better funding management, the MWTP project was further broken up into subprojects titled Contracts A,B,C and D. This also allowed for continuous plant operation without service disruption. As of today, ESIP I and ESIP II have been completed and Contract A is over 95% complete. Contract B consists of demolition of the original filters and existing Operation Building, demolition of the existing flocculation/ sedimentation (f/s) basins (3 & 4), construction of 4 new (f/s) basins (5, 6, 7, & 8) and site piping, grading, electrical and mechanical work. Contract C consists of the purchase and installation of Ozone equipment, and Contract D consists of landscape and site improvement work to complete this multi-phased project.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES TO BE INTRODUCED: (Continued)

* ITEM-50: (Continued)

SUPPORTING INFORMATION: (Continued)

CDM, Inc. (CDM) is a large engineering consulting firm that has unique and specialized experience in providing design and construction support services for upgrading major water treatment plants and other similar projects. The City has executed two agreements with CDM to date, in the amount of \$29,461,662. The continued participation by CDM during the construction phase of MWTP Contract B, C & D is essential to the overall project success.

The Water Department is requesting to amend (via Ordinance) CDM's agreement to provide design and construction support services for the MWTP for all of its remaining phases for the following reasons:

1. CDM is very familiar with the Miramar WTP project site.
2. CDM is the designer of record and is responsible to support the design during construction.
3. CDM is currently providing construction support services for Miramar WTP Contract A and design services for Contracts B & C. CDM has the ability to maintain consistency and continuity for Miramar WTP Contracts A, B, C & D at Miramar WTP site. CDM is also aware of the operational constraints of this project.
4. Having a new consultant on board at this stage will delay the project and increase costs because of its unfamiliarity with the Miramar WTP design, and the operational needs of the WTP.

The requested action is to execute a second amendment to agreement with CDM, Inc. for design and construction support services for Miramar Water Treatment Plant Upgrade and Expansion - Contracts B, C & D, to extend the contract time for five years and to authorize the expenditure of \$3,700,000.

The Miramar WTP project (Contracts B, C & D) is covered under a Resource Protection Ordinance (RPO) Permit No. 99 0704 and Final Program EIR (LDR No. 99-0704), which was approved and certified by City Council on March 13, 2002.

FISCAL CONSIDERATIONS:

The additional cost for this second amendment to the agreement with CDM, Inc. is \$3,700,000. Funding for this action will be phase funded in FY 2009 and 2010. The Water Department expects to reimburse 80% of the costs for FY 2009 and FY 2010 from future debt issuances. The Miramar Water Treatment Plant Upgrade and Expansion is one of the CIP projects the Water Department will fund with revenues generated by the rate increases approved by the City Council on February 26, 2007. The Auditor's Certificate will be issued prior to contract award.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

ORDINANCES TO BE INTRODUCED: (Continued)

* ITEM-50: (Continued)

SUPPORTING INFORMATION: (Continued)

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was approved by the Natural Resources & Culture Committee on July 18, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The City of San Diego Water Department has partnered with the community since the start of the Miramar Water Treatment Plant (MWTP) Upgrade and Expansion Project. In 1999, the Water Department worked with community members to form the Miramar Water Treatment Plant Community Advisory Group (CAG), which is comprised of area residents living and working in the area to help mitigate project impacts. Door hangers, fact sheets, MWTP WaterWorks newsletters, and updates on the City of San Diego Web site and community newsletters also add to the outreach efforts on behalf of the project.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Citywide Water Customers, CDM, Inc. (Design Consultant), MWH (Construction Management Consultant), Construction Contractors (to be selected), Scripps Ranch Community Advisory Group, San Diego County Water Authority and California Department of Public Health.

SUBCONSULTANT PARTICIPATION

Beyaz & Patel, Inc. (Male Other/DBE)
Brown & Caldwell (Other)
EMA, Inc. (Other)
GEI Consultants, Inc. (Other)
Katz & Associates (Other)
Manuel Oncina Architects (Male Other/DBE)
Process Applications, Inc. (Other)
V & A Consulting Engineers (Other)
Wimmer Yamada & Caughey/formerly Marum & Assoc (Other)

Barrett/Haas

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

- * ITEM-100: First Amendment to the Agreement with Psomas for Consultant Services for the Rancho Bernardo Reservoir Rehabilitation Project. (Rancho Bernardo Community Area. District 5.)

[?View referenced exhibit back-up material.](#)

(See Water Department's Executive Summary Sheet dated September 13, 2007 and Water Department's September 26, 2007, PowerPoint.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-357)

Authorizing the Mayor to execute, for and on behalf of the City, a First Amendment to the Agreement between the City of San Diego and Psomas for professional services for expanded scope of work for the Rancho Bernardo Reservoir Rehabilitation Project in an amount not to exceed \$190,348;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$190,348 from Water Fund 41500, CIP-73-328.0 Rancho Bernardo Reservoir Rehabilitation Project, solely and exclusively, to provide funds for the work required under the First Amendment;

Declaring that this activity is not a separate project for purposes of review under the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15060(c)(3).

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 9/26/2007, NR&C voted 4 to 0 to approve. (Councilmembers Faulconer, Maienschein, Frye, and Hueso voted yea.)

SUPPORTING INFORMATION:

Rancho Bernardo Reservoir is located in the northern part of San Diego in the Rancho Bernardo community. The original scope and funding for the design of this project was approved by Council on December 7, 2004.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

SUPPORTING INFORMATION: (Continued)

It included the design for structural rehabilitation and seismic retrofit of the roof, columns, beams, corrosion protection and landscaping at a total design cost of \$390,000.00. The project was advertised on January 10, 2007, and awarded on June 14, 2007, to Gateway Pacific Contractors Inc.

Since the Rancho Bernardo Reservoir Rehabilitation contract was awarded, the roof condition has deteriorated considerably from the condition reflected in the original bidding document. The recent deterioration of the roof slab has reached a point where it is unsafe for City personnel to maintain and for the hired contractor to start rehabilitation of the reservoir. Presently, City Operations personnel have taken the reservoir out of service, however, they continue to maintain water supply in it for emergency use only. Water Operations continues to monitor the safety condition of the roof on a daily basis. The roof rehabilitation procedure planned in the original design is no longer the best approach because several of the pre-stressed strands across the joints were visibly corroded and/or broken. According to the structural engineer, the scope of work required needs to be changed from rehabilitation of the original roof to replacement with a brand new roof. This change will cause a new design phase beyond the original scope of work. It will be necessary to amend the original agreement with Psomas for additional consultant services to redesign the project for an amount not to exceed \$190,348.

FISCAL CONSIDERATIONS:

The total estimated cost of the First Amendment to the Agreement with Psomas for additional Consultant Services is \$190,348. Funding is available in Water Fund 41500, CIP-73-328.0 Rancho Bernardo Reservoir Rehabilitation. Water Department revenue is dedicated for this project. It is anticipated that 80% of the project cost will be reimbursed from a future debt issuance. The Auditor's Certificate will be issued prior to approval of the First Amendment to the Agreement.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The design consultant agreement with Psomas was presented and approved at the NR&C Meeting of November 17, 2004, and approved by the City Council on December 7, 2004, (R-299932). The Advertising for bids portion of the project was presented and approved at the NR&C Meeting on October 11, 2006, and approved by the City Council on December 6, 2006, (R-302124). The First Amendment to the Agreement with Psomas was approved on the Consent Agenda at the NR&C Meeting of September 26, 2007.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

SUPPORTING INFORMATION: (Continued)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community meetings have been conducted to inform members of the public, including the Rancho Bernardo Town Council, the Rancho Bernardo Community Planning Board and local residents about the project and construction schedule. Further community outreach efforts are planned for the project and a CIP hotline is regularly maintained to answer any questions and provide information to the public. Door hangers, fact sheets, and updates to the City of San Diego Web site are also included in the plan for community outreach.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders are Psomas, the designer, who will receive payment for the amendment to the agreement, water customers, and the Rancho Bernardo Community. Moraes/Pham & Associates (Asia Pacific Male/DBE). Simon Wong Engineering (Asian Pacific Male/DBE)

Barrett/Haas

Aud. Cert. 2800293.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-101: Establishing Fund and Transfer Funding for Citywide Energy Improvement Project.

[?View referenced exhibit back-up material.](#)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-328) Tb

Authorizing the City Auditor and Comptroller to establish a new Fund 10232 for the Energy Conservation Program - Capital Improvements Project;

Authorizing the City Auditor and Comptroller to transfer \$450,000 from the Energy Conservation and Management Fund 10231 Fund balance to the newly established Fund 10232 for Citywide Energy Improvements, CIP-37-041.0;

Authorizing the City Auditor and Comptroller to de-appropriate \$450,000 from Fund 30250 from CIP-37-041.0;

Authorizing the City Auditor and Comptroller to appropriate and expend \$450,000 from CIP-37-041.0, Citywide Energy Improvements, Fund 10232, Energy Conservation Program CIP for the purpose of implementing energy efficiency projects citywide to reduce energy usage in municipal facilities;

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

STAFF SUPPORTING INFORMATION:

The Fiscal Year 2008 Capital Improvement Program Budget approved the establishment of a new Capital Improvement Project for Citywide Energy Improvements, CIP-37-041.0. Energy efficiency improvements typically address lighting, air conditioning, chiller, pumping, and fan systems. Newer, more efficient technologies reduce energy consumption and cost.

The first project will be to repair the cogeneration units at Police Headquarters which have failed. This project is anticipated to result in \$150,000 reduced electrical costs to the general fund annually. Additional projects will be undertaken as funding and priorities permit. The funds in the Energy Conservation Program Fund, Fund 10231, to establish this CIP have accrued in fund balance which includes incentives received from California Public Utilities Commission (CPUC) approved programs.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-101: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

These incentives were awarded based upon energy savings achieved in energy efficiency projects implemented in 2005 and 2006. The energy efficiency projects were performed on facilities associated with General Fund departments. Examples of projects include Photovoltaic Installations at Oak Park Library, North Clairemont Library and Canyonside Recreation Center; Energy Management System installations at 8 police substations; HVAC improvements at Eastern, Western and Northwestern police stations; and variable speed drive installations at Bud Kearns Pool, Clairemont Pool, and the Turbocor System at the Casa del Prado building in Balboa Park.

Citywide Energy Improvements, CIP-37-041.0, currently has an approved funding source of \$450,000 from Fund 30250, Energy Fund Upgrades CEC Loan Funds; however, as the funding source for future projects has changed the department has been instructed by the Comptroller's Office that a new fund (10232) must be established to correctly reflect the origins of the fund source which is the Energy Conservation Program Fund, Fund 10231.

FISCAL CONSIDERATIONS:

The Fiscal Year 2008 budget authorized the establishment of the Citywide Energy Improvements, CIP-37-041.0, but referenced the Energy Fund Upgrades CEC Loan Fund 30250. \$450,000 of fund balance in the Energy Conservation and Management fund 10231 shall be used to the fund CIP-37-041.0. Comptroller has indicated a new fund must be established to serve as the funding source. Additional funding in future years for CIP projects is anticipated from various energy efficiency rebate and incentive programs.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

FY08 Appropriation Ordinance 0-19652 dated July 30, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The Citywide Energy Improvements CIP was available for public comment during FY08 budget review.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The first project will benefit the Police Department. Reduced energy costs benefit taxpayers.

Heap/Hass

Aud. Cert. 2800255.

Staff: Tom Blair - (858) 492-6001

Michael Calabrese - Chief Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-102: House of Spain Day.

[?View referenced exhibit back-up material.](#)

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-301)

Recognizing and commending the accomplishments of the House of Spain and the organization for its efforts to educate and inform the citizens and visitor of the City of San Diego;

Proclaiming October 5, 2007, to be "House of Spain Day" in the City of San Diego.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS:

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

ITEM-330: Debt Policy.

[?View referenced exhibit back-up material \(Part 1 of 2\).](#)

[?View referenced exhibit back-up material \(Part 2 of 2\).](#)

(See Independent Budget Analyst Report No. 07-92; Chief Operating Officer's 9/18/2007 memorandum; and Report to the City Council No. 07-172 [not available at Committee].)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-85)

Adopting the City of San Diego Debt Policy;

Declaring that this resolution shall go into effect immediately.

BUDGET AND FINANCE COMMITTEE'S RECOMMENDATION:

On 9/26/2007, Budget voted 4 to 0 to forward the proposed Debt Policy to the full Council for approval with the following changes/additions: 1) The Redevelopment Agency and the Housing Authority are requested to also adopt debt policies which would then be incorporated as appendices to the City Debt Policy; 2) that the policy be reviewed by Mayor's staff annually with any needed changes recommended to Budget and Finance Committee; 3) that the materials provided to the full City Council for their review when considering the proposed Debt Policy include analysis and recommendations, as appropriate, by the Independent Budget Analyst and a legal opinion from the City Attorney regarding whether the annual review of the Debt Policy should include a review of all of the City's financial obligations; 4) that operations and maintenance costs for capital improvement projects be discussed before the time financing is proposed and a recommendation for the upcoming budget made at that time; 5) that Debt Management is requested to develop a proposed policy for Variable Rate Debt and Derivative Options for consideration by the Committee at a future time; and 6) to repeal Council Policy 800-3, Public Infrastructure Financing Assessment Districts and Community Facilities. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea. Councilmember Madaffer not present.)

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-330: (Continued)

SUPPORTING INFORMATION:

The Chief Financial Officer and the Debt Management Department have developed a formal Debt Policy that documents the City's procedures and goals for the use of debt instruments to finance City needs. Credit rating agencies and the investment community look favorably upon formal debt policies as evidence of prudent and sound fiscal management, and as a reflection of a commitment to long-term financial planning. Regularly updated debt policy is an important tool that supports the use of the City's resources to meet its financial commitments and to maintain sound financial management practices.

The Debt Policy establishes guidelines to address the following: purpose and need for financing; creditworthiness objectives; types of debt; affordability targets; structure and term of City indebtedness; method of issuance and sale; financing team role and selection process; refunding considerations; and post issuance administration. It also introduces the concept of variable rate debt and derivatives, outlining some broad guidelines associated with this option. Six appendices are also included in the Policy. These appendices include specific policies on sub-topics in the financing area and/or provide supplementary information to the Debt Policy.

The Policy was developed with assistance from City Attorney's Office, the Disclosure Practices Working Group, and Montague DeRose & Associates, an independent financial advisory firm, which has significant experience in debt finance and has worked with various municipalities.

The Policy was presented to the Budget and Finance Committee (the "Committee") on June 6, 2007, and was discussed in further detail at the Committee meeting of July 25, 2007. A revised policy, incorporating the Committee's input from the meeting of July 25, 2007, was presented to the Committee on September 26, 2007. The Committee's adopted action was to recommend the Debt Policy to the City Council.

The Policy has been revised to incorporate changes/additions recommended by the Committee and the Office of the Independent Budget Analyst. In accordance with Committee direction, a Variable Rate and Derivative Options policy will be developed and brought forward for consideration by the Committee and City Council, and on approval will be included as an appendix to the Debt Policy. Further, a policy for the Redevelopment Agency debt issuances will also be developed and brought forward at a future date for consideration by the Committee and the Redevelopment Agency by the Agency staff.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-330: (Continued)

SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

None specific to this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Debt Policy was presented to the Committee on June 6, 2007, and was discussed in further detail at the Committee meetings of July 25, 2007 and September 26, 2007. On September 26, 2007, the Committee's adopted action was to recommend the Debt Policy to the City Council.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

There were no community participation or outreach efforts.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Credit rating agencies and the investment community look favorably upon formal debt policies as evidence of prudent and sound fiscal management, and as a reflection of a commitment to long-term financial planning. City staff involved in the preparation and administration, and City Council in approving bond financings, would be able to rely on the guidelines established in the Debt Policy.

Kommi/Goldstone

Staff: Jyothi Pantulu - (619) 236-6917

Mark D. Blake – Chief Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

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

ITEM-331: Special District Formation and Financing Policy. (Citywide.)

[?View referenced exhibit back-up material.](#)

(See Report to the City Council No. 07-171.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-86)

Repealing Council Policy 800-03;

Approving the Special District Policy;

Declaring that the Special District Policy shall only apply to CFDs and Assessment Districts formed after the effective date of this resolution;

Declaring that this resolution shall go into effect immediately.

STAFF SUPPORTING INFORMATION:

In connection with a comprehensive City Debt Policy, the Department of Finance has developed a Special District Formation and Financing Policy (the "Special District Policy"). The Special District Policy will appear as an appendix to the City Debt Policy, and is intended to provide uniform guidelines for Community Facilities District ("CFD")¹ and 1913/1915 Act Assessment District² ("Assessment District") formation and financing. Such Special Districts are typically formed to finance public infrastructure in connection with new development, but may also be formed to finance improvements pertaining to established communities. Subject to voter approval and once a district is formed, special taxes or assessments may be levied upon properties within a district to pay directly for facilities and services, or to repay bonds issued to finance the facilities.

Currently, Council Policy 800-03 "Public Infrastructure Financing Assessment Districts and Community Facilities," ("CP 800-03") established in 1965 and last amended by resolution on October 16, 1989, provides policy direction on the formation of CFDs and Assessment Districts.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-331: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

It is proposed that CP 800-03 be repealed and that CFD and Assessment District formation and financing be addressed through the City Debt Policy, which would provide a more comprehensive and uniform approach to addressing this sub-topic as a part of the City's overall debt policy. Legislative approval of the Special District Policy is required pursuant to the Mello-Roos Community Facilities Act of 1982, which requires a local agency to establish local goals and policies concerning its CFD activities.

Listed and described below are certain key policy changes made in the proposed Special District Policy as compared to the existing CP 800-03. These changes are consistent with recent trends in terms of how other municipalities across the state are approaching Special District formation and financing.

A. Provision of Services Component - Pursuant to the California Government Code, CFDs may fund certain public services, including police and fire services, and recreation program services so long as they are in addition to, and do not supplant, services already provided within the territory.

Existing Policy: Provides that the use of CFDs to finance on-going services would be approved by the City "only under unusual and compelling circumstances."

Proposed Policy: Due to the significant budgetary impact that new facilities may place on the City in terms of ongoing operations and/or maintenance costs, proposed CFD financing for new facilities should provide funding for a portion of anyone-going operations and/or maintenance costs for such facilities.

B. Minimum Value to Lien Ratio - The security for CFD and Assessment District bonds is the value of the property securing the special tax or assessment lien. For these types of bonds, the investment community expects that the issuer will covenant to commence foreclosure proceedings against delinquent parcels of land in the event certain special tax or assessment delinquency thresholds are reached. To protect the credit quality of the bonds and the interests of bondholders in the event delinquencies for a parcel reach a level requiring foreclosure action to recover the outstanding taxes or assessments, it is important to establish an appropriate minimum value-to-lien ratio. The value-to-lien ratio is the ratio between the value of the land and improvements for a parcel subject to the special tax or assessment to the amount of bond principal allocable to such parcel and the share of principal allocable from any other outstanding bonds secured by a special tax or special assessment levied on the parcel.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-331: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Existing Policy: Requires a minimum value-to-lien ratio of 3:1.

Proposed Policy: Requires a minimum value-to-lien ratio of 4:1, which could strengthen the credit quality of any future issuance of CFD or Assessment District bonds.

C. Maximum Tax and Assessment Rates - Establishing tax rate limitations is recommended in order to balance the need to finance public facilities and services in newly developing areas against the desire to avoid overburdening residents of those areas with special taxes or assessments.

Existing Policy: "Total taxes and special assessments should not exceed 2.00% of the assessed value of the property, including improvements."

Proposed Policy: Total taxes and assessments collected through the property tax bill should not exceed 1.80% of the assessed value of the parcel upon final sale of the property to an end user. In light of the significant increase in general property values within the City over the past decade, a lower maximum rate is proposed to limit the overlapping debt burden on anyone parcel. A more detailed description of the key policy changes listed above, as well as a general discussion of other proposed changes to the existing policy is provided in the full staff report on this item. The proposed Special District Policy has been reviewed by the City Attorney's Office, City Planning and Community Investment, and an independent financial advisory firm, Fieldman, Rolapp & Associates, which has significant experience in Special District formation and debt issuance and has worked with many municipalities across the state, including other cities within the County of San Diego.

FISCAL CONSIDERATIONS:

None specific to this action.

PREVIOUS COUNCIL and/or Committee ACTION:

The Debt Policy, including Appendix A (the Special District Policy), was presented to the Budget and Finance Committee (the "Committee") on June 6, 2007, and was discussed in further detail at the Committee meetings of July 25, 2007 and September 26, 2007. On September 26, 2007, the Committee's adopted action was to recommend the Debt Policy and the repeal of Council Policy 800-03 to the City Council. Adoption of Council Policy 800-03 by Resolution R-183351 on April 6, 1965, and adoption of amendments to such policy on the following dates: December 14, 1965 (R-185734); August 9, 1966 (R-188027); April 4, 1968 (R-193345); January 9, 1975 (R-212402); March 21, 1983 (R-258118); October 16, 1989 (R-274571).

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-331: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

There were no community participation or outreach efforts.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Future applicants for Special District formation or financing. Owners of property subject to a special tax or assessment lien and bondholders that own bonds in connection with Special Districts that may be formed in the future, and in accordance with the proposed Special District Policy.

¹ The Mello-Roos Community Facilities Act of 1982 permits a public agency to levy a special tax within a defined area to finance certain essential facilities, or to pay for certain services, when specific voting requirements are met.

² An Assessment District may be formed pursuant to the Streets and Highways Code Municipal Improvement Act of 1913. The associated bond acts, also contained within the Streets and Highways Code, include the Improvement Bond Act of 1915 and the Refunding Act of 1984, which provide for the issuance of bonds under various assessment proceedings and the refunding of assessment bonds, respectively.

Kommi/Goldstone

Staff: Elizabeth Kelly - (619) 236-6932
Mark D. Blake – Chief Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

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

ITEM-332: American Tower Corporation - Mt. Ada. An application for a wireless communication facility located at 6426 Mt. Ada Road between Mt. Rias Place and Mt. Albertine Avenue. (Clairemont Mesa Community Plan Area. District 6.)

[?View referenced exhibit back-up material.](#)

Matter of approving, conditionally approving, modifying or denying an application for a wireless communication facility consisting of an existing, expired 145 foot high monopole and a 572 square foot equipment shelter, originally approved by CUP No. 83-0629, which expired on November 20, 2004. The facility is located at 6426 Mt. Ada Road between Mt. Rias Place and Mt. Albertine Avenue.

This project was determined to be categorically exempt from the California Environmental Quality Act on January 23, 2006 and the opportunity to appeal that determination ended February 7, 2006.

(Continued from the meeting of October 15, 2007, Item 204, at the request of the applicant, American Tower Corporation for report from American Tower Corporation by 10/30/07 for Council and public review.)

NOTE: Hearing open. No testimony taken.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-188)

Adoption of a Resolution certifying findings supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference with respect to Conditional Use Permit No. 292627/Site Development Permit No. 450714;

That Conditional Use Permit No. 292627/Site Development Permit No. 450714 is denied.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: (Continued)

OTHER RECOMMENDATIONS:

Planning Commission on June 28, 2007 voted 5-0 to recommend denial; was opposition.

Ayes: Schultz, Garcia, Naslund, Ontai, Otsuji

Recused: Griswold

(vacant)

The Clairemont Mesa Planning Committee has recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Conditional Use Permit and Site Development Permit for an existing 145 foot high monopole and a 572 square foot equipment building located at 6426 Mt. Ada in the Clairemont Mesa Community Planning area.

STAFF RECOMMENDATION:

DENY Conditional Use Permit No. 292627 and Site Development Permit No. 450714.

EXECUTIVE SUMMARY:

On November 20, 1984, the City Council approved a Conditional Use Permit (CUP) for a 145 foot high monopole and a 572 square-foot equipment shelter on the south side of Balboa Avenue between Mt. Rias Place and Mt. Albertine Avenue at 6426 Mt. Ada Road. This was one of the first telecommunication facilities within the City. Since wireless communications was in its infancy, the Council imposed a 20 year limit on the life of the CUP in order to allow the facility to be constructed, the technology to be implemented and a review to occur in the future when technology and/or regulations changed. The condition included language regarding an extension to the permit, which would be required to be reviewed at a Planning Commission and City Council public hearing prior to November 20, 2004. The Land Development Code does not have provisions to extend discretionary permits.

The 145 foot tall monopole is situated along the Balboa Avenue corridor in a commercial zone (CC-1-3) that borders multi-unit residential development with a large residential subdivision beyond. The Clairemont Mesa Height Limitation Overlay zone does not permit structures over 30 feet in height without City Council approval of a Site Development Permit (SDP). A SDP is a special permit used when a proposed development would have a significant impact on the surrounding area.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Section 141.0405 of the Land Development Code (Communication Antennas) requires wireless facilities to be integrated into the landscape or camouflaged from public view. This monopole is a significant visual impact on the horizon along Balboa Avenue and the surrounding residential community. Neither the findings for the CUP nor the findings for the SDP could be made in the affirmative; therefore staff recommended denial of the permits to the Planning Commission.

On June 28, 2007, the Planning Commission considered the Mt. Ada monopole and voted unanimously (5-0) to recommend denial of the CUP/SDP because the facility is not camouflaged from public view and because it is not integrated into the environmental setting.

FISCAL CONSIDERATIONS:

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

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission voted 5-0 to recommend **DENIAL** of Conditional Use Permit No. 292627 and Site Development Permit No. 450714.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On March 21, 2006, the Clairemont Mesa Planning Committee voted 14-0-0 to recommend denial of Project No. 91178.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Denial of the project will require American Tower Corporation and their tenant Verizon Wireless to expend funds to upgrade their facility and make modifications to other facilities to accommodate the reduction in height in order to comply with the regulations.

Anderson/Boekamp

LEGAL DESCRIPTION:

6426 Mount Ada Road in the Clairemont Mesa Community Planning area.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-332: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301, Existing Facilities.

Staff: Karen Lynch-Ashcraft – (619) 446-5351
Andrea Contreras Dixon – Deputy City Attorney

NOTE: See Item 333 on today's docket for a companion item.

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

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

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

ITEM-333: American Tower Corporation-30th Place. Appeal of Planning Commission's decision denying an application for a wireless communication facility located at 700 30th Place. (Southeastern San Diego Community Plan Area. District 8.)

[?View referenced exhibit back-up material \(Part 1 of 2\).](#)

[?View referenced exhibit back-up material \(Part 2 of 2\).](#)

Matter of the appeal by Robert Jystad, Channel Law Group, LLP on behalf of applicant American Tower Corporation from the decision by the Planning Commission denying an application for a wireless communication facility consisting of an existing 130 foot high monopole and a 500 square foot equipment shelter, originally approved by CUP No. 84-0469, which expired on November 20, 2004. The project site is located at 797 1/3 30th Place.

This project was determined to be categorically exempt from the California Environmental Quality Act on February 8, 2006 and the opportunity to appeal that determination ended February 23, 2006.

(Continued from the meeting of October 15, 2007, Item 203, at the request of the applicant, American Tower Corporation for report from American Tower Corporation by 10/30/07 for Council and public review.)

NOTE: Hearing open. No testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions:

Adoption of a Resolution granting or denying the appeal and upholding or overturning the Planning Commission's decision denying Conditional Use Permit No. 296127 and Planned Development Permit No. 453612;

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)

OTHER RECOMMENDATIONS:

Planning Commission on June 28, 2007 voted 5–0 to deny.

Ayes: Schultz, Garcia, Naslund, Ontai, Otsuji

Recusing: Griswold

(vacant)

The Southeastern San Diego Planning Committee has been notified of this item and has not submitted a recommendation.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the Planning Commission's decision to deny a Conditional Use Permit and Planned Development Permit for a 130 foot high monopole and a 500 square foot equipment building located at 797 1/3 30th Place in the Southeastern San Diego Community Planning area.

STAFF RECOMMENDATION:

DENY the appeal and **UPHOLD** the Planning Commission's decision to deny Conditional Use Permit No. 296127 and Planned Development Permit No. 453612.

EXECUTIVE SUMMARY:

On November 20, 1984, the City Council approved a Conditional Use Permit (CUP) for a 130 foot high monopole and a 500 square-foot equipment shelter on the south side of Highway 94 at 797 1/3 30th Place. This was one of the first telecommunication facilities within the City. Since wireless communications was in its infancy, the Council imposed a 20 year limit on the life of the CUP in order to allow the facility to be constructed, the technology to be implemented and a review to occur in the future when technology and/or regulations changed. The condition included language regarding an extension to the permit, which would be required to be reviewed at a Planning Commission and City Council public hearing prior to November 20, 2004. The Land Development Code does not have provisions to extend discretionary permits.

The 130 foot tall monopole is situated at a high point along Highway 94 in a residential neighborhood and exceeds the MF-3000 height limit by 100 feet. Deviations to the development regulations require a PDP, which is a mechanism to encourage imaginative and innovative planning. Section 141.0405 of the Land Development Code (Communication Antennas) requires wireless facilities to be integrated into the landscape or camouflaged from public view.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

This monopole is a significant visual impact on the horizon along Highway 94 and the surrounding communities. Neither the findings for the CUP nor the findings for the PDP could be made in the affirmative; therefore staff recommended denial of the project to the Planning Commission.

On June 28, 2007, the Planning Commission considered the 30th Place monopole and voted unanimously (5-0) to deny the CUP because the facility is not camouflaged from public view and because it is not integrated into the environmental setting.

On July 11, 2007, Robert Jystad, attorney for American Tower Corporation, appealed the Planning Commission decision based on the findings not being supported and on the basis that the decision is of citywide significance. The appellant asserts that American Tower has vested rights to renewal and/or approval based on the fact that they relied on this approval to build out their network. The appellant also asserts that Finding No. 3 can be made in the affirmative. Staff believes that because the CUP had a specific expiration date, it was Verizon's (tenant) responsibility and American Tower's due diligence to make provisions in the network to accommodate changes that were inevitable to this tower. It has been consistently acknowledged by staff that these first generation support structures would eventually have to be removed and replaced if technology had advanced sufficiently for the changes to be made. Twenty years have passed; technology has advanced and American Tower and Verizon must comply with the regulations in order to maintain a wireless facility at this location.

The City has approximately twenty existing monopoles, all of which were approved more than ten years ago. With the advancement of technology and design capabilities in the wireless industry, it has been the City's practice over the past ten years not to allow additional monopoles, but instead, to encourage and provide incentives to the carriers to minimize the visual impacts associated with wireless facilities.

American Tower has raised the issue of vested rights in the past and staff has argued, and the Planning Commission has confirmed that a contract was signed by the original applicant of record, in this case, Pac Tel Mobile Access (now Verizon), acknowledging that the Conditional Use Permit not only ran with the land, but also expired on November 20, 2004. Preparations and modifications in the network should have been made to accommodate the potential for a height reduction. Verizon has worked closely with the City for the past twenty years and has known that monopoles were eventually going to be phased out and replaced.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

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

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission voted 5-0 to recommend **DENIAL** of Conditional Use Permit No. 296127 and Planned Development Permit No. 453612.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On March 27, 2006, American Tower met with the Technical Subcommittee of the Southeastern San Diego Planning Committee on 30th Place. They requested additional information on landscape and replacement of the existing chain link fence with wrought iron. American Tower has not been able to present to the Southeastern San Diego Planning Committee to date.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Compliance with the Communication Antenna regulations will require American Tower Corporation and their tenant Verizon Wireless to expend funds to upgrade their facility and make modifications to other facilities to accommodate the reduction in height.

Anderson/Boekamp

LEGAL DESCRIPTION:

The project is located at 700 30th Place within the Southeastern San Diego Community Plan, in the City and County of San Diego.

NOTE: This project is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301, Existing Facilities.

Staff: Karen Lynch-Ashcraft – (619) 446-5351

NOTE: See Item 332 on today's docket for a companion item.

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

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

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

ITEM-334: Amendments to Regulations Related to Affordable Housing Density Bonus. Amending the San Diego Municipal Code, Land Development Code; Certifying Supplement to Environmental Impact Report No. 96-0333, Project No. 63422 and adopting Findings and Statement of Overriding Considerations. (Citywide.)

[?View referenced exhibit back-up material \(Part 1 of 4\).](#)

[?View referenced exhibit back-up material \(Part 2 of 4\).](#)

[?View referenced exhibit back-up material \(Part 3 of 4\).](#)

[?View referenced exhibit back-up material \(Part 4 of 4\).](#)

Consideration of an ordinance that would amend the Land Development Code regulations in 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 constitute an amendment to City of San Diego's Local Coastal Program (LCP) and must be certified by the California Coastal Commission to be effective in the Coastal Overlay Zone. The LCP amendment will not become effective within the Coastal Overlay Zone until unconditionally certified by the California Coastal Commission. If you wish to be noticed of the Coastal Commission hearing on this issue, prior to the close of the City Council public hearing, you must submit a request in writing to City of San Diego, Development Services Department, 1222 First Avenue, MS-501, San Diego, CA 92101, Attention: Dan Joyce.

***Unless otherwise noticed or stated on the record at the hearing, if an ordinance is approved and introduced by the City Council, it will automatically be scheduled for a hearing by the City Council for final passage at 10:00 a.m. on the Tuesday two weeks after the subject hearing.**

(See Report to the City Council No. 07-162. SEIR No. 96-0333/Project No. 63422.)

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

(Continued from the meeting of January 30, 2007, Item 331, at the request of Councilmember Frye for further review; Continued from the meeting of February 27, 2007, Item 335 at the request of Councilmember Frye for further review; Last continued from the meeting of March 27, 2007, Item 333, by common consent to return to the Mayor for further review.)

NOTE: Hearing open. No testimony taken on 1/30/07.
Hearing closed. Public testimony taken on 2/27/07.

STAFF'S RECOMMENDATION:

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

Subitem-A: (R-2008-195)

Adoption of a Resolution certifying that Supplement to the Environmental Impact Report No. 96-0333 (Project No. 63422), 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 amendments to regulations related to the Affordable Housing Density Bonus;

That pursuant to California Public Resources Code section 21081 and California Code of Regulations section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference;

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.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

Subitem-B: (O-2008-19 Cor. Copy)

Introduction of an Ordinance of the Council of the City of San Diego amending Chapter 14, Article 3, Division 7, by amending Sections 143.0710, 143.0715, 143.0720, by renumbering and amending current section 143.0730 to 143.0725, by creating a new Section 143.0730, and by amending sections 143.0740, and repealing section 143.0760; And amending Chapter 14, Article 1, Division 3, by amending section 141.0310(b), all relating to the Density Bonus Regulations.

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 City-wide 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).

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)EXECUTIVE SUMMARY:

State Density Bonus Law requires cities in California 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. 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 a city-initiated amendment which increases the minimum density bonus for projects that provide moderate income for-sale housing. Also included for City Council consideration are two City Attorney options for implementing the State Density Bonus Law related to processing and density bonus for moderate for-sale housing.

There are three alternative actions for consideration. The City Council may:

- Adopt the regulations implementing the State Density Bonus Law only;
- Adopt the state mandated regulations and accept or modify the city-initiated density bonus incentive for moderate income for-sale housing; or
- Deny or modify the state mandated regulations and deny or modify the City-initiated density bonus incentive. Denial of the state mandated regulations could cause the City to be noncompliant with State Density Bonus 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:

This item was scheduled for City Council on January 30, 2007 and continued to February 27. On February 27, the item was continued to March 27 when it was returned to the Mayor's Office. 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.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

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.

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, the building industry and community planning groups. The environmental document has identified potential for impacts to visual quality, transportation, and parking; and cumulative impacts to visual quality and parking.

Anderson/Joyce

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
Karen Heumann– Assistant City Attorney

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

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

ITEM-335: Navy Broadway Complex. Appeal of Environmental Determination. (Marina and Columbia Sub Areas of the Centre City Redevelopment Project. District 2.)

[?View referenced exhibit back-up material \(Part 1 of 8\).](#)

[?View referenced exhibit back-up material \(Part 2 of 8\).](#)

[?View referenced exhibit back-up material \(Part 3 of 8\).](#)

[?View referenced exhibit back-up material \(Part 4 of 8\).](#)

[?View referenced exhibit back-up material \(Part 5 of 8\).](#)

[?View referenced exhibit back-up material \(Part 6 of 8\).](#)

[?View referenced exhibit back-up material \(Part 7 of 8\).](#)

[?View referenced exhibit back-up material \(Part 8 of 8\).](#)

Matter of the Appeals of the Environmental Determination by the Centre City Development Corporation (“CCDC”) on July 25, 2007 regarding the Navy Broadway Complex project by 1) the San Diego Navy Broadway Complex Coalition and 2) Katheryn Rhodes and Conrad Hartsell. The appeals consist of challenges to the Determination that no further environmental review is required for the project under the California Environmental Quality Act (“CEQA”) (Pub. Resources Code, § 21000 et seq.).

The Navy Broadway Complex is a nearly 15-acre site bounded by Broadway to the north, Pacific Highway to the east and Harbor Drive to the West and south (E, F, and G streets, which are currently closed to public use, pass through the site). The property is owned by the U.S. Navy and is the subject of a 1992 Development Agreement with the City of San Diego, which provides for allowable development on the property of 3.25 million square feet of development including up to 1,650,000 square feet of office uses (including a new Navy Administration Building), 1,220,000 square feet of hotel uses, 25,000 square feet of “independent” retail uses (i.e., not associated with primary hotel or office uses), 55,000 square feet of public attraction (e.g., museum or similar) space, and a 1.9 acre Public Park at the foot of Broadway. The City Council certified an Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for this project on October 20, 1992 (“1992 Final EIR/EIS”). The project is located within the Centre City/Downtown Community Planning Area.

(See Centre City Development Corporation Report No. CCDC-07-20.)

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Take one of the following actions:

Deny the appeals by the San Diego Navy Broadway Complex Coalition and Katheryn Rhodes and Conrad Hartsell, M.D.;

Uphold the environmental determination that no additional environmental review is necessary for the proposed Navy Broadway Complex project; and

Make an express finding that the information submitted by the appellants does not constitute substantial evidence of substantial changes in the project or the circumstances under which the project is undertaken, or new information of substantial importance concerning the project, that would suggest the project will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

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

Or

Grant the appeal, set aside the environmental determination, and direct CCDC and/or DSD to conduct additional environmental review with direction or instruction to the City Council as deemed appropriate;

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

Or

Grant the appeal and direct CCDC and/or DSD to prepare a new environmental document pursuant to Public Resources Section 21166. If Council chooses this alternative, CCDC respectfully requests that Council identify which subsection(s) of Section 21166 applies and what evidence exists that would lead to the preparation of a new environmental document;

Direct 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-335: (Continued)

SUPPORTING INFORMATION:**REQUESTED ACTION:**

San Diego City Council (“City Council”) denial of the appeals thereby upholding CCDC’s determination that, pursuant to Public Resources Code Section 21166, no additional environmental review is necessary for the proposed Navy Broadway Complex project.

EXECUTIVE SUMMARY:

In 1992, the City Council certified the 1992 Final EIR/EIS and adopted a Mitigation and Monitoring Program to govern the implementation of the Navy Broadway Complex project. In or around October 2006, the Development Services Department conducted a CEQA evaluation of the NBC project for CCDC that considered whether any of the criteria set forth in Public Resources Code section 21166, governing the preparation of subsequent or supplemental environmental impact reports, was present with respect to first proposed master plan submitted to CCDC for the implementation of the Navy Broadway Complex project. The review was limited to consideration of CEQA issues associated with the project and previously certified applicable environmental documents. After consideration of the project, the 1992 Final EIR/EIS, and several applicable certified environmental documents for other projects in the vicinity, DSD concluded that the Navy Broadway Complex project was adequately addressed in these prior environmental documents and that no additional environmental review was required. DSD’s Section 21166 evaluation is summarized in a memorandum dated October 19, 2006 (“DSD CEQA Consistency Analysis”). On October 25, 2006, CCDC adopted the DSD CEQA Consistency Analysis. Two separate appeals were filed to the City Council challenging the DSD CEQA Consistency Analysis and CCDC’s approval and adoption thereof. Following a public hearing, the City Council denied both appeals on January 9, 2007 and upheld the environmental determinations.

On July 2, 2007, the private developer for the project submitted a new master plan (“Superseding Master Plan”) and also Phase I Buildings Basic/Schematic Drawings [of Blocks 2 and 3] for the Navy Broadway Complex (Phase I Buildings). The Superseding Master Plan and Phase I Buildings replace and supersede the First Master Plan, which had been approved by CCDC, and previous building schematics, which had been submitted to CCDC, but not approved. On July 25, 2007, the CCDC Board of Directors adopted findings, based on all the information in the record, including the DSD CEQA Consistency Analysis and information provided by CCDC staff, including an “Initial Study” that the DSD CEQA Consistency Analysis continues to be adequate with respect to the Superseding Master Plan and that, pursuant to Public Resources Code section 21166, no further subsequent or supplemental EIR is required for the project. (CCDC Resolutions 2007-1 through 2007-5 (executed July 25, 2007).)

The only issue before the City Council is the appeal of the environmental findings (collectively the “environmental determination”) made by CCDC on July 25, 2007 that:

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

SUPPORTING INFORMATION: (Continued)

1. Based on all the information in the record DSD's October 19, 2006 CEQA Consistency Analysis for the Master Plan for the NBC project (Attachment A) continues to be adequate with respect to the most recent Superseding Master Plan for that project;
2. No Subsequent or Supplemental EIR is required for the NBC project because no substantial changes have been proposed to the project that will require major revision to previous EIRs, no substantial changes have occurred with respect to the circumstances under which the NBC project is not being undertaken, and no information, which was not known and could not have been known at the time the 1992 Final EIR/EIS, the 1992 Final Master EIR for the Centre City Redevelopment Project, the 1999 Final Subsequent EIR for the Ballpark and Ancillary Development Projects, the 2000 North Embarcadero Visionary Plan EIR, and the 2006 Downtown Community Plan Final EIR were certified as complete, has become available.

FISCAL CONSIDERATIONS: None.

CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:

On July 25, 2007, the CCDC Board adopted findings that the Superseding Master Plan and Phase I Buildings Basic Concept/Schematic Drawings are consistent with the Design Guidelines, subject to recommended conditions. (Resolutions 2007-1 through 2007-5 (executed July 25, 2007).) At that same time the Board readopted the DSD CEQA Consistency Analysis prepared for the First Master Plan, finding that the DSD's analysis continues to be adequate with respect to the Superseding Master Plan and Phase I Buildings. Based on the DSD CEQA Consistency Analysis and the supplemental material provided by CCDC Staff, including the Initial Study, the Board adopted findings that under CEQA section 21166, a Subsequent or Supplemental EIR need not be prepared for the NBC project.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On October 20, 1992, the City Council certified the EIR/EIS for the Navy Broadway Complex project. On October 25, 2006, CCDC adopted a resolution accepting the DSD CEQA Analysis prepared for the Navy Broadway Complex project, dated October 19, 2006. On January 9, 2007, the City Council upheld the DSD CEQA Analysis adopted by CCDC on October 25, 2006 that the Navy Broadway Complex project is adequately addressed by prior environmental documents and no new environmental review is required. On July 25, 2007, CCDC adopted findings that the DSD CEQA Analysis continues to be adequate with respect to the Superseding Master Plan and Phase I Buildings for the Navy Broadway Complex project and that no further environmental review is required pursuant to Public Resources Code section 21166.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

SUPPORTING INFORMATION: (Continued)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Community participation occurred with the processing of the 1990 EIR/EIS, which was certified in 1992 at a public hearing. CEQA does not require public review with an evaluation conducted pursuant to Public Resources Code section 21166. The October 25, 2006, CCDC meeting in which CCDC adopted the DSD CEQA Consistency Analysis was a public meeting and testimony was taken on the topic. The January 9, 2007 City Council Meeting in which the City Council denied the appeals as to the DSD CEQA Consistency Analysis and the action taken by CCDC in adopting that analysis was a public meeting and testimony was taken on the topic.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Appellants: 1) The San Diego Navy Broadway Complex Coalition and 2) Katheryn Rhodes and Conrad Hartsell, M.D.

Owner: United States Navy

Applicant: Manchester Financial Group

Sanchez/Graham

Staff: Eli Sanchez – (619) 533-7121

Huston Carlyle – Deputy City Attorney

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

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT