

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
TUESDAY, MAY 6, 2008 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) 578-7552. 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: Approval of Council Minutes.
- ITEM-31: San Diego River Day.
MAYOR SANDERS', COUNCILMEMBER ATKINS', AND COUNCILMEMBER FRYE'S RECOMMENDATION: Adopt the resolution.
- ITEM-32: Water Awareness Month.
COUNCIL PRESIDENT PETERS' AND COUNCILMEMBER FRYE'S RECOMMENDATION: Adopt the resolution.
- ITEM-33: Lyme Disease Awareness Month.
COUNCILMEMBER MAIENSCHIN'S 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 consider requests for continuance in the morning or afternoon, based on when the item was noticed to be heard.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items

- ITEM-50: Contract Change Order No. 2 with Habitat West Inc. for Los Peñasquitos North Wetland Creation Project. (Los Peñasquitos Canyon Preserve Community Area. District 1.)
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinance which was introduced on 4/22/2008, Item 50.
NOTE: 6 votes required pursuant to Section 99 of the City Charter.
- ITEM-51: General Fund Deferred Maintenance Capital Improvement Projects Financing. (Citywide.)
CITY COUNCIL'S RECOMMENDATION: Adopt the ordinance which was introduced as amended on 4/22/2008, Item 331, Subitem A.
NOTE: 6 votes required pursuant to Section 99 of the City Charter.
- ITEM-100: Participation Agreement with DMH Lindo Paseo, LLC for the Water Main Upgrade. (College Community Area. District 7.)
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 2/27/2008, NR&C voted 4 to 0 to approve.
- ITEM-101: Agreement with Boyle Engineering Corporation for As-Needed Assessment Engineering Services. (Citywide.)
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-102: Mission Hills Neighborhood Park Tot Lot Renovation and Donation. (Uptown Community Area. District 2.)
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-103: Internet Crimes Against Children (ICAC) State Grant.
STAFF'S RECOMMENDATION: Adopt the resolution.
- ITEM-104: Fire Rescue Department Fire Stations to Serve as Safe Surrender Sites for Infants Per Health and Safety Code Section 1255.7.
STAFF'S RECOMMENDATION: Adopt the resolution.

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

Adoption Agenda, Consent Items (Continued)

- ITEM-105: Business Improvement District Budgets – FY 2009 Annual Appropriation Process. Approve FY 2009 Budget Reports for specified Business Improvement Districts; and declare Council’s intention to levy and collect annual assessments from businesses within specified Business Improvement Districts for FY 2009, and noticing the public hearing. (Centre City, College Area, Greater North Park, La Jolla, Mid-City, Mission Beach, Ocean Beach, Old San Diego, Pacific Beach, San Ysidro, Southeastern San Diego, and Uptown Community Areas. Districts 1, 2, 3, 4, 7, and 8.)
STAFF’S RECOMMENDATION: Adopt the resolutions.

Adoption Agenda, Discussion, Other Legislative Items

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

- ITEM-330: Response to the Report from the Independent Oversight Monitor.
MAYOR SANDERS’ RECOMMENDATION: Take the actions.

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

- ITEM-331: Fiscal Year 2009 Community Development Block Grant (CDBG) Program. (Citywide.)
STAFF’S RECOMMENDATION: Take the actions.

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

- ITEM-332: Fiscal Year 2009 Social Services Program. (Citywide.)
STAFF’S RECOMMENDATION: Take the actions.

Noticed Hearings, Discussion

- ITEM-333: Three Actions Related to the Vacation of Portions of Fay Avenue. A public Right-of-Way Vacation and Coastal Development Permit for portions of unimproved Fay Avenue located adjacent to La Jolla Hermosa Avenue and La Jolla Boulevard, west of 6063 La Jolla Boulevard. (La Jolla Community Plan Area. District 1.)
STAFF’S RECOMMENDATION: Adopt the resolutions.

=== LEGISLATIVE SCHEDULE (Continued) ===

Noticed Hearings, Discussion (Continued)

ITEM-334: 4532 Felton Street Vesting Tentative Map, Project No. 97653. Appeal of the Planning Commission's decision approving a Vesting Tentative Map to convert seven existing apartments to condominiums, including a request to waive the requirement to underground existing overhead utilities. (Normal Heights neighborhood of the Mid-City Communities Plan Area. District 3.)
STAFF'S RECOMMENDATION: Take the actions.

ITEM-335: 5445 55th Street Tentative Map, Project No. 83624. Appeal of the Planning Commission's decision approving a Tentative Map including a waiver of the requirement to underground existing overhead utilities to convert twenty-five existing apartments to condominiums at 5445 55th Street in the RM-3-9 Zone and Parking Impact Overlay Zone. (College Community Plan Area. District 7.)
STAFF'S RECOMMENDATION: Take the actions.

Non-Docket Items

Adjournment in Honor of Appropriate Parties

Adjournment

=== EXPANDED CITY COUNCIL AGENDA ===

SPECIAL ORDERS OF BUSINESS

ITEM-30: Approval of Council Minutes.

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

TODAY'S ACTION IS:

Approval of Council Minutes for the meetings of:

04/01/2008

04/07/2008 - Adjourned

04/08/2008 - Adjourned

ITEM-31: San Diego River Day.

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

**MAYOR SANDERS', COUNCILMEMBER ATKINS', AND COUNCILMEMBER
FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-962)

Commending the San Diego River Park Foundation for organizing San Diego River Days 2008;

Proclaiming May 6, 2008, to be "San Diego River Day" in the City of San Diego.

SPECIAL ORDERS OF BUSINESS (Continued)

ITEM-32: Water Awareness Month.

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

**COUNCIL PRESIDENT PETERS' AND COUNCILMEMBER FRYE'S
RECOMMENDATION:**

Adopt the following resolution:

(R-2008-977)

Proclaiming the month of May 2008 to be "Water Awareness Month" in the City of San Diego and supporting the exemplary efforts of the Water Department.

ITEM-33: Lyme Disease Awareness Month.

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

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-840)

Proclaiming April 2008 to be "Lyme Disease Awareness Month" in the City of San Diego to recognize and applaud the efforts of the Lyme Disease Support Group, which seeks to protect and educate the people of San Diego on the danger and prevention of Lyme Disease.

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)

REQUESTS FOR CONTINUANCE

The Council will consider requests for continuance in the morning or afternoon, based on when the item was noticed to be heard.

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 and 51.

RESOLUTIONS TO BE ADOPTED:

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

ADOPTION AGENDA, CONSENT ITEMS

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

- * ITEM-50: Contract Change Order No. 2 with Habitat West Inc. for Los Peñasquitos North Wetland Creation Project. (Los Peñasquitos Canyon Preserve Community Area. District 1.)

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

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 4/22/2008, Item 50. (Council voted 8-0):

(O-2008-124)

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, Change Order No. 2, dated January 2, 2008, together with the changes set forth, amounting to an extension of time of 1,095 calendar days, issued in connection with the agreement between the City and Habitat West, Inc.;

Declaring that the above activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15060(c)(3) and 15378 because this activity is subsequent discretionary approval of a project which was adequately addressed in Environmental Impact Report, PTS No. 6020, and there is no change in circumstance, additional information, or project changes to warrant additional environmental review.

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: General Fund Deferred Maintenance Capital Improvement Projects Financing. (Citywide.)

[▶ View referenced exhibit back-up material \(Part 1 of 3\).](#)

[▶ View referenced exhibit back-up material \(Part 2 of 3\).](#)

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

(See Reports to the City Council No. 08-042, 08-041, and 08-30; memorandum from Lakshmi Kommi dated 3/17/2008; and PowerPoint regarding Deferred Maintenance Funding Lease Revenue Bonds, Series 2008A.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced as amended on 4/22/2008, Item 331, Subitem A. (Council voted 7-1. Councilmember Frye voted nay):

(O-2008-129)

Approving the form of and authorizing the execution and delivery of a site lease, a lease, and a purchase agreement and authorizing the execution, delivery and performance of an assignment agreement 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 \$108,000,000 of the Authority's Lease Revenue Bonds, Series 2008A (Various Capital Improvement Projects), approving the form of and authorizing the execution and delivery of a financial advisory services agreement, authorizing the City Attorney to appoint bond 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

RESOLUTIONS:

- * ITEM-100: Participation Agreement with DMH Lindo Paseo, LLC for the Water Main Upgrade. (College Community Area. District 7.)

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

(See Water Department's 2/11/2008 Executive Summary Sheet and Water Department's 2/27/2008 PowerPoint.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-901)

Authorizing the Mayor, or his designee, to award and execute, for and n behalf of said City, an Agreement with DMH for the design and construction of the Improvements in Lindo Paseo and Campanile Drive, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$320,000, solely and exclusively, for the purpose of executing this Agreement, contingent upon the City Auditor and Comptroller first furnishing one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$320,000 from Water Fund 41500, CIP-73-083.0, Lindo Paseo Water Main Upgrade, for the purpose of providing funds for the Improvements in the above referenced Agreement;

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

Declaring that this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 2/27/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

* ITEM-100: (Continued)

SUPPORTING INFORMATION:

DMH Lindo Paseo, LLC, a California Limited Liability Company, is the owner of certain property known as Plaza Lindo Paseo within the College Area Community Planning Area.

As a condition of approval for construction of new condominiums and retail space, and in order to provide adequate fire protection for the new project, the developer is required to replace the existing cast iron water mains in Linda Paseo from 55th Street to Campanile Drive and in Campanile Drive from Linda Paseo to Montezuma Road with 12-inch PVC water mains, a distance of approximately 1,665 linear feet. The replacement of this cast iron water main is within the Department of Health Services Compliance Order (Amendment No. 11 to Compliance Order 04-14-96CO-022). The City's pro rata share for replacement of the existing 6-inch cast iron main is \$320,000. The Developer's share is for the incremental cost of upsizing the 8 inch diameter water main to 12 inches at a cost to the Developer of \$72,000.

The City finds that the public interest is served by the completion of the water facilities required to improve the water system. Construction of the water facilities will be expedited by entering into a participation agreement allowing the Developer to construct the required water facilities. The estimated cost of the project is \$392,000, but the City's reimbursement cost shall not exceed a Maximum Cost of \$320,000. The Developer is responsible for any costs in excess of that amount. Failure to replace these aging and undersized water mains could result in disruption of water service and possible hardship to the impacted community.

FISCAL CONSIDERATIONS:

The total cost to the City for this project is \$320,000 and the City's participation will not exceed \$320,000. Funding is available in Water Fund 41500, CIP-73-083.0. The Water Fund total project cost of \$320,000 may be reimbursed approximately 80% by current or future debt financing.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The Participation Agreement was approved 4-0 by the NR&C Committee on 2/27/08.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Water Department customers in the project area and the Department of Public Health.

Ruiz/Barrett

Aud. Cert. 2800705.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

- * ITEM-101: Agreement with Boyle Engineering Corporation for As-Needed Assessment Engineering Services. (Citywide.)

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

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-893)

Authorizing the Mayor to execute an Agreement for Design Professional Services (Agreement) with Boyle Engineering Corporation, a California corporation;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$250,000 from Maintenance Assessment District Management Fund No. 70208 to satisfy the Agreement, provided the City Auditor and Comptroller first furnishes one or more certificates certifying the funds are available.

STAFF SUPPORTING INFORMATION:

The Park and Recreation Department's Maintenance Assessment Districts Program currently manages forty-eight (48) Maintenance Assessment Districts throughout the City. The services of Boyle Engineering Corporation are required in order to meet the provisions of Article XIID of the California Constitution (Proposition 218) and levy an assessment on real property via the County of San Diego Property Tax enrollment.

Boyle Engineering Corporation, an engineering firm, would be used on an As-Needed Basis to evaluate and propose district boundaries, prepare apportionment methodologies, document changes to existing Districts, and prepare reports and assessment maps for the formation of new districts. Each of these services requires professional assessment engineering standards considered defensible and must meet the burden of proof requirements of Assessment Law, as adopted by the City and interpreted by the City Attorney and/or outside counsel.

Under this agreement, Boyle Engineering Corporation would evaluate and engineer new proposed Maintenance Assessment Districts, prepare annual updates to the assessment engineer's reports for the City's existing Maintenance Assessment Districts; and provide other as-needed assessment engineering services.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

* ITEM-101: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

Funds for this action are available in the Maintenance Assessment District Management Fund (No. 70208) in the amount of \$250,000. New Maintenance Assessment District formation will be funded by applicable community funding sources (such as developer deposits, formation funds per City Council Policy 100-21, or private contributions) as funding becomes available. Below is a table of proposed tasks and estimated expenditures by Fiscal Year. Entering into this agreement will not obligate any communities listed below to undergo a balloting process for forming a new Maintenance Assessment District.

<u>Proposed Task</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>TOTAL</u>
Annual Update	\$65,000	\$70,000	\$135,000
Assessment Engineering Consultation	\$10,000	\$10,000	\$20,000
Balloting/Mailing	\$10,000	\$10,000	\$20,000
MAD Formation Services	\$20,000	\$55,000	\$75,000
TOTAL	\$105,000	\$145,000	\$250,000

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Annual updates to the assessment engineer's reports are prepared by the assessment engineer to reflect changes in land use and assessment rates. These reports are typically presented to the City Council in early July for approval to levy assessments for the upcoming Fiscal Year.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Most Maintenance Assessment Districts have Citizen Advisory Committees and the assessment engineer often assists with interpretation and analysis of the district's improvements and benefits to the community. The assessment engineer will present findings to Citizen Advisory Committees or Community Groups on as-needed basis.

EQUAL OPPORTUNITY CONTRACTING:

The City's 15% subconsultant participation goal is voluntary, however, strongly recommended. Boyle has satisfied 10% of that goal and has submitted an Equal Opportunity Employment Plan. EOC staff will monitor compliance with contract goals, the City's Equal Opportunity Contracting (SD Ord. No. 1873, Sect 22.2701) and Non Discrimination in Contracting Ordinances (SDMC Sections 22.3501-22.3517).

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

* ITEM-101: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Funding Agency: City

Prevailing Wages: Does not apply.

Subconsultant

Participation: Lintvedt, McColl & Assoc. (White Female / DBE)	\$25,000	10%
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Total Certified Participation	\$25,000	10%
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Total Other Participation	\$0	0%
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Total Participation	\$25,000	10%
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KEY STAKEHOLDERS and PROJECTED IMPACTS (if applicable):

All citizen advisory committees for existing districts would obtain a copy of the Assessment Engineer's Report through regular meetings or by visiting the City's webpage. Any Maintenance Assessment District formation process would involve community input and discussion. This action does not bring forward any specific Maintenance Assessment District formation proposals but rather provides those services for an as-needed assessment engineer to provide interested communities.

LoMedico/Heap

Aud. Cert. 2800696.

Staff: Andrew Field - (619) 533-6724

Brock Ladewig – Chief Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

* ITEM-102: Mission Hills Neighborhood Park Tot Lot Renovation and Donation. (Uptown Community Area. District 2.)

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

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-961)

Authorizing the acceptance of the donations from the Mission Hills Town Council and the Mission Hills Main Street Foundation of approximately \$110,000 in tot lot improvements for the Mission Hills Neighborhood Park;

Declaring that this activity is categorically exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15302, Replacement or Reconstruction.

STAFF SUPPORTING INFORMATION:

Mission Hills Neighborhood Park is located in the Uptown community planning area, in the neighborhood of Mission Hills. The park was initially developed in 1969, and the current tot lot equipment was installed in 1991. The existing equipment is in fair condition but is showing signs of wear. Park and Recreation staff has replaced damaged equipment in the past as needed. At approximately 17 years of age, the existing play equipment is reaching the end of its expected life span. The sand surfacing in the tot lot is old and in need of replacement. The existing rubber surfacing does not provide universal access in accordance with current standards. Picnic tables are old and showing signs of wear.

The community desires to replace the existing tot lot equipment and surfacing with new equipment that will enhance the play value, accessibility and safety of the tot lot. New play equipment will meet more current safety standards and increase the play value. New rubberized surfacing will assure universal access to all play equipment. New sand surfacing will provide additional safety and play value as well. Improvements to the walkway from the public right-of-way to the tot lot will bring the path of travel into compliance with current standards. Additional picnic tables and benches will provide improved and accessible seating.

Volunteers with the Mission Hills Town Council have solicited proposals from various playground manufacturers for design/build of the tot lot improvements. The team of T.D. Grogan Construction and Landscape Structures, Inc. was selected by the Mission Hills Town Council to provide the design/build services.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

* ITEM-102: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The estimated value of the tot lot and site improvements is approximately \$110,000. The Mission Hills Town Council was established in 2007, to serve the residents of Mission Hills as a unified voice, and to communicate with elected officials and neighbors.

There is an elected Board of Trustees who serves two-year terms. There are 11 trustees (four officers and seven members at large). The Mission Hills Town Council is currently in process to establish itself as a non-profit organization. The Mission Hills Main Street Foundation is a non-profit public benefit corporation with the specific purposes to develop and implement a program with its main focus on revitalization of the public, commercial and residential areas of Mission Hills by incorporating a historic preservation ethic, including the construction and/or maintenance of public buildings, improvements, monuments or works.

FISCAL CONSIDERATIONS:

Park and Recreation staff is available to provide support to the Mission Hills Town Council and Mission Hills Main Street Foundation during design and construction of the proposed tot lot improvements. Park and Recreation staff will also assist in the removal and disposal of existing tot lot equipment. The proposed tot lot improvements will reduce the current demand for tot lot maintenance by providing new equipment, sand and rubberized surfacing.

Funding for the tot lot improvements will be raised by the Mission Hills Town Council and the Mission Hills Main Street Foundation through donations and other fund raising activities. County Supervisor Ron Roberts has pledged to match the amount of the funds raised, up to \$57,500.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

With assistance from Park and Recreation staff, volunteers have coordinated the design of the tot lot with the Mission Hills Town Council and the Mission Hills Main Street Foundation. This project was presented to the Mission Hills Town Council at their January 2008, Town Hall meeting, and received unanimous support. This project has also been reviewed by, and received a recommendation of approval from, the University Heights Recreation Council at their April 3, 2008 meeting. The University Heights Recreation Council meeting was publicly noticed in accordance with Council Policy 600-33 and the San Diego Municipal Code.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

* ITEM-102: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Stakeholders include the residents of the Mission Hills community, the Mission Hills Town Council, the Mission Hills Main Street Foundation, and the University Heights Recreation Council. The contractor will be T. D. Grogan Construction. The playground equipment manufacturer will be Landscape Structures, Ink. The projected impacts are considered to be positive.

Lomedico/Heap

Staff: Jim Winter - (619) 235-5257
Shannon Thomas - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

* ITEM-103: Internet Crimes Against Children (ICAC) State Grant.

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

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-870)

Authorizing the Mayor, or his designee, for and on behalf of the City of San Diego, to apply for, accept, and expend the grant funds from the State of California, OES;

Authorizing the Mayor, or his designee, to execute all aspects of program operation, including any amendments, extensions, or renewals, for a period of up to five years, provided funding is made available, and to certify that the City will comply with all applicable statutory or regulatory requirements related to grant funding;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend these grant funds up to an amount not to exceed \$250,000;

Declaring that any resources received hereunder shall be used to supplement and not to supplant expenditures controlled by this body; and that personnel positions, if any, funded under this grant are not subject to local hiring freezes;

Declaring that this agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

STAFF SUPPORTING INFORMATION:

Since its initial grant funding in May 2000, the San Diego Internet Crimes Against Children Task Force (SDICAC) has become an established part of the San Diego County law enforcement community. SDICAC has brought an effective combination of computer technology and investigative expertise to bear on problems related to the on-line exploitation of children. SDICAC will use these additional funds for the following goals:

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

* ITEM-103: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

- Serve as a resource for communities and agencies within the geographic service area.
- Conduct both proactive and reactive investigations into the computer/technology crimes perpetrated against children and youth.
- Serve as a forensic resource to affiliate agencies and other agencies within the geographical area of service.
- Assist, to the extent possible, with the effective prosecution of cases at the appropriate level.
- Respond to referrals from agencies (other task forces, federal partners, cyber tips, etc.)
- Engage in law enforcement and community outreach activities including training, prevention, and education activities.
- Formalize law enforcement partnerships through signed Memorandums of Understanding (MOUs) that include adoption of Federal ICAC Task Force investigative standards.
- Provide assistance to participating agencies through training opportunities, equipment etc., as funding allows.
- Participate in nationally coordinated investigations.

FISCAL CONSIDERATIONS:

Funds from this grant are allocated to Personnel Services and Equipment. There is no requirement for matching funds, nor to continue grant program operations or expenditures after grant funding is exhausted.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Federal ICAC Grants: R-293034.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

SDICAC provides presentations for numerous groups, including (but not limited to) schools, youth organizations, community-based organizations, state and local law enforcement associations, businesses and business organizations, victim service providers, faith-based organizations, the media, and family advocacy organizations.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: NA

Lansdowne/Olen

Staff: Donna J. Warlick - (619) 531-2221
Mary T. Nuesca - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

- * ITEM-104: Fire Rescue Department Fire Stations to Serve as Safe Surrender Sites for Infants Per Health and Safety Code Section 1255.7.

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

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-929)

Declaring that all San Diego Fire-Rescue Department fire stations open 24 hours per day, seven days per week, are designated Safe Surrender sites within the meaning of Section 1255.7 of the Health and Safety Code;

Authorizing the Mayor, City Auditor and Comptroller, or their designees, for and on behalf of the City of San Diego, to execute all aspects of program operation to enable San Diego Fire-Rescue Department fire stations to serve as Safe Surrender sites, and may spend up to \$1,500 to implement this Resolution.

STAFF SUPPORTING INFORMATION:

Infant abandonment is an event that does not occur very often, but when it does, it often results in serious injury or death. In 2001, California SB 1368 became law and established the Safely Surrender Baby program. The purpose of the law is to encourage parents to bring unwanted infants, up to three days old, to reception centers such as hospitals or fire stations, rather than abandon them in dumpsters or bushes. Under California SB 1368, no names are required, and the parent(s) will not be subject to prosecution for child abandonment. Additionally, the baby will receive needed medical treatment and be placed in an adoptive home. There is a mechanism for parents to reclaim the infant within 14-days if deemed appropriate by Child Welfare Services.

The Safely Surrendered Baby law established hospitals as safe haven sites, and allowed counties to designate other facilities, such as fire stations, as such sites. On December 11, 2007, the San Diego County Board of Supervisors approved the designation of fire stations that are staffed full-time as safe haven sites. Their decision, in part was based on fire stations being located in communities where people work and live, can be less intimidating than hospitals, and are recognized by the public as places where people can go for help.

Statewide, 182 newborns have been safely surrendered in California since the law was enacted. Unfortunately, infants continue to be illegally abandoned, resulting in injury and death.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

* ITEM-104: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

In north San Diego County, two abandoned infants have been found dead in the past two years. It is frightening to consider how many abandoned infants were never found. San Diego Fire-Rescue believes that the opportunity of hope that a fire station safe haven could provide for a potentially abandoned infant is well worth the minimal cost and effort to provide such service.

Adoption of the resolution would authorize the Fire-Rescue Department to engage in the Safely Surrendered Baby Program and expend the funds necessary for training, materials and station signage for the program. If approved, all fire operations personnel would be trained on how to manage a safe surrender situation in accordance with the law.

FISCAL CONSIDERATIONS:

Training and materials (Safe Surrender Kits and Signage for all Fire Stations) would constitute a one time cost of approximately \$ 1,500. Funding for this effort would be borne by San Diego Medical Services Enterprise, LLC.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Public outreach and communication for this program is being coordinated through the San Diego County Fire Chiefs Association.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

Jarman/Olen

Staff: Tracy Jarman - (619) 533-4301
David M. Stotland - Deputy City Attorney

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

- * ITEM-105: Business Improvement District Budgets – FY 2009 Annual Appropriation Process. Approve FY 2009 Budget Reports for specified Business Improvement Districts; and declare Council’s intention to levy and collect annual assessments from businesses within specified Business Improvement Districts for FY 2009, and noticing the public hearing. (Centre City, College Area, Greater North Park, La Jolla, Mid-City, Mission Beach, Ocean Beach, Old San Diego, Pacific Beach, San Ysidro, Southeastern San Diego, and Uptown Community Areas. Districts 1, 2, 3, 4, 7, and 8.)

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

STAFF’S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-967)

Approving the Fiscal Year 2009 Budget Reports for specified Business Improvement Districts.

Subitem-B: (R-2008-968)

Resolution declaring the Council’s intention to levy and collect annual assessments from businesses within specified Business Improvement Districts for Fiscal Year 2009, and noticing the public hearing.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTIONS:

At the first Council date (May 5 or 6, 2008):

1. Approve the FY2009 Budget Reports for each specified Business Improvement District [BID] (Adams Avenue, City Heights, College Area, Diamond, Downtown, El Cajon Boulevard Central, El Cajon Boulevard Gateway, Gaslamp, Hillcrest, La Jolla, Littly Italy, Mission Hills, North Park, Ocean Beach, Old Town, Pacific Beach, and San Ysidro); and
2. Declare the Council’s intention to levy and collect annual assessments from businesses within each specified BID, and set May 27, 2008 as the noticed public hearing date.

At the second Council date (the noticed public hearing on May 27, 2008):

3. Confirm the FY 2009 Budget Reports for each specified BID and levy the annual assessments for those BID’s; and
4. Authorize the Mayor to execute the FY2009 BID Operating Agreements with the non-profit associations for the specified BID’s.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

* ITEM-105: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

STAFF RECOMMENDATION: Adopt the requested actions.

EXECUTIVE SUMMARY:

The California Streets and Highways Code authorizes the City to establish Business Improvement Districts (BIDs), to levy and collect an assessment from businesses within the BIDs, and to apply these assessments toward improvements and activities that benefit the businesses within their respective BIDs. The City established each of the BIDs by adopting an ordinance which details the street ranges to be included in the BID, the categorization of the types of businesses within each BID, and in some cases the size of the businesses as determined by the number of employees. The assessment levels, as determined by these factors, are also detailed in each ordinance.

Under State law the City Council must annually review and approve the Budget Reports for the BIDs. In addition, the City Council must annually authorize the levying of the assessments as established in the respective ordinances and hold a noticed public hearing on the matter. Once authorized, the BID assessments are collected by the City Treasurer at the same time and in the same manner as the City's business tax.

The City collects approximately \$1.3 million annually in BID assessments from approximately 12,000 businesses; these funds are accounted for separately in the City's accounting system and are provided to the non-profit business associations (whose memberships include the businesses in the respective BID's) under an operating agreement. Generally, funds are remitted to the non-profit associations on a reimbursement basis to manage BID programs in the respective BID's, though working capital advances are permitted under certain circumstances. State law also provides that the Budget Reports shall identify any surplus or deficit revenues to be carried over from a previous fiscal year. These funds are identified in the Budget Reports as Estimated Unexpended Assessments to be carried forward and Estimated Outstanding Operating Advances. In approving the Budget Reports the City Council appropriates the assessments to be collected and the prior year surplus funds.

In accordance with State Streets and Highways Code, proposed modifications to the Adams Avenue BID and the North Park BID are noted in the Budget Reports. Actions to initiate the amendment to the Adams Avenue BID have started and it is anticipated that the ordinance amendment will be effective as of July 1, 2008. Balloting is underway in North Park and once it is completed then the proposed modifications to the North Park BID ordinance and Budget Report will be brought to City Council for approval.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS:

* ITEM-105: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

The City does not retain any of the BID assessments for administrative or other purposes, there is a zero net fiscal impact for collecting and disbursing the BID assessments.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

R-302888 and R-302889 (August 3, 2007) and R-302820 and R-302821 (July 16, 2007) approving the FY2008 Budget Reports for, and authorized the levying of assessments on businesses within, the following BID's: Adams Avenue, City Heights, College Area, Diamond, Downtown, El Cajon Boulevard Central, El Cajon Boulevard Gateway, Gaslamp, Hillcrest, La Jolla, Littly Italy, Mission Hills, North Park, Ocean Beach, Old Town, Pacific Beach, and San Ysidro.

EQUAL OPPORTUNITY CONTRACTING:

“This agreement is subject to Article 10, Sections 10.1 and 10.2 as stated in each Agreement for Management of the San Diego Business Improvement Districts, the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517)”.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The non-profit associations that manage the BID's, holds regular meetings and publishes regular newsletters which are distributed to the businesses within the respective BID's. Organizational budgets and work plans are developed by the respective boards and approved at their meetings.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Businesses within the respective BIDS are the key stakeholders and beneficiaries of community improvements and business marketing and development. Residents and property owners may also benefit from public improvements and enhanced business services.

Anderson/Kessler

NOTE: This activity is not a “project” and is therefore not subject to CEQA pursuant to State Guidelines Section 15060 (c) (3).

Staff: Scott Kessler – (619) 236-640/Meredith Dibden-Brown – (619) 236-6485
Kimberly K. Harris – Deputy City Attorney

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

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

ITEM-330: Response to the Report from the Independent Oversight Monitor.

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

MAYOR SANDERS' RECOMMENDATION:

Take the following actions:

Authorizing the Council President to co-sign the response prior to its submittal to the Securities and Exchange Commission;

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

SUPPORTING INFORMATION:

The 2006 Report of the Audit Committee of the City of San Diego (the "Kroll Report") and the Cease and Desist Order of the United States Securities and Exchange Commission issued in November 2007 established an Independent Monitor/Consultant to oversee and report on the City of San Diego's implementation of remedial actions included in the Kroll Report's recommendations and as required by the SEC. Mr. Stanley Keller with the firm Edwards Angell Palmer & Dodge LLP was contracted to serve as this Independent Monitor in January 2007.

Mr. Keller issued the First Annual Report of the Independent Consultant to the City of San Diego, dated March 25, 2008.

The Mayor's office, with input from the Office of the Independent Budget Analyst and the Disclosure Practices Working Group, has prepared a response to Mr. Keller's report. This response is being provided for review by the City Council with a request for the Council President to be authorized to co-sign the response prior to its submittal to the United States Securities and Exchange Commission.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Jay Goldstone

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

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

ITEM-331: Fiscal Year 2009 Community Development Block Grant (CDBG) Program.
(Citywide.)

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

(See Report to the City Council No. 08-070; and memorandum from Mayor Sanders dated 3/27/2008.)

STAFF'S RECOMMENDATION:

Take the following actions:

Authorizing the City Auditor and Comptroller to accept CDBG funds in the amount of \$14,852,521 from the U.S. Department of Housing and Urban Development for the City's FY 2009 CDBG Program;

Approving the funding recommendations for the City's FY 2009 CDBG Program, set forth in Report to the City Council No. 08-070, contingent upon certification of funds availability by the City Auditor and Comptroller, and that the Core City Priorities and CDBG-Funded Projects approved for funding be incorporated into the City's FY 2009 Action Plan;

Directing that the Core City Priorities and those projects and programs approved for CDBG funding be incorporated into the City's FY 2009 CDBG Action Plan;

Authorizing the Mayor, or his designee, to negotiate and execute agreements, with those agencies for which projects and programs have been approved for CDBG funding, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the Executive Director of the San Diego Housing Commission to negotiate and execute agreements, and any amendments thereto, with those agencies for which projects and programs have been approved for CDBG funding whose allocations the Mayor, or his designee, asks the San Diego Housing Commission to administer, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to appropriate and expend the CDBG funds for the Core City Priorities and those projects and programs approved for CDBG funding, contingent upon certification of funds availability by the City Auditor and Comptroller;

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

ITEM-331: (Continued)

Authorizing the City Auditor and Comptroller to reprogram funding from prior year CDBG-funded projects to existing and to FY 2009 projects and programs approved for CDBG funding, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the Mayor, or his designee, to suspend the initiation of new HUD Section 108 Loans during FY 2009 that rely on CDBG and/or General Funds as a repayment source;

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

STAFF SUPPORTING INFORMATION:

The Federal Housing and Community Development Act of 1974 established the Community Development Block Grant (CDBG) Program, which is administered by the Department of Housing and Urban Development (HUD). The City of San Diego (City) has participated in this program since its inception. CDBG staff is responsible for grant compliance and the overall administration of the City's CDBG Program. Per City Council Policy 700-02 "CDBG Program" a formula for funding was created that apportions 60% of the annual CDBG entitlement to Council Districts, and 40% to the City-wide category. The amounts to Districts are based upon the % of low and moderate income residents in each District. The City's CDBG entitlement grant amount for Fiscal Year 2009 will be \$14,852,521. A total of 111 applications were received during the application period (February 1-28, 2008). All applications were forwarded to the City Council on March 24, 2008. A Memorandum was provided to the City Council on March 27, 2008 which outlined the proposed CDBG Budget.

In Fiscal Year 2008, HUD's Office of Community Planning and Development completed two "Monitoring Reviews" of the City's CDBG Program. A Fiscal Year 2007 On-Site Monitoring Review was completed in August, 2007 and an Environmental Monitoring was completed in February 2008. Several findings were identified and corrective measures recommended in each case. In addition, a letter was sent by HUD regarding the City's lack of an adequate "Fair Housing" Plan. HUD's Office of Inspector General has also begun an audit as of April 2008 of the City's CDBG loans with the Redevelopment Agency and has plans on doing a future audit of the CDBG Program. The first audit is anticipated to be completed around September 2008.

Understanding the need for reforms for some time, City Staff has been working towards reforming the CDBG Program during Fiscal Year 2007, per the Mayor's direction. As of August 2007, upon completion of the first HUD review, resources have been identified to address programmatic issues and those reform measures are currently underway.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

ITEM-331: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

FISCAL CONSIDERATIONS:

Funding available from the CDBG Program.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Budget Committee Meetings (12/6/07, 1/9/08, 1/16/08); Audit Committee Meeting (11/19/07);
City Council Meeting (1/29/08).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The CDBG application process was noticed on the City of San Diego's website, and notices were mailed to agencies on the City's CDBG database (300 potential applicants). The availability of funds was also noticed in the San Diego Union Tribune newspaper.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Residents of low and moderate income communities; community based organizations;
community planning groups; and other community development organizations.

Kessler/Anderson

Staff: Scott Kessler - (619) 236-6405

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS:

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

ITEM-332: Fiscal Year 2009 Social Services Program. (Citywide.)

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

(See Report to the City Council No. 08-071.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-975)

Authorizing the City Auditor and Comptroller to accept the funding appropriations from the City's Community Development Block Grant (CDBG) Entitlement Grant, Emergency Shelter Grant (ESG), and the San Diego Housing Commission (SDHC) for the Fiscal Year 2009 Social Services Program, contingent upon approval by the Housing Commission Board and the Housing Authority (with respect to the funding appropriation from the SDHC only), contingent upon adoption of the FY 2009 Appropriation Ordinance, and contingent upon certification of funds availability by the City Auditor and Comptroller;

Approving and appropriating the funding recommendations for the Fiscal Year 2009 Social Services Program, set forth in Report to the City Council No. 08-071, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the Mayor, or his designee, to negotiate and execute agreements, and any amendments thereto, with those agencies for which programs have been approved for funding, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to appropriate and expend the CDBG, ESG, and SDHC funds for those programs approved for funding, contingent upon certification of funds availability by the City Auditor and Comptroller.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS: (Continued)

ITEM-332: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The City has a long history of allocating funding to social service programs in two broad categories: (1) City initiated social service programs that are funded to address identified social needs (e.g. Homeless Emergency Winter Shelter Program and Therapeutic Recreation Services); and (2) To support worthy social programs that were not City initiated, but provide benefits to City residents (e.g. Being Alive and Casa Familiar). For decades under the City Manager form of government, the City Council - through various Council Representatives - initiated social service funding recommendations prior to bringing forward the adoption of the Social Services Program Budget to the City Council. This practice was last utilized in FY 2002. The City Council then directed the City Manager to develop a formal selection process that was successfully utilized in Fiscal Years 2003 through 2005.

While the process established by the City in 2002 is still being used, since that time the program has experienced sharp reductions in funding that resulted in the elimination of the competitive process in Fiscal Year 2006. Subsequently, each year program staff has given the highest funding priority to "City-Initiated Programs", before providing support to the other programs being considered. The fiscal reality of the Program is that funding has been decreasing each year. Fiscal Year 2009 federal funding has decreased by \$89,979 from the current fiscal year.

However, the San Diego Housing Commission will be providing the City with an additional \$580,000 in funding to support the Cortez Hill Family Center (\$200,000) and the Homeless Emergency Winter Shelter Program (\$380,000) in FY 2009. This is in addition to the annual \$45,000 in funding that is provided annually to support the full cost of the Regional Task Force on the Homeless project. The additional funds from the San Diego Housing Commission will offset the reduction in federal funds and allow increased funding for the Cortez Hill Family Center and the Homeless Emergency Winter Shelter Program.

For the first time, full funding for the Homeless Emergency Winter Shelter Program is being proposed under the FY 2009 Social Services Program. No projects are being recommended for reduction in funding for FY 2009.

FISCAL CONSIDERATIONS:

There is no impact to the General Fund from this action. Funding for each program is available either from the City's CDBG entitlement grant, ESG, or the SDHC. It should be noted that the funds from SDHC are contingent upon approvals by the Housing Commission Board and the Housing Authority, which is scheduled to be presented in May 2008.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS: (Continued)

ITEM-332: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The application for federal entitlement grants (which includes the City's CDBG entitlement grant and ESG) is referred to as the Consolidated Plan. The Consolidated Planning process includes a community input process where staff presented the Plan and requested feedback from each community planning group that represents low and moderate income communities. Further, the process was brought before the Land Use and Housing City Council Committee and the San Diego Housing Commission for discussion. The City of San Diego did not issue a "Notice of Funding Availability" for FY 2009 Social Services Program funding due to reduced funding available.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Residents of low and moderate income communities; community based organizations; community planning groups; and other community development organizations.

Kessler/Anderson

Staff: Scott Kessler - (619) 236-6421

ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

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

ITEM-333: Three Actions Related to the Vacation of Portions of Fay Avenue. A public Right-of-Way Vacation and Coastal Development Permit for portions of unimproved Fay Avenue located adjacent to La Jolla Hermosa Avenue and La Jolla Boulevard, west of 6063 La Jolla Boulevard. (La Jolla Community Plan Area. District 1.)

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

Matter of approving, conditionally approving, modifying or denying a Public Right-Of-Way Vacation and Coastal Development Permit for portions of unimproved Fay Avenue located adjacent to La Jolla Hermosa Avenue and La Jolla Boulevard, west of 6063 La Jolla Boulevard. The base zones are RM-2-5, OP-1-1, RS-1-7, Coastal Height Limit, and City Coastal (non-appealable) in the La Jolla Community Planning area.

(See Report to Council No. 08-055. CDP No. 527629/Public R-O-W Vacation No. 464892.)

(Continued from the meeting of April 21, 2008, Item 205, at the request of the applicant, for further review.)

NOTE: Hearing open. No testimony taken on 4/21/2008.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-855)

Adoption of a Resolution of the Council of the City of San Diego certifying findings supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference, with respect to Coastal Development Permit No. 527629;

Granting Coastal Development Permit No. 527629 to the Real Estate Assets Department of the City of San Diego, La Jolla Methodist Church, Mario and Rene Spiazzi, and Maurizio Zanetti, Owners/Permittees, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

Subitem-B: (R-2008-854 Cor. Copy)

Adoption of a Resolution that the Council of the City of San Diego finds that:

- (a) There is no present or prospective use for the public right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated; and
 - (b) The public will benefit from the action through improved use of land made available by the vacation; and
 - (c) The vacation does not adversely affect any applicable land use plan, and is consistent with the General Plan and approved Community Plan; and
 - (d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by this vacation;
- (1) That the public right of ways located at portions of Lot 1 and 2 in Block 17 and portions of Lots 5 through 8 in Block 18, as more particularly described in the legal description marked as Exhibit "A," and as shown on Drawing No. 20740-B marked as exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered summarily vacated;
 - (2) That the City of San Diego reserves and excepts from the foregoing vacation the permanent easement and dedication as more particularly described hereinafter: Reserving and excepting to the City of San Diego the right, easement and privilege of placing, constructing, repairing, replacing, maintaining, using and operating public utilities of any kind or nature, including, but not limited to general utilities and all necessary and proper fixtures and equipment for use in connection therewith, through, over, under, upon, along and across the above described easement to be vacated and abandoned, together with the right of ingress thereto and egress therefrom, together with the right to maintain the said easement free and clear of any excavation or fills, the erection or construction of any building or other structures, the planting of any tree or trees thereon, or the drilling or digging of any well or wells thereon, together with the right to otherwise protect from all hazards the operation and use of any right reserved.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

Subitem-B: (Continued)

Upon acquisition of an encroachment permit from the City Engineer pursuant to the Municipal Code of the City, the owners of the underlying fee may utilize the above described parcel of land for structures, the planning or growing of trees or the installation of privately owned pipelines. The City of San Diego shall have the right to permit the use of the easement or easements herein described by any public utility either by conveyance of the necessary right to so use or by permitting such utility to utilize such right under and pursuant to a franchise with the City of San Diego;

- (3) That the easements and dedication reserved to the City herein are in, under, over, upon, along and across that portion of Fay Avenue, summarily vacated by this Resolution and as more particularly described in the legal descriptions marked as Exhibit "C" and "D" and shown on Drawing No. 20741-B marked as Exhibit "E", on file in the Office of the City Clerk;
- (4) That the City Clerk shall cause a certified copy of this Resolution, with attached Exhibits, attested by her under Seal, to be recorded in the Office of the County Recorder. From and after the date of recordation of this Resolution, the summarily vacated public right of way shall no longer constitute a public right of way. Upon such recordation, the summary vacation is complete;

That this action is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301;

Directing the City Clerk to file a Notice of Exemption (NOE) with the Clerk of the Board of Supervisors for the County of San Diego regarding this project.

Subitem-C: (R-2008-197 Cor. Copy)

Adoption of a Resolution of the Council of the City of San Diego authorizing the sales of portions of vacated Fay Avenue right-of-way and authorizing the mayor to execute and deliver a grant deed, and accept a grant deed to consummate the sales.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

OTHER RECOMMENDATIONS:

This matter will not be heard by the Planning Commission. Pursuant to Section 112.0103 the discretionary actions have been consolidated to the highest decision maker, therefore the project will only be heard by the City Council.

The La Jolla Community Planning Group has recommended approval of the project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

1. Approval of Public Right-Of-Way Vacation, Coastal Development Permit, Right-Of-Way Dedication, General Utility Easement Dedication for portions of unimproved Fay Avenue adjacent to La Jolla Hermosa Avenue and La Jolla Boulevard, west of 6063 La Jolla Boulevard (La Jolla Methodist Church) within the La Jolla Community Planning Area.
2. Authorize the sale of City-owned portions of vacated Fay Avenue right-of-way within the footprint of the La Jolla United Methodist Church's complex ("Property"), and acquire portions owned by the Church that are underlying the pocket park and trail located adjacent to the Church property ("Exchange Site").

STAFF RECOMMENDATION:

Approve of the requested actions.

SUMMARY:

The subject site consists of unimproved portions of Fay Avenue between La Hermosa Avenue and La Jolla Boulevard, adjacent to the La Jolla Methodist Church at 6063 La Jolla Boulevard (Attachments 1 and 2). This is within the RM-2-5, OP-1-1 and RS-1-7 zone. The site is within the Coastal Zone (non-appealable) and requires a Coastal Development Permit. The request to vacate the unimproved portions of Fay Avenue requires a Public Right-Of-Way Vacation. The subject property was acquired by the City of San Diego in 1958 and 1960 to extend Fay Avenue. The proposed extension was later abandoned, thus the property is no longer needed for public uses and is recommended to be vacated.

The vacation has been requested by the La Jolla Methodist Church, Mr. Mario Spiazzi, an adjoining property owner at 6111 La Jolla Boulevard, and Mr. Maurizio Zanetti, owner of 6112 La Jolla Hermosa Street. The Spiazzi and Zanetti street segments proposed for vacation and subsequent sale by the City are part of their current yard areas adjacent to single family residences.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Portions of the Church's parking lots and children's playground are also owned in fee by the City (see Attachment 2).

Of the proposed vacated areas, the Church is the fee interest owner of some land that is physically included in a pocket park directly north of the Church, and an existing trail behind the complex. The City will acquire title for these areas. The value of the park sites and will be subtracted from the value of the property the Church is buying from the City.

PROPOSED TERMS OF SALES:

Based on a fair market appraisal conducted by an independent fee appraiser selected by the City of both the Property and the Exchange Site, the net compensation to the City of San Diego for the United Methodist Church sale and exchange, the value of the Property minus the Exchange Site, is \$339,876. Mario Spiazzi's segment was valued at \$286,000, and the Zanetti piece at \$37,000, as also determined by an independent fee appraiser, for an overall total of \$662,876.

The valuation of several of the Church-owned parcels was limited to 15% of market value due to an existing covenant restricting use of the land for parks, street, and parking purposes. As a result of later litigation, a court upheld the covenant as enforceable. If the Church later sells the acquired land at market rate, the City is to receive the 85% difference.

Below is a summary of the sale and exchange elements with the United Methodist Church:

<u>*Site</u>	<u>Owner</u>	<u>Use</u>	<u>Size</u>	<u>Value</u>	<u>Real Property Interest</u>
A1	LJUMC	Del Norte Park	450	Nominal.	Grant Fee Simple Title.
A2	LJUMC	ROW Easements	4,263	Nominal.	Grant Fee Simple Title.
A3	LJUMC	Street Access	825	Purchase Price Reflects Value Offset.	Grant Fee Simple Title.
B1	CITY	Daycare	2,138	15% of Fee value.	Grant Fee Simple Title.
B2	CITY	Daycare	1,794	Fee value.	Grant Fee Simple Title.
C1	CITY	Park	5,828	15% of Fee value.	Grand deed with covenant that upon future sale by LJUMC to a third party, the City of San Diego receive 85% of the then current value upon close of escrow.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

<u>*Site</u>	<u>Owner</u>	<u>Use</u>	<u>Size</u>	<u>Value</u>	<u>Real Property Interest</u>
D	CITY	Park	8,250	15% of Fee value.	Grant deed with covenant that upon future sale with same 85% to City.

*Site numbers correspond to parcels A1 thru D on Attachment 3- Land Sale & Acquisition Plat.

FISCAL CONSIDERATIONS:

The net proceeds of the sale-exchange in the amount of \$662,876, less costs related to the sales, will be deposited in the Capital Outlay Fund 302453.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On February 7, 2008, the La Jolla Community Planning Group voted to approve the project as proposed with no conditions.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are the La Jolla Methodist Church, Mr. Maurizio Zanetti, the Spiazzi Family Trust and the City of San Diego. The City of San Diego will benefit by: receipt of the sale proceeds; relief from future liability and maintenance expenses associated with the ownership of the properties; and additional property taxes from the return of these properties to the tax roles. The acquired land will consolidate the City's ownership of the park and trail, thus assuring long term control of those facilities for continued public use. The project is primarily an action correcting ownership issues of existing parcels. No physical changes are to occur with this action, thus no impact is anticipated.

Anderson/Barwick

LEGAL DESCRIPTION:

Location of Activity: Fay Avenue located adjacent to La Jolla Hermosa Avenue and La Jolla Boulevard, west of 6063 La Jolla Boulevard.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

Description of Activity: A Public Right-of-Way Vacation, Coastal Development Permit (CDP), Right-of-Way Dedication and General Utility Easement Dedication and Land Exchange to for portions of unimproved Fay Avenue located adjacent to La Jolla Hermosa Avenue and La Jolla Boulevard, west of 6063 La Jolla Boulevard. The site is located within the RM-2-5, OP-1-1 and RS-1-7 zone, the Coastal Height Limitation Overlay Zone, Transit Area, Residential Tandem Parking Overlay Zone and Council District 1.

NOTE: This activity is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to state CEQA Guidelines Section 15301.

Staff: James Anthony – (619) 533-6509
Todd Bradley – Deputy City Attorney

NOTE: Subitems A and B of this item are 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: 4532 Felton Street Vesting Tentative Map, Project No. 97653. Appeal of the Planning Commission's decision approving a Vesting Tentative Map to convert seven existing apartments to condominiums, including a request to waive the requirement to underground existing overhead utilities. (Normal Heights neighborhood of the Mid-City Communities Plan Area. District 3.)

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

Matter of the appeal by D. Scott Peters, Sterling Land Services, Inc., Surveyor from the decision of the Planning Commission in approving Vesting Tentative Map to convert seven existing residential units to condominiums, including a request to waive the requirement to underground existing overhead utilities, on a 0.152-acre site located at 4532 Felton Street in the RM-1-2 Zone of the Central Urbanized Planned District and the Transit Area Overlay Zone, within the Normal Heights neighborhood of Mid-City Communities Plan Area.

(Continued from the meeting of April 22, 2008, Item No. 334, at the request of Councilmember Madaffer, to allow time for the City Attorney's office work with the applicant on the Covenant Agreement.)

NOTE: Hearing closed. Testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions:

Granting or denying the appeal and granting or denying the Vesting Tentative Map 318386 to convert seven existing residential units to condominiums, including the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council action;

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

OTHER RECOMMENDATIONS:

Planning Commission on February 14, 2008, voted 4-1-2 to approve this project.

Ayes: Smiley, Schultz, Ontai, Otsuji
Nays: Griswold
Not present: Naslund
Vacancy: one

The Normal Heights Planning Committee has recommended approval of this project.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the Planning Commission's decision to approve a Vesting Tentative Map to convert seven existing apartments to condominiums, including a request to waive the requirement to underground existing overhead utilities, at 4532-34 Felton Street, in the RM-1-2 Zone of the Central Urbanized Planned District and the Transit Area Overlay Zone, within the Normal Heights neighborhood of the Mid-City Communities Plan area. The applicant is appealing the Vesting Tentative Map condition requiring that the physical improvements recommended in the Building Conditions Report be completed prior to the recordation of Final Map.

STAFF RECOMMENDATION:

Deny the appeal and approve Vesting Tentative Map No. 318386, including the waiver of the requirement to underground existing overhead utilities, with the current Vesting Tentative Map conditions requiring implementation of the Building Conditions Report and Landscape Concept Plan, prior to recordation of the Final Map.

EXECUTIVE SUMMARY:

The application for a Vesting Tentative Map and waiver from the requirement to underground existing overhead utilities was deemed complete on March 3, 2006. Although at that time the condominium conversion regulations did not require a Building Conditions Report or landscape improvements, this project is subject to the condominium conversion regulations effective June 13, 2006, with the exception of the parking regulations, based on the City Council's specific adoption language for the "new" condominium conversion regulations. At the June 13, 2006, hearing, the City Council adopted regulations for additional requirements for landscaping, a building conditions report, onsite inclusionary housing, noticing and parking. Based on the adopted language and project timing, all of these new regulations apply to this project, with the exception of the parking regulations. Accordingly, this project has been reviewed against the new regulations. In accordance with the current regulations, the applicant provided a Building Conditions Report and Landscape Concept Plan. Both of these documents have been reviewed for conformance with the applicable regulations within the Land Development Code (Chapter 14, Article 4, Division 5), and have been accepted by staff as conforming to the regulations.

The environmental determination for this project was made on March 15, 2006, and the opportunity to appeal that determination expired on April 5, 2006. This project's environmental determination was not appealed.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

On February 14, 2008, the Planning Commission approved the project with a condition (Condition No. 22 of the Vesting Tentative Map Resolution, Attachment 6, page 7 of the Planning Commission Report) requiring building and landscape improvements as identified in the submitted Building Conditions Report and Landscape Plan to be completed prior to recordation of the Final Map.

The applicant has appealed the Planning Commission's decision, citing the following: *"The project was deemed complete on March 4, 2006. The owner/applicant requested a "Deferral of Private Building Improvements," the performance of which would be assured by a lien upon the Title/Policy."* This statement is true (although the project was deemed complete on March 3, 2006). The applicant requested the Planning Commission defer these improvements. However, the Planning Commission discussed this issue at length, both in relation to this project, and in general. Commissioner Griswold stated that "a Building Conditions Report created at one period of time becomes irrelevant at a future date," and asked the City Council to consider the Planning Commission's position and recommendations on this issue. Additionally, the Condominium Conversion regulations were amended by City Council on July 5, 2006, making the new requirements applicable to this project.

In several previous appeals in 2007-2008, the City Council adopted a compromise which allows the condominium converter to execute the required physical improvements prior to the sale of the first unit. City staff does not recommend that approach as it does not provide a mechanism for the City Engineer to verify that the improvements have been completed.

In the latest appeal of the issue regarding the deferring of improvements for condominium conversions, the City Council rejected the compromise and adopted staff's recommendation (Item 335 on the March 4, 2008 docket).

City staff's recommendation is to deny the appeal and approve the project with the approved Vesting Tentative Map conditions.

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On February 14, 2008, the Planning Commission voted 4-1 to approve the project as presented by staff (Griswold opposed).

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

On March 6, 2007, the Normal Heights Planning Committee voted 12-0-1 to recommend approval of the project with specific recommendations.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

4532 Felton Street LLC, Richard W. Mansur, Member (Applicant/Subdivider), Sterling Land Services, Inc. (Surveyor), and the property's tenants.

Broughton/Anderson/MS

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

Staff: Michelle Sokolowski – (619) 446-5278

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-335: 5445 55th Street Tentative Map, Project No. 83624. Appeal of the Planning Commission's decision approving a Tentative Map including a waiver of the requirement to underground existing overhead utilities to convert twenty-five existing apartments to condominiums at 5445 55th Street in the RM-3-9 Zone and Parking Impact Overlay Zone. (College Community Plan Area. District 7.)

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

Matter of the appeal by D. Scott Peters, Sterling Land Services, Inc., Surveyor, of the decision by the Planning Commission approving an application for a Tentative Map to convert twenty-five existing residential units to condominiums and a waiver of the requirement to underground existing overhead utilities on a 0.667 acre site at 5445 55th Street in the RM-3-9 Zone and Parking Impact Overlay Zone within the College Area Community Plan Area.

(Continued from the meeting of April 22, 2008, Item No. 335, at the request of Councilmember Madaffer to allow time for the City Attorney's office work with the applicant on the Covenant Agreement.)

NOTE: Hearing closed. Testimony taken.

STAFF'S RECOMMENDATION:

Take the following actions:

Adoption of a resolution granting or denying the appeal and granting or denying the Tentative Map No. 263259 including the request to waive the requirement to underground existing overhead utilities, with appropriate findings to support Council action;

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

OTHER RECOMMENDATIONS:

Planning Commission on February 14, 2008, voted 5-0-1 to approve Resolution for Tentative Map No. 263259 including the request to waive the requirement to underground existing overhead utilities.

Ayes: Schultz, Ontai, Otsuji, Griswold Smiley

Absent: Naslund

Vacant: one

The College Area Community Council has recommended denial of this project.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the Planning Commission's decision to approve a Tentative Map including a waiver of the requirement to underground existing overhead utilities to convert twenty-five existing apartments to condominiums at 5445 55th Street in the RM-3-9 Zone and Parking Impact Overlay Zone within the College Area Community Plan area. The applicant is appealing the Tentative Map condition requiring that the physical improvements recommended in the Building Conditions Report be completed prior to the recordation of Final Map.

STAFF RECOMMENDATION:

Deny the appeal and approve Tentative Map No. 263259 including a waiver of the requirement to underground existing overhead utilities, with the current Tentative Map conditions requiring implementation of the Building Conditions Report and Landscape Concept Plan, prior to recordation of the of the Final Map.

EXECUTIVE SUMMARY:

The application for a Tentative Map and waiver from the requirement to underground existing overhead utilities was deemed complete on September 13, 2005. Although at that time the condominium conversion regulations did not require a Building Conditions Report or landscape improvements, this project is subject to the condominium conversion regulations effective June 13, 2006, with the exception of the parking regulations, based on the City Council's specific adoption language for the "new" condominium conversion regulations. At the June 13, 2006, hearing, the City Council adopted regulations for additional requirements for landscaping, a building conditions report, onsite inclusionary housing, noticing and parking.

Based on the adopted language and project timing, all of these new regulations apply to this project, with the exception of the parking regulations. Accordingly, this project has been reviewed against the new regulations. In accordance with the current regulations, the applicant provided a Building Conditions Report and Landscape Concept Plan. Both of these documents have been reviewed for conformance with the applicable regulations within the Land Development Code (Chapter 14, Article 4, Division 5), and have been accepted by staff as conforming to the regulations.

The environmental determination for this project was made on September 20, 2005, and the opportunity to appeal that determination expired on October 11, 2005. This project's environmental determination was not appealed.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

On February 14, 2008, the Planning Commission approved the project with a condition (Condition No. 21 of the Tentative Map, Attachment 6, page 7 of the Planning Commission Report) requiring building and landscape improvements as identified in the submitted Building Conditions Report and Landscape Plan to be completed prior to recordation of the Final Map. The appellant is objecting to this condition for the following reason as stated in their appeal with staff responses in italics;

The project was deemed complete on September 13, 2005, and the owner/applicant requested a "Deferral of Private Building Improvements," the performance of which would be assured by a lien upon the Title/Policy. *That statement is true. However, the applicant requested the action after the project was approved on consent. Additionally, the Condominium Conversion regulations were amended by City Council on July 5, 2006, making the new requirements applicable to this project.*

In several previous appeals in 2007-2008, the City Council adopted a compromise which allows the condo converter to execute the required physical improvements prior to the sale of the first unit. City staff does not recommend that approach as it does not provide a mechanism for the City Engineer to verify that the improvements have been completed.

In the latest appeal of this issue on March 4, 2008, the City Council rejected the compromise and adopted staff's recommendation.

City staff's recommendation is to deny the appeal and approve the project with the approved Tentative Map conditions.

FISCAL CONSIDERATIONS:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 27, 2007, the Planning Commission voted 5-0-2 to approve the project.

On November 9, 2005, the College Area Community Council voted 12-4-1 to recommend denial of the proposed project.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-335: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

KEY STAKEHOLDERS & PROJECTED IMPACTS:

M.S. Browar Development Corporation, Applicant/Subdivider, Sterling Land Services, Inc., Surveyor and the property's tenants.

Broughton/Anderson/JT

LEGAL DESCRIPTION:

The site is located on a 0.667-acre site at 5445 55th Street in the RM-3-9 Zone within the College Area Community Plan Area, Parking Impact Zone, Council District 7 (Lot 110 and 111 of College View Unit 3, Map No. 3157/APN: 462-220-07-00).

Staff: Jeannette Temple – (619) 557-7908

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

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

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT