

**CITY COUNCIL OF THE CITY OF SAN DIEGO
SUPPLEMENTAL DOCKET NUMBER 2
FOR THE REGULAR MEETING OF
TUESDAY, DECEMBER 2, 2008
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

ADOPTION AGENDA, CONSENT ITEMS:

- * ITEM-S500: Appropriate and Transfer Funds from the Tierrasanta Facilities Financing Plan to Kiwanis Foundation of Tierrasanta. (District 7.)

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

STAFF’S RECOMMENDATION:

Take the following actions:

Authorize the Mayor, or his designee, to negotiate and execute agreements with the Kiwanis Foundation of Tierrasanta to establish the Tierrasanta Endowment Youth Fund for the purpose of enhancing academics and athletics for the Tierrasanta Youth;

Authorize the City Comptroller to appropriate and expend the Tierrasanta Development Agreement fund balance for Fund 392023 “Regency Hills-Endowment for Community Youth” of \$341,469.40 to the Kiwanis Foundation of Tierrasanta once an MOU Agreement has been fully executed;

Authorize the City Comptroller to expend \$341,000 from Fund 392023 “Regency Hills-Endowment for Community Youth” of \$341,469.40;

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

STAFF SUPPORTING INFORMATION:

On January 9, 1989, a development agreement was entered into between the City of San Diego and Regency Hill Associates. A section entitled Extraordinary and Significant Benefits required the developer, Regency Hill Associates, to provide the City of San Diego with six separately enumerated benefits.

ADOPTION AGENDA, CONSENT ITEMS: (Continued)

* ITEM-S500: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

One of those benefits was the “Endowment for Community Youth”. This benefit committed Regency Hill Associates to pay \$150,000 to the City in three installments. The funds were “to be used for the benefit of current and future youth of the Community. The funds shall be used by City in the Tierrasanta Community to enhance academics and athletics.” These funds have been maintained by the City’s Facilities Financing Department and are currently itemized in the Tierrasanta Public Facilities Financing Plan, No. 39023 D.A. Section 6.1(b)(4). The principal and accrued earnings as of Fiscal Year 2009 Period 3 (9-9-08) the fund balance totals \$341,469.40. This action will implement the purpose of the established endowment by authorizing the Mayor to negotiate and execute agreements between the City of San Diego and the Kiwanis Foundation of Tierrasanta (hereafter Foundation), an Internal Revenue Code Section 501(c)(3) approved charitable organization. The MOU will transfer the current principal and earnings of the Fund (392023) to the Foundation with a right of reversion to the City. The Foundation will provide regular audit reports to the City and establish the Tierrasanta Fund for Community Youth, an advised restricted endowment fund that will be maintained, invested and distributed in manner as specified by the MOU and based on recommendations by a Tierrasanta Community based Advisory Committee established under the MOU.

FISCAL CONSIDERATIONS:

The fund balance for the Tierrasanta Development Agreement Fund 392023 (Regency Hills-Endowment for Community Youth) was \$341,469.40 will be transferred from the City of San Diego to the Kiwanis Foundation of Tierrasanta.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Not applicable.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Not applicable.

Goldstone

Aud. Cert. 2900411.

Staff: Jay Goldstone - (619) 236-7080

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS:

ITEM-S501: Mills Act Program Reforms and Cost Recovery Fees. (Communities with structures over 45 years old. Citywide.)

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

(See Report to the City Council No. 08-176.)

(Continued from the meeting of 11/24/2008, Item 202, Subitem A, at the request of Councilmember Frye, due to lack of time. Only the portions relating to the threshold and projects in the pipeline have been continued.)

NOTE: Hearing closed. Public testimony taken on November 24, 2008.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2009-681 Rev. Copy)

Approving Council Policy No. 700-46 titled "Mills Act Agreements for Preservation of Historic Property," with the following amendments listed below:

- Require a formal application process with a deadline of March 31st of each year for properties designated by December 31st of previous year;
- Require the property owner to demonstrate investment of the tax savings into the designated historic property through a 10-year tailored work plan which may include costs of rehabilitation or restoration of the historic property necessary to achieve historic designation; and
- Establish an inspection schedule for monitoring of Mills Act Program properties prior to a new agreement and every 5 years thereafter prior to the renewal date to assure compliance with contract requirements.

Instructing the City Clerk to add the aforesaid to the Council Policy Manual.

Subitem-B: (R-2009-682 Rev. Copy)

Amending Council Policy No. 700-46 titled "Mills Act Agreements for Preservation of Historic Property," as set forth in the Council Policy filed in the Office of the City Clerk;

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-S501: (Continued)

Subitem-B: (Continued)

Authorizing the adoption of the Fee Schedule provided in Report No. 08-176, a copy of which is on file in the Office of the City Clerk, and recited as follows:

- \$1,185 for the Individual Historical Resource Nomination; and
- \$590 for the Mills Act Program agreement; and
- \$492 for Mills Act Program monitoring with the initial Mills Act Program agreement and every five years thereafter; and
- \$949 for Mills Act Program enforcement, as needed.

Authorizing the City Manager to adjust the said Fee Schedule from time to time to recover increases in the administrative costs of the program.

STAFF SUPPORTING INFORMATION:

The current Mills Act Program was adopted by the City Council in July 1995 (Council Policy 700-46) as way to provide an incentive to historic property owners and bring historically significant properties under the City's authority for preservation, at time when there were no historical resources regulations. The current program is very informal with all designated historic properties located outside Redevelopment Areas eligible for Mills Act tax reduction. Specific requirements apply within Redevelopment Areas.

Only a limited number of agreements include additional preservation or rehabilitation requirements and there is no requirement that the tax savings realized through this program be invested in the historic property.

There is no formal inspection schedule or monitoring of agreements for compliance with the contract requirements. The Mills Act Program has not been updated or modified since its initial adoption and there is a desire on the part of the City to improve accountability of the overall program and to understand and manage the fiscal impacts of the program. Staff recommends adopting several reform measures to the Mills Act Program that would allow the fiscal impacts to be managed, improve the accountability of the Program and provide cost recovery fees for the processing of designation requests, a Mills Act Program Agreement, monitoring program, and enforcement. Staff recommends the reforms and fees be applied to pending applications and that the fee be required prior to work on each aspect of the program. Additionally, a Mills Act Agreement monitoring program would be established to ensure compliance with individual contracts and the state enabling legislation for the benefit of the public.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-S501: (Continued)

FISCAL CONSIDERATIONS:

Without enacting the requested fees, the General Fund is paying for optional services sought by individual property owners. The requested fees will recover the staff costs of this function.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

In December 2003, Planning Department staff asked the Land Use and Housing (LU&H) Committee to support a moratorium on processing voluntary nominations while staff prepared a fee for the service. While the committee did not approve a moratorium, it did authorize staff to develop a fee proposal. During review of the Planning Department's Fiscal Year 2006 budget, the City Council directed staff to prepare a fee proposal to recover costs associated with nominations of historical resources. On June 21, 2006, the LU&H Committee forwarded the issue of fees for nominations of historical resources and Mills Act Program Agreements to the full City Council with direction for staff to develop options related to the timing of a fee and a way to accommodate those property owners who cannot afford to pay the fee.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Staff met with preservation stakeholders several times between 2004 and 2006 to discuss the fee proposal and need for more formal inspections of Mills Act properties. Historic consultants and community representatives expressed concern that any fee, other than a nominal one, would deter property owners from coming forward for historical designation. Staff presented information comparing the City's overall Mills Act program with other jurisdictions' programs and the potential for changes to the HRB Policy Subcommittee during 2006 and 2007, with a draft proposal for changes presented in January 2007. There was much public interest and concern about the proposed changes expressed at this meeting and to staff and the Mayor's Office following the meeting.

The HRB held two workshops, in April and June 2008 and a hearing in July 2008 on the issue of Mills Act reforms. Every owner of a designated historic property or of a nominated property was notified by mail of these workshops. A very significant number of people attended the workshops and hearing. Many individuals expressed opposition to some or all of the changes being proposed and there was particularly strong opposition to any change in the program that would limit the number of new contracts or add eligibility requirements for new contracts.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders are owners of historical properties who are seeking designation and Mills Act agreements who will be subject to revised policy and regulations and will be charged new or revised fees.

Anderson

Staff: Cathy Winterrowd - (619) 235-5217
Marianne Greene – Deputy City Attorney