

To: Cheryl Robinson
Date: Oct. 1, 2007
From: Kevin Wirsing and Debby Knight
Re: FBA projects

Cheryl,

Despite our collective best efforts, we were unable to get this information to you sooner. Since our last meeting both of us have been buried under a mountain of other professional and personal commitments. Please accept our apologies. Obviously we do not expect that you will be in a position to address the issues we raise at tomorrow night's subcommittee meeting, but thought it nonetheless best to get our concerns to you as soon as possible.

As you know the fundamental principle of the FBA program is that FBA fees are assessments directly related to the cost of infrastructure required as a result of development in the area subject to the fees. In *J. W. Jones Companies v. City of San Diego* (1984) 157 Cal.App.3d 745 (*Jones*) the court permitted the city to impose the fees broadly on an area and thereby spread the cost of all improvements in the area, even if a particular infrastructure improvement was only tangentially related to a particular parcel. The court found that developers could be jointly assessed the cost of an entire system of improvements. In doing so the court stated: "San Diego's general plan is the instrument through which the City seeks to manage an explosive growth with land use controls, development of new and urbanizing communities over a period of years and the financing of public facilities through assessment of benefited property." (*Jones, supra*, 157 Cal.App.3d at 755.) As the city's consistent practice indicates, this statement requires at a minimum that any improvement paid for by the FBA must be included in the general plan or community plan. With these principles in mind we raise the following issues which need to be resolved before the new financing plan is adopted:

- 1) The Limited Roadway Changes (LRC) are not part of either the University Community Plan or the Clairemont Community Plan (although the Genesee/52 intersection project is mentioned in NUC A). The Clairemont 52/Genesee intersection and 52/Regents intersection portions of the LRC are within the boundaries of the Clairemont Community Plan. Indeed since these projects would require ramp metering at these freeway entrances to and from Clairemont and would require substantial environmental impacts (including wetland impacts) in Marion Bear Park, the Clairemont community has a substantial interest in them.
- 2) As a stand-alone project, the 52/Regents intersection has no nexus with development in north UC. Thus, until it is certain that the proposed Regents Road bridge project will be built, FBA funds may not be spent on

this project. At this time, there is no such certainty. In March, the City Council passed a resolution to do a brand new, project specific EIR "before implementation, *if any, of that Bridge Alternative is approved and commenced*" (italics and underlining added). This new EIR must by law consider less environmentally damaging alternatives. Once the certification of this new EIR occurs (estimated by the city to be October, 2009), the city council will decide whether to approve the proposed project or some other alternative. Thus, at this time, the 52/Regents intersection portion of the LRC may not be added to the FBA financing plan.

- 3) The proposed Regents Road bridge project was in the community plan long before the North UC FBA was established. More importantly, the city and the proponents of the bridge have consistently asserted that the bridge is needed to provide service for South UC as well as North UC. Thus it is hardly surprising that since the FBA was established, the FBA has provided funding for only that portion of the bridge from the North UC terminus of Regents Road to the southern abutment of the bridge. The city has consistently committed itself to funding the South UC portions of the project (NUC 12 and NUC 14) from non-FBA sources. Given the fact that there is no doubt that the bridge was planned long before the FBA was established and that the city asserts it will provide benefit to South UC, the city cannot show that the entire cost of the bridge project is attributable to development in North UC. Hence some apportionment of the cost of the bridge between FBA and non-FBA resources is required. Some relative apportionment of costs would apply as well to the proposed 52/Regents intersection project were that to be added into the FBA once the new EIR is complete and certified and were the proposed Regents Road bridge project to be approved.
- 4) The bikeway improvements associated with the bridge are not in the University Community plan and hence cannot be added to the financing plan at this point.
- 5) Finally there seems to be some substantial inconsistency between the North/South EIR, which in pertinent part states that the proposed Regents Road bridge project will impact the state-funded restoration area in Rose Canyon Open Space Park and inclusion of the proposed Regents Road bridge project in the financing plan at this time. The city has been advised by California State Parks that it cannot impact the restoration area without an act of the legislature permitting it do so. Since the city has determined by way of its certified EIR that the bridge *will* impact the restoration area, the City has essentially determined that it cannot build the proposed bridge project without an act of the legislature. We question, therefore, whether the City can lawfully include any portion of the proposed bridge project in the financing plan, absent the required legislative approval.

We raise these issues at this point so that they can be resolved before the financing plan reaches the planning group and the city council and the financing plan can be adopted without undue delay. We strongly urge that in addition to consulting your colleagues in Facilities Financing, you request the assistance of the City Attorney.

Best regards,

Kevin Wirsing & Debby Knight

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August 31, 2007

Via facsimile (letter only) and for hand delivery on September 4, 2007 (letter and attachments)

Honorable Members of the City Council
City of San Diego
202 "C" Street, 2nd Floor
San Diego, CA 92101

Re: City Council Docket, September 4, 2007: Item-334: Two actions related to Consultant Agreement – Regents Road Bridge and Limited Roadway Changes Project

Dear Honorable Councilmembers:

As you know, this firm represents Friends of Rose Canyon ("FRC") on matters relating to the Regents Road Bridge project ("the Bridge"). We are writing in regard to Item 334 on the City Council's docket for September 4, 2007: Two actions related to Consultant Agreement – Regents Road Bridge and Limited Roadway Changes Project ("proposed Contract"). This letter supplements FRC's previous correspondence regarding a proposed contract for full engineering and design of the Bridge. That correspondence is attached for your reference as Exhibits A, B, C and D.

The proposed Contract would authorize Project Design Consultants ("PDC") to complete 100 percent of the engineering and design of the Bridge at a cost of more than \$4.8 Million before the City Council has certified a project-level Environmental Impact Report ("EIR") for the Bridge. We reiterate FRC's concerns, as detailed in our previous letters, that such an agreement for full engineering and design of the Bridge would:

- (a) commit the City to the Bridge project before completion of the project-level EIR for the Bridge; and
- (b) potentially result in damaging activities in Rose Canyon due to invasive borings, trenchings, and other activities authorized by the proposed Contract.

For both of these reasons, approval of the proposed Contract now – before the City has prepared the environmental review that the City Council recognized in March 2007 was a mandatory prerequisite “*before any implementation, if any,*” of the Bridge – would violate the California Environmental Quality Act (“CEQA”), Pub. Res. Code §§ 21000 *et seq.* (See City Resolution R-302497, attached as Exhibit E [emphasis added]). Moreover, such action would subject the City to significant financial risk; should the eventual project-level EIR lead to major changes in the project or the mitigation, or to the selection of a less harmful alternative, the City will have wasted significant time and millions of dollars on an unusable design, a serious waste of public funds.

I. Approval of the Proposed Contract for Full Engineering and Design of the Bridge Would Be a “Project” Under CEQA.

A. Commitment to the Bridge Project Through Approval of the Proposed Contract Is Prohibited.

As FRC explained in detail in its January 29, 2007 letter to the City Council (Exhibit A) and its March 12, 2007 letter to the City Attorney (Exhibit C), approval of a contract for full engineering and design of the Bridge would implement the very project that the City has committed to study in a future project-level EIR. Despite the City’s March 27, 2007 commitment to prepare and certify such an EIR before *any* implementation of the Bridge (see Exhibit E), the City has only just a few days ago started the competitive bid process to hire a consultant to prepare such a project-specific EIR.¹ The Request for Proposals seeking consultants to prepare environmental review for the Bridge is attached hereto as Exhibit F. The City’s proposed approach – to implement the Bridge project through the proposed Contract before completing environmental review of the project – would turn CEQA on its head.

There is no dispute that the City must prepare a project-level EIR before commencing implementation of the Bridge. Article 1 of the City Council’s March 27, 2007 Resolution R-302497 could not be plainer:

¹ Curiously, Section 1 of the proposed Ordinance authorizing execution of the proposed Contract states that the Mayor would be authorized to execute an agreement with PDC “for the purpose of *preparing supplemental environmental document*, obtaining permits, and providing design services” for the Bridge. (City Council docket p. 002289 [emphasis added]). Any authorization now for PDC to prepare environmental review of the Bridge would conflict with the RFP the City just released. (See Exhibit F). We assume this reference to preparation of supplemental environmental review is a typographical error, but we ask the City to confirm before it considers whether to approve the proposed Contract.

[T]he Mayor is authorized to proceed with the preparation of a full, separate, independent project-specific Environmental Impact Report under the provisions of CEQA and its Guidelines for the Bridge Alternative, which the Council must certify *before any implementation, if any, of that Bridge Alternative is approved and commenced.*

(Exhibit E [emphasis added]). Although the memoranda from the City Attorney and the City's outside counsel regarding the proposed Contract do not squarely address CEQA, both support this understanding. (See, e.g., City Attorney Memo [April 4, 2007], City Council docket p.002266, fn.2 and p.002265 [the Bridge project is "contingent upon completion and certification of a project-level EIR" and "further environmental work [is] needed to move forward with the Regents Road Bridge Alternative"]; Kevin Sullivan Memo [July 13, 2007], City Council docket p.002257 [Resolution R-302497 prohibits "implementation of the Regents Road Bridge Alternative [until] completion and certification of a project-level EIR for that alternative"]).

The City cannot seriously contend that approval of the proposed Contract for full engineering and design of the Bridge, at a cost of more than \$4.8 Million, would not constitute a commitment to the Bridge, or commencement of "implementation" of the Bridge. As the minutes of the City Council's August 1, 2006 approval hearing plainly state:

Implementation of the Regents Road Bridge Alternative would require design and refinement of the preliminary estimates. *The first stage of implementation* [of the Bridge] would be design and would require future council action for a consultant agreement.

(See Exhibit G [excerpt of minutes of August 1, 2006 City Council meeting, p.50] [emphasis added]). A consultant agreement for design of the Bridge is precisely what is before the City Council here.

A long line of Supreme Court case law supports FRC's position that approval of an agreement for full engineering and design of the Bridge would constitute an improper commitment to the project. (See, e.g., *Muzzy Ranch Co. v. Solano County Airport Land Use Cmm'n* (2007) 41 Cal.4th 372, 382-83; *Laurel Heights Improvement Ass'n v. Regents of Univ. of Calif.* (1988) 47 Cal.3d 376; *Fullerton Joint Union High School Dist. v. State Bd. of Education* (1982) 32 Cal.3d 779, *disapproved on other grounds*, *Board of Supervisors v. Local Agency Formation Cmm'n* (1992) 3 Cal.4th 903, 918; *Bozung v. Local Agency Formation Comm'n* (1975) 13 Cal.3d 263; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68; *Citizens for a Megaplex-Free Alameda v. City of Alameda* (2007) 149 Cal.App.4th 91, *petition for review denied*, June 27, 2007).

In particular, governmental action that is an “essential step [in a chain of actions] leading to potential environmental impacts” is a project subject to CEQA. (*Fullerton*, 32 Cal.3d at 797; *see also Muzzy Ranch*, 41 Cal.4th at 382-83). Here, there can be no doubt that engineering and design of the Bridge are an “essential step” leading to construction of the Bridge.

An agency cannot avoid timely compliance with CEQA merely by conditioning construction of a proposed project on completion of environmental review. As the Supreme Court explained in *Fullerton* and recently confirmed in *Muzzy Ranch*, an agency cannot escape CEQA “merely because further decisions must be made before [projects] are actually constructed.” (*Fullerton*, 32 Cal.3d at 795; *Muzzy Ranch*, 41 Cal.4th at 383; *see also Citizens for a Megaplex-Free Alameda*, 149 Cal.App.4th at 106-07; *Save Tara v. City of West Hollywood* (2007) 54 Cal.Rptr.3d 856, 868, *review granted* (May 16, 2007) 59 Cal.Rptr.3d 439). Thus, City staff’s explanation here that “this action does not include any approval for construction,” and “[t]he project will be brought back to [the] City Council in the future for construction authorization” (Expanded City Council agenda [September 4, 2007], p.82) does not permit the City to avoid compliance with CEQA before approving a contract for full engineering and design of the Bridge.

Nor would boilerplate language in the proposed Contract allowing the City to terminate the proposed Contract for its “convenience” allow the City to dodge its obligations under CEQA. Although it theoretically may be possible for the City to terminate the proposed Contract at some point in the future, CEQA concerns itself with the action that City proposes here and now, which is approval of a contract for 100 percent of the engineering and design of the Bridge, an action which squarely falls within the meaning of a “project” under Public Resources Code section 21065. Moreover, many public agency contracts provide standard language regarding termination for the agency’s convenience. As one treatise opines, “good practice is for the public entity to include a termination for convenience clause in the design agreement, so that a ‘no fault’ termination may be made by the public owner.” (Ernst C. Brown, *California Public Works: Managing Risk & Resolving Disputes* [3rd ed., 2003], at p.27). It simply is inconceivable that public agencies could avoid any CEQA review whatsoever merely by pointing to this standard clause intended to protect the government and taxpayers from the vagaries of public funding and administration. In any event, even if the City were to terminate the proposed Contract, the City would be committed to compensating PDC for work completed through the time of termination. (*See City Council docket p.002304*). Thus, even through this provision the City would not avoid its commitment to the Bridge project.

The City cannot point to its belated effort to prepare a project-specific EIR in order to absolve its decision to proceed full speed ahead *now*, in the absence of environmental review, with full engineering and design of the Bridge. As described in the RFP seeking consultants to prepare that document, the EIR for the Bridge, including alternatives to the Bridge, would not be

certified until October 2009 at the earliest. (*See* Exhibit F). Under the time schedule in the proposed Contract, final design of the Bridge would be nearly complete at the time environmental review of the Bridge is concluded. (*See* City Council docket p.002373). Thus, by the time the agency decision maker receives the final EIR for the Bridge, the \$4.8 Million investment in full design would make approval of the project a *fait accompli*, a result that CEQA absolutely prohibits.

In sum, City staff's contention that execution of the proposed Contract would not be a "project" under CEQA and thus is exempt from CEQA (*see* City Council docket p.002281), is contradicted by a long line of Supreme Court case law and the City Council's own previous decision as to the appropriate timing of CEQA review. Because the proposed Contract is an essential step toward construction of the Bridge and may result in significant environmental impacts in Rose Canyon, it is clearly subject to CEQA review.

B. Activities Under the Proposed Contract May Result in Significant Environmental Impacts in the Canyon.

The proposed Contract also is a "project" under CEQA because its execution may result in significant impacts to biological and hydrological resources in Rose Canyon, in addition to the other significant environmental impacts identified in the Final EIR for the Study (*see* Exhibit H), and the comment letters on that document (*see* Exhibit I). In particular, the proposed Contract would authorize PDC to engage in invasive borings, trenchings, and other destructive activities in Rose Canyon. For example, the proposed Contract would authorize geotechnical tests (Task 1.7.3 and 1.7.4, City Council docket p.002326), geotechnical borings and test pits (Task 3.1.1.2, City Council docket p.002331; Tasks 3.1.4, 3.1.5 and 3.1.6, City Council docket p.002340), and excavation of trenches with backhoes (Task 3.1.2.1, City Council docket p.002331).

The City previously has recognized that geotechnical work may result in significant environmental impacts, and has required project applicants to prepare environmental review under CEQA and obtain approval from the City before engaging in such work. For example, in February, 2005, the City required preparation of environmental review prior to approving geotechnical investigations in Salk Canyon in University City that would involve two trenches and three borings. (*See* Report to Hearing Office No. HO-05-022 [February 16, 2005], attached hereto as Exhibit J). By comparison, under the proposed Contract at issue here the City would authorize PDC to excavate ten borings and five trenches. (*See* City Council docket Tasks 3.1.1.2 and 3.1.2.1, City Council docket p.002331; Tasks 3.1.4 and 3.1.5, City Council docket p.002340).

Importantly, City staff themselves have conceded that environmental review is needed before any borings are taken in Rose Canyon. For example, internal City correspondence

demonstrates that City intended to rely on the EIR for the Study in order to move forward with invasive borings in the Canyon without further review. *See* Email correspondence attached as Exhibit K (City staff describing that a “goal” of the EIR for the Study is that the document “would be sufficient to allow geotechnical borings in final design without the delay of obtaining a development permit”). Of course, because that review was seriously flawed, it would be foolhardy for the City to rely on the EIR for the Study in order to move forward with geotechnical work in the Canyon.

II. Full Engineering and Design of the Bridge Are Not Required to Prepare Project-Level Environmental Review of the Bridge and Alternatives.

As FRC explained in its January 29, 2007 letter to the Mayor and City Council (*see* Exhibit A), FRC does not object to those tasks in the proposed Contract that will enable the City to conduct the project-level EIR for the Bridge. Thus, FRC explained that it would *not* object to those components of the proposed Contract that provide for public outreach, data collection, mapping, studies, preliminary (or 15 percent) engineering and design, and other similar activities that would not cause any environmental damage to the Canyon and which would contribute to preparation of a project-specific EIR.

Full engineering and design of the Bridge, however, are *not* required in order to comply with CEQA. Thus, FRC strenuously objects to those tasks in the proposed Contract that would result in full engineering and design of the Bridge, would secure permits or other approvals for the project, or may damage environmental resources in Rose Canyon. According to the case law cited above, such activities should not proceed until after the City has prepared and certified an adequate EIR for the project. As the City Attorney’s April 4, 2007 Memorandum recognizes, “final detailed design is commonly deferred to a later segment, since it cannot proceed until final environmental clearance has been received.” (City Council docket p.002265 [citing the Caltrans Local Assistance Procedures Manual, p.10-6]).

Significantly, the State’s highway building agency expressly *prohibits* final design of a project before environmental review is complete:

Compliance with the environmental requirements may occur simultaneously with preliminary engineering, however, *local agencies may not commence with final design* prior to obtaining environmental document approval

(*See* Caltrans Local Assistance Procedures Manual, p.6-14, attached as Exhibit L [emphasis added]).

The federal government also *prohibits* final design of transportation projects before all environmental review is complete. (*See* Exhibit L [23 C.F.R. § 771.113 (Federal Highway Administration and Federal Transit Administration regulations providing that “final

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design activities . . . shall not proceed until the following have been completed: (1)(i) The action has been classified as a categorical exclusion (CE), or (ii) A FONSI has been approved, or (iii) A final EIS has been approved and available for the prescribed period of time and a record of decision has been signed.”)]. Thus, it is Caltrans’s and the federal government’s standard practice to defer final engineering and design of transportation projects until environmental review is complete. Likewise here, there is no reason that the City would need to complete 100 percent of engineering and design of the Bridge in order to comply with CEQA.

Indeed, the City previously has recognized that full engineering and design would *not* be required in order to comply with CEQA. For example, the City’s Request For Qualifications seeking consultants for the University City North/South Transportation Corridor Study (“Study”) recognized that “preliminary design of the proposed [project]” would be all that was necessary “to support the proposed environmental document,” and that final design should be deferred until *after* such environmental review is complete. (*See* Exhibit M). The City’s 2003 contract with PDC to prepare environmental review for the Study confirms the City’s understanding that only preliminary design would be required to comply with CEQA. (*See* Exhibit N).

Conclusion

In short, approving the proposed Contract for full engineering and design of the Bridge -- and committing the City to spend nearly \$5 Million -- before the City has prepared and certified an EIR for the project completely inverts the process required by CEQA. Because such sequencing would relegate any future project-specific environmental review to merely “an after-the-fact rationalization of a completed plan,” this approach has been uniformly rejected by the courts. (*See e.g., Save Tara*, 54 Cal.Rptr.3d at 864).

In addition, it is our understanding that the City has yet to resolve the need for state legislation in order to design and build the Bridge in the state-funded habitat grant restoration areas of Rose Canyon. City documents describing the City’s obligation to maintain these lands “in perpetuity,” and relating to the need for such legislation prior to are attached hereto as Exhibit O.

Finally, it is our understanding that the City has not yet addressed the conflict of interest concerns that approval of this proposed Contract would raise under Government Code section 1090. The City Attorney’s July 24, 2007 and April 4, 2007 memoranda on this issue, which are reproduced in the City Council docket for this item at pages 002249 through 002253, and 002263 through 002272, are incorporated herein by reference.

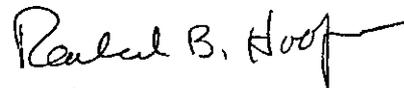
For all of the foregoing reasons, FRC respectfully requests that the City Council decline to approve the proposed Contract as presented, and direct the City to revise the Contract

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to strictly limit the Scope of Services to only those preliminary design activities that will enable the City to comply with CEQA and that will not result in environmental damage to the sensitive resources in Rose Canyon. Consistent with its commitment in Resolution R-302497, the City should prepare a "full, separate, independent project-specific [EIR]" and certify that EIR "*before any implementation, if any, of that Bridge Alternative is approve and commenced.*" (Exhibit E [emphasis added]).

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Rachel B. Hooper

Attachments

- Exhibit A: January 29, 2007 letter from Shute, Mihaly & Weinberger LLP to the Mayor and City Council
- Exhibit B: February 9, 2007 memo from Shute, Mihaly & Weinberger LLP regarding the City's Environmentally Sensitive Lands regulations as applied to the proposed Bridge
- Exhibit C: March 12, 2007 letter from Shute, Mihaly & Weinberger LLP to Carmen Brock and Michael Calabrese, City Attorney's Office (w/o attachments)
- Exhibit D: July 20, 2007 letter from Marco Gonzalez, Coast Law Group, on behalf of FRC, to the City Council (w/o attachments)
- Exhibit E: City Resolution R-302497 (adopted March 27, 2007; final passage April 2, 2007)
- Exhibit F: August 24, 2007 Request for Proposals for Environmental Impact Report for Regents Road Bridge and Limited Roadway Changes (H084105)
- Exhibit G: Excerpt of minutes of August 1, 2006 City Council meeting
- Exhibit H: Final EIR for the University City North/South Transportation Corridor Study, submitted electronically via two CDs
- Exhibit I: Comment letters of City Attorney's Office, US Fish & Wildlife Service, California Department of Fish & Game, and Friends of Rose Canyon on Final EIR for Study
- Exhibit J: Report to Hearing Offer No. HO-05-022 (February 25, 2005)
- Exhibit K: Email correspondence between Sara Katz and Gordon Lutes, et al. (November 5-6, 2003)
- Exhibit L: Excerpt of Caltrans Local Assistance Procedures Manual, Chapter 6: Environmental Procedures (January 26, 2004); 23 C.F.R. § 771.113

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(Federal Highway Administration and Federal Transit Administration regulations)

Exhibit M: Request for Qualifications, University City North/South Transportation Corridor Study (June 21, 2002)

Exhibit N: Excerpt of City agreement with Project Design Consultants for University City North/South Transportation Corridor Study (April 21, 2003)

Exhibit O: City documents regarding Habitat Restoration Grant

cc: Mayor Sanders (letter only via facsimile)
Michael Calabrese (letter only via email) (letter and attachments via hand delivery on September 4, 2007)
Carmen Brock (letter only via email)
Shirley Edwards (letter only via email)
Kevin Sullivan (letter only via email)

[P:\FRC\dk082 (comment letter) FINAL.wpd]

**Do NOT APPROVE Item 53, Tuesday, Oct. 9:
PDC Contract for Final Design of the Proposed Regents Road Bridge Project**

Do the EIR first.

Without an EIR on the project, this contract is illegal, unnecessary, and fiscally irresponsible.

Myth: The PDC contract is for preliminary design only.

Fact: The PDC contract is for 100% final design. See attached:

Pages 9-12 of the contract's Scope of Services (docket pages 002333 – 002335)
Contract's Exhibit C – Time Schedule (docket page 002373)

Myth: Final design is necessary in order to do the EIR. Otherwise, how can we do an EIR?

Fact: This is a ridiculous argument. Preliminary design is the foundation for an EIR. Caltrans and the Federal Highway Administration specifically prohibit final design before environmental review is complete. EIRs are done constantly with preliminary design.

Myth: There is no CEQA problem with just drawing "lines on paper."

Fact: This contract is \$4.8 Million dollars worth of lines on paper. There is a big CEQA problem with this: it is taking a major step forward on a project that has no EIR. CEQA prohibits such pre-commitment to a project before environmental review is complete.

Myth: In the past, the City has done final design before completing an EIR and the project was ultimately not approved, so there's no problem with repeating that process. (In making this argument, city staff gave the example of the Mission City Parkway bridge).

Fact: Wasting millions of dollars actually is a problem in most people's book. It is incredible that city staff want to repeat past mistakes. The city gambled money on doing final design before completing the EIR on the Mission City Parkway bridge - and lost the gamble. The City Council voted UNANIMOUSLY not to certify the EIR or approve the project.

The Mission City Parkway Bridge

Why doing final design before an EIR is not only illegal – it's fiscally irresponsible.

Five current Councilmembers voted not to approve the bridge once the EIR was complete.

- ▶ 2000: City staff recommended, and the City Council approved, a contract for final design of this bridge before completing the EIR. Staff was sure this project was necessary and would go forward.
- ▶ 2002: February – Staff requested, and the City Council approved, additional funds to finish the EIR and final design.
- ▶ 2002: May - The EIR and final design were completed. But ... the City Council voted UNANIMOUSLY not to certify the EIR and not to approve the project, based on environmental impacts and cost. The money spent on final design before doing the EIR was wasted.
Among those on the Council at that time:
Council President Peters, Councilmembers Maienschein, Madaffer, Atkins and Frye.

Lesson: The purpose of an EIR is to inform decision-makers and the public about a project's impacts **before they commit to a project.** Before the EIR is done on the proposed Regents Road bridge project – or ANY project – there is **no way** decision-makers can make an informed decision on this project.

Myth: North UC FBA funds can be used to pay for the full amount of this contract.

Fact: FBA money cannot be spent for projects that are not in the FBA, and a significant portion of this contract is for work on projects that are not in the FBA (the Limited Roadway Projects). Furthermore, these projects are not even in the UC Community Plan, and two of three are not even in the UC Plan area – they are in the Clairemont plan area (the Genesee/52 and Regents/52 interchange projects).

Contact: Deborah Knight - Friends of Rose Canyon – 858-597-0220

From: Martha Blake
To: Boekamp, Patti; Bradford, Jaymie; Brock, Carmen; Shackelford, Kris
Date: 11/3/06 8:51AM
Subject: Re: Fwd: Rose Canyon - information re geotechnical investigation

Hi all -

If there are issues related to any permits/review that may be required for any geo tech borings (if that is what is being sought), DSD management may be brought in to explain the procedures that have been implemented after the Salk project process.

(As you noted in your subsequent email, the "Bridge Strategy" email is from 2003, prior to the publication of the draft EIR).

Martha

>>> Carmen Brock 11/3/2006 8:43:30 AM >>>

I am forwarding an email I received from the attorney for Friends of Rose Canyon. They have attached a recent email dated November 6, 2006, entitled "Bridge Strategy". They are very concerned. I would like to discuss this with all of you at your convenience. I am thinking we should set a short meeting for sometime next week. Please let me know your thoughts. Thanks. Carmen

CC: Broughton, Kelly; Edwards, Shirley; Escobar-Eck, Marcela; Manis, Bob

From: "Deborah L. Keeth" <keeth@smwlaw.com>
To: "Carmen Brock" <CBrock@sandiego.gov>
Date: 11/2/06 7:19PM
Subject: Rose Canyon - information re geotechnical investigation

Carmen -

Thank you again for looking in to the kinds of activities that the City is and may be conducting in the near future concerning the Regents Road Bridge Project. As you know, our client is very concerned about any activities relating to the Project which may damage resources in Rose Canyon. As we agreed, the parties are interested in avoiding the need to seek injunctive relief. Thus, we are preparing a letter agreement for your review and approval that describes the notice that the City would be willing to provide to the petitioners in advance of any activities in the Canyon that may cause damage to sensitive resources. We plan to provide you with a draft shortly.

You indicated that the City may be planning to conduct soil sampling in the Canyon prior to the resolution of the CEQA suit. As we mentioned on the telephone, we need more specific information about what such soil sampling would involve in order to determine whether it may cause damage to the Canyon. For example, our client has learned that geotechnical investigation for the Salk Institute project in San Diego required 3-foot diameter, 125-foot deep excavations. The excavations were performed by a drill rig and other equipment that required a 26-foot diameter area for maneuvering and an access route to reach the excavation sites. The City adopted mitigation to reduce the impacts of this invasive work. We've attached a 2-16-05 report prepared by the City for your reference. We would have grave concerns about the potential harm any similar activity would cause in the Canyon. We look forward to receiving more information from you about the City's plans.

In addition, email correspondence between the City and its EIR consultant which our client received in response to a Public Records Act request, also attached for your reference, suggests that the City may believe it can move forward with geotechnical borings prior to and separate from the environmental review for the remainder of the Project. CEQA is clear that engaging in such borings, which are clearly a part of the Project, prior to completion of an adequate EIR for the Project would be illegal segmentation. As you know, CEQA defines a "project" as "the whole of an action" that may result in a direct or reasonably foreseeable indirect physical change in the environment, and requires the lead agency to fully analyze each "project" in a single environmental review document. (Guidelines section 15378(a)). As the Supreme Court explained, this requirement ensures "that environmental considerations do not become submerged by chopping a large project into many little ones, each with a potential impact on the environment, which cumulatively may have disastrous consequences." (Bozung v. LAFCO (1987) 13 Cal. 3d 263, 283-84). In our view, CEQA would not permit the City to segment boring activities related to Project design from the remainder of the Project. We hope that you can reassure us that the City is not planning such a "piecemealing" effort.

Thank you in advance for your continued cooperation.

Best regard,

Rachel and Deborah

<<11-6-03 Lutes email.pdf>> <<Salk Institute geotechnical investigation.pdf>>

Shute, Mihaly & Weinberger LLP

396 Hayes St.

San Francisco, CA 94102

(415) 552-7272

(415) 552-5816 (fax)

keeth@smwlaw.com

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The information contained in this email message is privileged, confidential, and protected from disclosure. If you are not the intended-recipient, any dissemination, distribution, or copying is strictly prohibited. If you think that you have received this email message in error, please email the sender at keeth@smwlaw.com or telephone at (415) 552-7272.

CC: "Rachel B. Hooper" <Hooper@smwlaw.com>

Urban Systems

003702

From: Gordon Lutes [gordonl@projectdesign.com]
Sent: Sunday, August 06, 2006 5:23 PM
To: Urban Systems
Subject: RE: Celebration and Debrief of Council Votes 6-2 to certify EIR and select Regents Road Bridge

Great! You and Justin have done a great job. I don't know how you were able to keep focused with all that you have on your "plate".

-----Original Message-----

From: Urban Systems [mailto:usai@urbansystems.net]
Sent: Friday, August 04, 2006 1:21 PM
To: 'Gordon Lutes'
Subject: RE: Celebration and Debrief of Council Votes 6-2 to certify EIR and select Regents Road Bridge

Hi Gordon:

Thanks for the invite. Both Justin and I will attend.

Andy

-----Original Message-----

From: Gordon Lutes [mailto:gordonl@projectdesign.com]
Sent: Thursday, August 03, 2006 2:39 PM
To: usai@urbansystems.net; Sara M. Katz; LMichaelson@KatzandAssociates.com; JShira@KatzandAssociates.com; jtognoli@tylin.com; KMerkel@MerkelInc.com; tcmcatee@pacbell.net
Cc: brucem@projectdesign.com; Gordon Lutes
Subject: RE: Celebration and Debrief of Council Votes 6-2 to certify EIR and select Regents Road Bridge
Importance: High

We would like to celebrate this milestone and have a "debriefing" at PDC at 3 PM on Monday, August 7. We will meet in our large 8th Floor Conference Room. We apologize for the short notice, but hope you can join us. We wanted to celebrate while the milestone was still fresh and before Bruce goes on vacation. Please RSVP. I hope to see you all on Monday!

-----Original Message-----

From: Gordon Lutes [mailto:gordonl@projectdesign.com]
Sent: Tuesday, August 01, 2006 9:33 PM
To: usai@urbansystems.net; Sara M. Katz; LMichaelson@KatzandAssociates.com; JShira@KatzandAssociates.com; jtognoli@tylin.com; KMerkel@MerkelInc.com; tcmcatee@pacbell.net
Cc: brucem@projectdesign.com
Subject: Council Votes 6-2 to certify EIR and select Regents Road Bridge

Congratulations Team! For those who may have missed it, after 6 hours, including over 3 hours of public testimony evenly divided between those that supported the Bridge and those that were against the Bridge, the City Council voted to Certify the EIR and select the Regents Road Bridge alternative.

Key participants in the 45 minute staff presentation were Andy, Keith and Bruce! A key player behind the scenes - especially this last 2 weeks was Theresa as she worked with Bruce to craft the findings and overriding considerations as well as defend the EIR from those opposing the Bridge including the City Attorney.

There will be lots more work before any project is built, but we need to celebrate the victories when they come. Thanks for your 3+ years of work on this important project. We have set a new standard for community involvement to date and we can look forward to

continued community involvement in this project as we move forward.

Gordon

Urban Systems

CO3702

From: Sara M. Katz [SKatz@KatzandAssociates.com]
Sent: Thursday, August 03, 2006 6:11 PM
To: Gordon Lutes; usai@urbansystems.net; Lewis Michaelson; Jennifer Shira; jtognoli@tylin.com; KMerkel@MerkelInc.com; tcmcatee@pacbell.net
Cc: brucem@projectdesign.com
Subject: RE: Celebration and Debrief of Council Votes 6-2 to certify EIR and select Regents Road Bridge

Congratulations to everyone. A long a winding road (or should I say bridge). If I can make a schedule change, I will be there. I will let you know. Thanks. SMK

From: Gordon Lutes [mailto:gordonl@projectdesign.com]
Sent: Thu 8/3/2006 2:39 PM
To: usai@urbansystems.net; Sara M. Katz; Lewis Michaelson; Jennifer Shira; jtognoli@tylin.com; KMerkel@MerkelInc.com; tcmcatee@pacbell.net
Cc: brucem@projectdesign.com; Gordon Lutes
Subject: RE: Celebration and Debrief of Council Votes 6-2 to certify EIR and select Regents Road Bridge

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To: usai@urbansystems.net; Sara M. Katz; LMichaelson@KatzandAssociates.com;
JShira@KatzandAssociates.com; jtognoli@tylin.com; KMerkel@MerkelInc.com;
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Gordon

Urban Systems

005702

From: Sara M. Katz [SKatz@KatzandAssociates.com]
Sent: Tuesday, August 01, 2006 11:21 PM
To: Lewis Michaelson; Gordon Lutes; usai@urbansystems.net; Jennifer Shira; jtognoli@tylin.com; KMerkel@MerkelInc.com; tcmcatee@pacbell.net
Cc: brucem@projectdesign.com
Subject: RE: Council Votes 6-2 to certify EIR and select Regents Road Bridge

Regardless of the side that you were on, it is time to celebrate. Gordon - can I assume that an email will come out from you to mark the date and location. I have been at the Boz Scaggs concert tonight, so perhaps I have already celebrated in advance???? No one from the City is on this email, right? SMK

From: Lewis Michaelson
Sent: Tue 8/1/2006 10:14 PM
To: Gordon Lutes; usai@urbansystems.net; Sara M. Katz; Jennifer Shira; jtognoli@tylin.com; KMerkel@MerkelInc.com; tcmcatee@pacbell.net
Cc: brucem@projectdesign.com
Subject: RE: Council Votes 6-2 to certify EIR and select Regents Road Bridge

You earned it.
It was indeed an unprecedented amount of public involvement and participation for a project of this size. You can't say the issues weren't well vetted.
Lewis

From: Gordon Lutes [mailto:gordonl@projectdesign.com]
Sent: Tue 8/1/2006 9:33 PM
To: usai@urbansystems.net; Sara M. Katz; Lewis Michaelson; Jennifer Shira; jtognoli@tylin.com; KMerkel@MerkelInc.com; tcmcatee@pacbell.net
Cc: brucem@projectdesign.com
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Gordon

8/2/2006

From: Kris Michell
To: Abby Jarl
Date: 7/27/2006 2:08:14 PM
Subject: Fwd: Regents Road Bridge Prep

>>> Aundene Hugg 7/27/2006 8:52 AM >>>
KM --

Re: your messgae, we have three prep sessions scheduled (so far...)

The first is today at 4:00p.m. in the small conference room with Patty, Kris Shackelford, Eric and myself to go over the bulk of the presentation and their draft power point -- which we have not seen up until this point. Erik and I can give you an update after this meeting and a copy of their presentation and suggested edits. You may want to pop into this but it will be a rough cut. I already have a proposed presentation order that today's 4pm will completely flesh out all possible presenters, names of SME responding to certain questions, their seating placement, etc. I'll email a draft tonight (to both addresses).

The second session is at 1:00p.m. tomorrow at Exeectutive Complex 12 which is with the entire staff & consultant team to run through the staff presentation (I've told them 45 min), test the team with tough questions, run scenarios, refine flow, etc.

The third (though perhaps not last) is on Monday @ 12Noon in the Mayor's large conference room. Which should be a full scale presentation run through for all staff and consultants including Jill Olen, Chiefs Jarman and Landsdowne. We'll go through content, presentation order, Council Q&A responsibilities, presentation seating, staff in audience seating, everything.

More to come later today...

Aundene Hugg
Director
Community Outreach & Appointments
Office of Mayor Jerry Sanders
City of San Diego
619.236.7740 Direct Dial
ahugg@sandiego.gov

From: Beryl Rayford
To: Aundene Hugg; Stephen Lew
Date: 7/25/2006 3:10:02 PM
Subject: Regents Road Bridge Support

Here is an update of this AM's assignment:

Chamber of Commerce

Spoke with Angelica Villagrana and she confirmed that they anticipate bringing 5 people to testify in support of issue. Scott Alevy has also agreed to speak with the UT and can be reached at (619) 544-1360.

SW Strategies

Spoke with Chris Wahl and his client Westfield prefers a low key approach and therefore will not appear before council or speak with the UT.

Golden Triangle Chamber of Commerce

Left message for John Walsh. We have not made contact yet.

Highway Development Association

Spoke with Clarke Femon and he has agreed to bring contingent of 5 people to testify at hearing and he is willing to speak with the UT. He can be reached at (858) 414-7802.

Scripps Health

Spoke with Michael Bardin and he cannot come to council because of a conflict in scheduling but he is willing to speak with UT. He can be reached at (858) 678-6893.

Thank you.

Beryl Rayford
Community Outreach
Office of Mayor Jerry Sanders
202 C Street, MS 11A
San Diego, CA 92101
(619) 236-7168 direct line
(619) 236-7228 fax

From: Kris Shackelford
To: Patti Bookamp
Date: Mon, May 22, 2006 3:52 PM
Subject: 1472 Schedule

Hi Patti,

Here is the tentative milestone for the UC N/S EIR,

FEIR out to the public: Currently Bruce is responding to DSD's comments. I think I can get Bruce to commit to this Friday (there are still small lingering things between Ann and Andy). I may need your help on getting DSD to commit to June 2 (4 days to review and sign). Then one week to print and distribute. The document can be ready for public to view the week of June 12.

1st Hearing to select an alternative: July 18 (Scott Peters wants 30 days viewing before the first hearing).

2nd Hearing to certify document/adopt findings/approve project: August 8

NOD is filed (within 6 days after hearing) and clock starts: say August 16

35 days after NOD is filed is the period where lawsuit must be filed: say September 22

If project is allowed to proceed, we can begin design in October. First step is to do a consultant amendment for PDC. So a couple months to get to Council Hearing to approve consultant amendment. Technical work can start beginning of December.

I'm available most of the morning tomorrow (Tuesday) if you want me to stop by and provide more details.

Kris

CC: Mike Mezey

From: Patti Boekamp
To: Kris Shackelford
Date: 2/3/06 1:23PM
Subject: Re: Fwd: SDHDA January 2006 Newsletter

Maybe I can ask them to stick to the general concept of the gaps and not focus on the environmental document. for this specific situation

>>> Kris Shackelford 02/03/06 6:40 AM >>>

No, it won't be me this time. Gordon asked if it would be O.K. for him to do it. I told him that it would be too risky. We are too close to the end and I can't afford for things to go south at this point. Gordon can easily be sucked into the debate because we have tons of information now. Yesterday I talked to Greg Gastelum who's putting this together and gave him some ideas of how he can stage this debate. I explained to him why I didn't think it would be a good idea for Gordon to be involved, even on his own time. If a "Project" is selected, PDC will get a large contract and the fact that the name "Highway Development Association" is already tainted the scene, I can't see how we can win this one as far as the public perception is concerned.

.Kris

>>> Patti Boekamp 02/02/2006 4:21 PM >>>

Who are the lucky presenters on the UC North/South Connectors "Gap" presentation...you? Hey, Frank mentioned that he is going to be going to some of these meetings in his new job and wondered if he'd maybe see you there that day.

Patti

From: Bruce McIntyre [BruceM@ProjectDesign.com]
Sent: Friday, January 20, 2006 2:07 PM
To: 'Kris Shackelford'
Cc: 'Nitsuh Aberra'; 'Ann Gonsalves'; 'justin@urbansystems.net'; Mike Mezey; Gordon Lutes; Andy Schlaefli (andy@urbansystems.net); Martha Blake; Melyssa Duggan
Subject: Meeting Minutes (1-20-06)

Kris,

I have summarized the discussion and action items which were covered in our meeting today below.

1. We reviewed parking counts done on Regents and concluded that the loss of parking would not be significant for two basic reasons. First, the parking is technically not guaranteed in the long term due to the ultimate plan to complete the roadway and add the bike lane. Secondly, as with Genesee, there appears to be enough unused parking on side streets to accommodate most of the displaced traffic.
2. I indicated that USA had completed their remaining comments and sent them to Ann who is reconciling them with the comments she has already made on the responses to the groups and organizations. Nitsuh is planning to call Ann to determine when she might be finished and able to meet with USA to discuss her comments.
3. I indicated that USA still needs to get feedback from Ann on the traffic accident data she is reviewing in order to finish up their memo regarding pedestrian safety.
4. Martha plans to complete her review of the responses to the groups and organizations by Friday (1/20). I gave her the copy with Mike Mezey's comments so she could combine hers with his.
5. We decided to schedule weekly Friday meetings through the end of February. The meetings will be held on the 12th floor at 8:30.
6. I plan to have the individual responses ready to hand out to the team Friday morning at our meeting.
7. PDC is working on revising the EIR per the responses to comments and has set February 10th as the target date to submit to the City for review.
8. We discussed the concern that the City Attorney's office has been increasingly involved in reviewing EIRs. In fact, Karen Heuman had previously reviewed the EIR and provided comments to Martha (I received those comments at today's meeting). If the City Attorney's office becomes involved in reviewing the responses to comments, it would likely further delay the process.
9. Martha indicated that she had heard that Councilman Peters was interested in holding a public meeting before considering the EIR for certification. Martha indicated her concern that City staff shouldn't participate in such a meeting because it really wouldn't be in accordance with CEQA. Most expressed the opinion that such a meeting would likely be a duplication of effort.
10. Martha and I are working on a revised schedule and plan to circulate it before next Friday's meeting.

If you, or anyone on the distribution list, have any comments, questions or clarifications. Please let me know.

Thanks,
Bruce

Bruce McIntyre
Senior Vice President
Project Design Consultants
701 B Street, Suite #800
San Diego, CA 92101
Phone: 619.881.3300
Fax: 619.234.0381

10/12/2006

Email: brucem@projectdesign.com

10/12/2006

Project Design Consultants

Vendor	Invoice #	Invoice Date	Invoice Amount	Date Paid
McATEER & McATEER	14164	6/30/2006	980.00	8/6/2004
McATEER & McATEER	04/07/30	7/30/2004	5,660.00	8/27/2004
McATEER & McATEER	04/08/31	9/5/2004	3,880.00	10/1/2004
McATEER & McATEER	14273	9/9/2004	4,480.00	10/8/2004
McATEER & McATEER	14447	2/23/2005	800.00	3/4/2005
McATEER & McATEER	14476	3/31/2005	5,200.00	5/2/2005
McATEER & McATEER	14503	4/30/2005	3,000.00	5/13/2005
McATEER & McATEER	14568	6/30/2005	3,300.00	8/5/2005
McATEER & McATEER	14635	8/29/2005	3,000.00	11/23/2005
McATEER & McATEER	14667	9/23/2005	3,000.00	11/23/2005
McATEER & McATEER	14699	10/31/2005	3,000.00	12/21/2005
McATEER & McATEER	14735	11/30/2005	3,000.00	12/28/2005
McATEER & McATEER	14771	12/30/2005	3,000.00	3/8/2006
McATEER & McATEER	14852	1/31/2006	3,000.00	3/8/2006
McATEER & McATEER	14888	2/28/2006	3,000.00	5/16/2006
McATEER & McATEER	14925	3/31/2006	3,000.00	5/16/2006
McATEER & McATEER	14960	4/30/2006	3,000.00	7/11/2006
McATEER & McATEER	14998	5/28/2006	3,000.00	7/11/2006
McATEER & McATEER	15034	6/30/2006	3,003.54	not paid yet
McATEER & McATEER	15071	7/31/2006	3,000.00	not paid yet
		Total	63,003.54	

From: "Bruce McIntyre" <BruceM@ProjectDesign.com>
To: "Kris Shackelford (E-mail)" <kshackelford@sandiego.gov>, "Gordon Lutes" <GordonL@projectdesign.com>, "Andy Schlaefli (E-mail)" <usai@urbansystems.net>, "Ann French Gonsalves (E-mail)" <agonsalves@sandiego.gov>, "Martha Blake (E-mail)" <mblake@SanDiego.gov>, "Mike Mezey (E-mail)" <MMezey@SanDiego.gov>, "Sarah Katz (E-mail)" <skatz@katzandassociates.com>
Date: Fri, Oct 15, 2004 2:08 PM
Subject: RE: Traffic Congestion Comparison

By the way, you will notice that we have done the exercise for the segments as well as intersections.

-----Original Message-----

From: Bruce McIntyre
Sent: Friday, October 15, 2004 2:03 PM
To: Kris Shackelford (E-mail); Gordon Lutes; Andy Schlaefli (E-mail); Ann French Gonsalves (E-mail); Martha Blake (E-mail); Mike Mezey (E-mail); Sarah Katz (E-mail)
Subject: Traffic Congestion Comparison

As we discussed, I have changed the orientation on the comparison graphics from change in delay to change in LOS. Please pardon the handwriting but I wanted to get these out as soon as possible. This resolves Gordon's concern over why the Grade Separation appeared as good as the Community Plan alt. It was because we were focusing on delay rather than LOS.

A full red dot means the LOS diminishes by two or more levels, a half red circle indicates a decline of one level. Yellow indicates no change. Full green indicates LOS improvement by 2 or more levels while a half green indicates an improvement of one level. An exclamation point indicates that the LOS would go from Acceptable to Unacceptable. A star indicates that the LOS would go from Unacceptable to Acceptable. So green circles and stars are good. Also, as you will see, this matrix correlates with the colored tables which were included in the EIR.

My thought would be to convert the consumer reports graphics to this information. I'm not sure if I want to include the matrix because it may set a precedent for doing a similar comparison for other issues which would be tough.

Please let me know your thoughts.

Bruce McIntyre

ProjectDesign Consultants

701 B Street, Suite 800

San Diego, CA 92101

619.881.3300 (direct line)

From: "Bruce McIntyre" <BruceM@ProjectDesign.com>
To: "Kris Shackelford (E-mail)" <kshackelford@sandiego.gov>, "Gordon Lutes" <GordonL@projectdesign.com>, "Andy Schlaefli (E-mail)" <usai@urbansystems.net>, "Ann French Gonsalves (E-mail)" <agonсалves@sandiego.gov>, "Martha Blake (E-mail)" <mblake@SanDiego.gov>, "Mike Mezey (E-mail)" <MMezey@SanDiego.gov>, "Sarah Katz (E-mail)" <skatz@katzandassociates.com>
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News & Press Releases

August 3, 2006

Project Design Consultants

University City Transportation Corridor Study gains approval

In early August, the City of San Diego decided to move forward with construction of the Regents Road Bridge over Rose Canyon to provide a second connection between the northern and southern portions of the University City community, ending years of controversy.

The controversy has been between those wanting to avoid impacts to the open space within Rose Canyon and those wanting to complete the planned roadway network that has been a part of the University City Community Plan since 1959.

Project Design Consultants (PDC) played a key role in resolving this long-standing conflict as the lead consultant for the University City North/South Transportation Corridor Study. The PDC Team conducted a comprehensive public outreach program, which included the establishment of a Public Working Committee (PWC), composed of local residents, businesses and environmental groups. As a result of this outreach, seven different approaches to traffic solutions were identified.

Alternatives included different combinations of the Regents Road Bridge and widening Genesee Avenue as well as a new approach consisting of constructing a grade separation at the intersection of Governor Drive and Genesee Avenue in lieu of the bridge.

Once the alternatives were defined, PDC's consultant team went to work to prepare preliminary designs for each of these alternatives. Once the alternatives were approved by the PWC, an Environmental Impact Report (EIR) was prepared by PDC to evaluate the potential environmental consequences of implementing each of the alternatives. At the request of the San Diego City Council, the EIR did not identify a preferred alternative to avoid influencing the Council's decision. Instead, the EIR gave equal treatment to each alternative.

On August 1, 2006 after a six-hour hearing that included three hours of public testimony, the City Council voted 6-2 in favor of the Regents Road Bridge alternative and certified the EIR for the University City Transportation Corridor Study. During the hearing, PDC Senior Vice President Bruce McIntyre led a 45-minute presentation to convey the results and dispel concerns expressed by the public as to the adequacy of the EIR.

Greg Shields, Chairman and CEO of Project Design Consultants said, "This is a very good outcome for PDC on a very high profile project."

"Our environmental team was instrumental in putting together a superior presentation for the City Council," said PDC's Gordon Lutes. "They really did a great job."

PDC will now move into the next phase of their work that includes preparing final design for the bridge and processing the permits needed for construction. In addition, PDC will continue to work closely with the community to select a design for the bridge that balances the transportation and environmental needs of the community.

Patti Boekamp, Director of the Engineering and Capital Projects Department for the city has stated that PDC has done an excellent job with the environmental report. "We are very pleased with their performance," she said.

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San Diego City Council rejects bridge plan in Mission Valley

By **Angela Lau**

UNION-TRIBUNE STAFF WRITER

May 29, 2002

Citing environmental degradation and a lack of money, the City Council last night unanimously rejected a controversial proposal to build a bridge over San Diego River in Mission Valley.

The council also nixed a suggested Super Bowl festival site on Camino del Rio North on the south side of the river.

Moving to reject the proposals, Councilwoman Donna Frye said the bridge, proposed as a critical north-south traffic link in Mission Valley, would have caused "maximum disturbance" to environmentally sensitive land along the river.

Frye also said the bridge would have brought minimal traffic benefits while causing more congestion on some roads.

She pointed out that city staff has not secured enough money to finance the \$10.5-million project. It included \$5 million for building the bridge and other costs in clearing the proposed festival site – called NFL Experience – and realignment of roads.

The Mission City Parkway Bridge, which the city had hoped to be ready for the 2003 Super Bowl, would have disrupted 1.28 acres of wetland habitats, where the endangered least Bell's vireo nests.

It also would have disturbed other birds listed by the state as species of "special concern." They include the migratory yellow warbler and Cooper's hawk.

State and federal wildlife agencies have warned that the construction of the bridge was "unwarranted" because of minimal traffic improvements.

To prepare for the two-week NFL festival, the city would have to raze the 600,000-square foot site, destroying 7.6 acres of baccharis scrub, a member of the diminishing coastal sage scrub family.

It also would have displaced the Mission Valley Krause Family Skate Park on Camino del Rio North. Although the skate park will move this summer to a larger location in Clairemont, many council members pointed out last night that the centrally located skate park could continue operating under another owner and would benefit youths who often drive up from Chula Vista to use it.

Councilman Brian Maienschein also said the proposals were not "fiscally responsible" when there are other more urgent projects that need funding.

Environmentalists who pleaded for the council to reject the proposals were delighted.

Among them was Eric Bowlby, co-chairman of the Sierra Club San Diego chapter's coastal committee.

"I always had faith in the council to make the right decisions," Bowlby said. "The council has its priorities lined up."

Ky Snyder, president of Super Bowl XXXVII Host Committee, said the Super Bowl will be held without the bridge, but he warned that Mission Valley's traffic congestion will not go away.

"When we brought the game here, the bridge was already on the books," he said. "But the game will take place."

Tom Sudberry, president of Sudberry Properties, which developed Fenton Marketplace with The Corti Gilchrist Partnership, also urged the council to approve the bridge because merchants opened their businesses believing the link would be constructed. Sudberry said he represents all of the merchants in Fenton Marketplace, including Ikea, Lowe's and Costco.

Mayor Dick Murphy, who said the \$10.5 million price tag and adverse effects on the environment helped him make up his mind, suggested the Campbell shipyard hotel site on the waterfront for the Super Bowl festival.

The Mission City Parkway Bridge originally was proposed by city staff because they thought the city was legally obligated to build it because of an agreement with H.G. Fenton, the developer that owned the land on which Fenton Marketplace was built.

Keri Katz, head deputy city attorney, told the council last night there are no documents obligating the council to vote in favor of the bridge.

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Find this article at:

http://www.signonsandiego.com/news/metro/20020529-9999_1m29bridge.html

Check the box to include the list of links referenced in the article.

Environmentalists blanch at bridge plan near stadium

City caught between traffic needs, sensitive wetlands

By Angela Lau

UNION-TRIBUNE STAFF WRITER

May 13, 2002

Environmentalists fear building a bridge over the San Diego River and creating a site for a two-week festival leading up to the Super Bowl could destroy some of the few remaining habitats for endangered species in Mission Valley.

The two-lane Mission City Parkway Bridge would link the river's rapidly growing north bank – where the Fenton Marketplace shopping center and new housing are – with the south side.

City officials had hoped the bridge would be completed in time for the Super Bowl in January, but the review process is running behind schedule. If approved by City Council, construction is not expected to be finished until 2004.

The construction and existence of the crossing would disrupt wildlife on the 1.28 acres of wetland habitats where an endangered song bird, the least Bell's vireo, nests.

The area also is home to several birds listed by the state as being "of special concern." They include the migratory yellow warbler, yellow-breasted chat and Cooper's hawk, according to state and federal wildlife agencies.

While city officials acknowledge the bridge could damage river wetlands, they also say the city is legally bound by an agreement with H.G. Fenton, the former owner of the Fenton Marketplace land, to build the crossing.

Now, faced with opposition from environmentalists, city officials admit they are in a quandary.

A proposed 600,000-square-foot site for NFL Experience, a fan event leading up to the Super Bowl, also is being criticized by environmentalists.

The festival would be on city property south of Qualcomm Stadium and the river on Camino del Rio North.

To clear the site for NFL Experience and nearby wetland replacement stemming from the proposed bridge construction, the city would have to raze 7.6 acres of baccharis scrub, a member of the diminishing coastal sage scrub family.

Putting NFL Experience on the site would also displace the Mission Valley YMCA Krause Family Skate Park on Camino del Rio North. The skate park will move this summer to a slightly larger location on Clairemont Drive, said Dick Hassenger of the Mission Valley YMCA.

The San Diego Planning Commission, the Mission Valley Unified Planning Group and the Mission Valley Community Council support building the bridge. It would extend from the Mission City Parkway southwest of the stadium to join Fenton Parkway to the north.

Environmentalists and wildlife agencies oppose it. In a joint letter to the city, the U.S. Fish and Wildlife Service and the California Department of Fish and Game said the bridge is unwarranted because it would not yield enough traffic benefit and it would reduce dwindling wetlands.

Eric Bowlby, co-chairman of the Sierra Club San Diego chapter's coastal committee, said the bridge would destroy a "rare, high quality" habitat that consists of a "nice, thick section of contiguous riparian forests."

"We are absolutely opposed to it," Bowlby said.

Randy Berkman, president of the River Valley Preservation Project, called the bridge "a huge waste of taxpayers' money."

City Council member Donna Frye, who represents Mission Valley, said she will listen to testimony, possibly this month, before deciding how to vote on the bridge and the NFL Experience site.

Hugh Hall, vice president of Mission Valley Community Council, said the bridge is part of the community's growth plan and is an "absolute necessity" because the valley has few north-south thoroughfares.

Richard Leja, a senior civil engineer for the city, said the bridge is a key road that is missing in Mission Valley. Accessible by cars, pedestrians and bicycles, it would:

- Provide emergency access for firetrucks from a fire station to be built in 2004 north of the stadium, reducing emergency response time.
- Provide access to a proposed fourth entrance on the southwestern side of the stadium.
- Allow access to a 19,760-square-foot library expected to open this summer at Fenton Marketplace.
- Link areas south of the river to the new Fenton Parkway trolley station near the stadium.

Though other river crossings in Mission Valley are susceptible to flooding, the Mission City Parkway Bridge would not be, he said.

Wetlands disturbed by the bridge would be replaced nearby at a 3-to-1 ratio, Leja said.

In the agreement with Fenton, the city took responsibility to pay for most of the bridge construction, which is estimated at \$5 million. Road realignments, wetlands replacement and bridge design would boost the price to \$11.25 million, said Patti Boekamp, chief deputy director of the city's engineering department.

Tom Sudberry, president of Sudberry Properties, which developed Fenton Marketplace with The Corti Gilchrist Partnership, said merchants developed or opened their businesses there believing the bridge would be built. The shopping center includes Ikea, Lowe's, Costco and restaurants.

Sudberry said he hopes the bridge would allow customers from the south easier access to shops on the north. Moreover, he said, a crossing might help relieve overflow parking problems during sold-out stadium events if arrangements were made with owners of the estimated 8,000 spaces in office buildings south of the river to accept fan parking.

The bridge also would relieve traffic congestion on thoroughfares such as Friars Road as Mission City, a new neighborhood designated by developers, grows from 4,000 residents to 7,000 in two to three years, Sudberry said.

Mission City is bounded by the north slopes of Mission Valley, Qualcomm Stadium to the east, the trolley tracks

to the south and roughly Interstate 805 to the west.

Not only is Mission City expected to grow, but the population in Mission Valley also is expected to nearly double from the current 7,600 people to at least 14,600 by 2020, senior city planner John Wilhoit said.

As for the proposed NFL Experience site, Leja said the baccharis scrub would be replaced at a location to be determined. However, Berkman and Bowlby said the city should find other venues for the event such as the stadium parking lot.

Deputy City Manager Bruce Herring said the proposed site was chosen because it is city-owned property. A similar event during the 1998 Super Bowl was held on a dirt lot where Fenton Marketplace is now, Herring said.

Leja said the city has considered other locations but concluded those would result in even more disruption to river habitats.

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Find this article at:

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Published on May 9, 2002

Will the Super Bowl Be a Super Bust?
 By Matt Potter

With Super Bowl XXXVII only about 40 weeks away, San Diego city officials are scrambling to figure out how to stage the game the way they said they would three years ago. As time runs short, crucial issues -- such as how much stadium seating will be available for the game and the location of the NFL Experience, a carnival-like event open to the public -- remain unresolved, say sources close to the situation. Worse yet, the prospect of mammoth traffic jams and parking hassles seems increasingly certain, as the U.S. Secret Service demands that a large portion of the stadium parking lot be turned into a secured no-man's-land.

It was May 26, 1999, when the city won its effort to host the event, outbidding rival South Florida with a pledge to have more than 70,000 seats in Qualcomm Stadium, along with new luxury suites and expanded game-day parking. The bid, coming after San Francisco lost the game due to fears its new stadium wouldn't be ready in time, was a hastily prepared affair, secretly cobbled together by then-mayor Susan Golding, assistant city manager Bruce Herring, and a booster group influenced by Copley Newspapers "Editor in Chief" Herb Klein.

"We are once again on the Super Bowl circuit," Golding said in a brief statement from Atlanta, where she had gone to make the city's pitch to NFL owners. "The success of our last Super Bowl shows that San Diego is the ideal host. This event will be even better."

According to a budget submitted to the NFL in 1999, local "sponsors," including the city, were supposed to kick in a total of \$8.3 million, with city taxpayers picking up \$1.93 million of that, with the remainder to be raised through commercial sponsorships (\$2.9 million), "in-kind services" (\$1.4 million), "other agencies" (\$700,000), and a variety of other sources.

Those close to the situation believe that the cost to local government, including increased security in the wake of the September terrorist attacks on New York and Washington, will now top \$20 million and possibly much more -- especially if the NFL sticks to a demand that cantilevered seating be built to assure those long-ago-promised 70,000 seats at Qualcomm.

The NFL's original plans are spelled out in a letter dated April 19, 1999, to Ky Snyder, executive director of the San Diego International Sports Council, from Jerry Anderson, the NFL's Super Bowl architect.

"As requested, I am writing to review the preliminary schedule for the Super Bowl seating installation. This will set out the general framework for determining a final schedule in the future.

"The upper-deck temporary-seating project requires an extended

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amount of construction time, since it involves steel fabrication and installation. We think this will be in the range of eight to ten weeks. We would recommend that the platform be installed prior to the Chargers season during the spring and summer in advance of the Game. (This assumes that the Padres are out of the stadium by that time.) The area could be secured and work could continue on the platform during the football season with minor interruption to the existing ticket holders located in that area. The final work to install the stairways and seating risers could be done in the month before the Super Bowl. This limited amount of remaining work could be scheduled to be completed in a worst-case scenario in one week if the Chargers are in the playoffs. There would probably be some acceleration costs associated with this type of schedule if the Chargers host AFC Championship games.

"The other seating installations are, for the most part, self-evident. If the plan to lower the field is viable, this would be done prior to the Chargers' season. This work would most likely be completed in eight to ten weeks.

"The only other major element in the project schedule would be the financing plan. This will need to be directly coordinated with major milestones for the project in general."

Reached by phone last week, Anderson said the NFL is still meeting with the city to determine final arrangements, including who will pay for what, and to resolve the troublesome seating plan. No final decisions have been made on how best to proceed, he said. "It's going to take two to three weeks. We're still doing due diligence. Nothing is resolved yet. I think what you say is that both entities are working on it, but it's premature to say anything about it. There are lots of ideas, and we have to talk to all of the entities involved. We've put together some of the preliminary documents, but that's it."

Asked whether the recommendations in his 1999 letter were still on the table, Anderson would only say, "A lot of things have happened since then."

Another source familiar with the talks confirms that the final outcome is still uncertain but that some options have already been ruled out, including a plan to lower the level of the playing field physically in order to make room for bleachers that would not obstruct sight lines. "That's out," says a source close to the negotiations. "No time. The Padres are still in the stadium, so you can't dig up the field."

During the last Super Bowl, existing seats blocking sight lines were kept unsold and covered during the game, a prospect, the source says, that the city faces again this time.

"That, again, is the NFL's call, and they're going to decide how many they're going to cover," says the source. "I'm sure they're going to cover some up as they did in '98, because of the sight lines. They covered seven rows of seats, as I recall, in '98."

Plan B, the installation of an expensive "cantilever" system of seats on the upper deck, also seems difficult, the source says. "That would be a good way to pick up some 7500 seats, but we just don't have time to do it; it's a six-month project, and we don't have six months. Baseball goes right into football, and football goes on into almost the Super Bowl. Depending on whether the Chargers go to postseason or not, that would really complicate matters. I don't know if they've completely discounted that. My guess is it would be a remote thing.

"If you have to cantilever the stadium and come in, like, four rows cantilevered, that's going to be a tremendous engineering and construction problem, and there's no time. How can you do it? You're playing football games. I don't see how that's going to work."

Yet another serious problem with that option is that it would cost millions of dollars, further embarrassing the city council in the eyes of taxpayers already irate about the Chargers ticket guarantee.

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Thus, the multimillion-dollar question would appear to be, will the NFL accept far fewer than the 70,000 seats originally promised by the city, or would the league bolt town for another location, such as Pasadena's Rose Bowl? "I think it's pretty much too late for them to go to Pasadena, but who knows?" says the source.

"They've done it with fewer than 70,000 seats before. The Super Bowl has played to less than 68,000 before. I think they did it in Texas; I think Rice Stadium did. How could you go to the Rose Bowl at this late date? I honestly think this will be Qualcomm's third and final Super Bowl."

Security will also be a costly item, and the city is not yet saying how much more money will be needed as a result of extra measures required in the wake of the terrorist attacks. In any case, local taxpayers are committed to picking up a substantial part of the tab. "Resolution NO. 291571 of the San Diego City Council and Resolution 99-124 of the San Diego County Board of Supervisors confirm that there will be no charges for any public-safety services provided outside of the Stadium itself and for other official NFL events," according to the official NFL bid document from April 1999.

"The security situation is still under resolution," says the NFL's Anderson. "There are applications made to the federal government. I don't know what the status of those are. When I do, that will give us some direction."

Speaking of the vast stadium parking lot, a source with knowledge of the city's plans says, "The Secret Service is going to come in here and fence this son of a bitch off. I don't know if we're ever going to put any cars in it this time. That's the concern I have. I don't know how we're going to get people here."

And that, in turn, influences the location of the NFL Experience, which also appears to be in limbo. Asked about the status of that project and where it will be located, a Super Bowl host committee spokesman said that the location had yet to be decided, but he would not elaborate.

As is the case for all of its Super Bowl-related functions, the NFL makes stringent demands regarding a site for the event. Attached to a 1998 letter from Super Bowl task-force coordinator Ky Snyder is a list of "must haves" from NFL Properties official James Steeg. "The space (including associated parking space) should be provided cost free," Steeg wrote. "If the location is an outdoor facility, it should have approximately seven acres of grass and 13 acres of asphalt, with drainage. Ample power and water should be available for use by NFLP at the facility at no cost. Identify a suitable adjacent location with unobstructed access to the Southwest sky large enough to park required television trailers at no cost. At least 750,000 feet of additional space is required for parking."

In its 1999 bid, the city listed the stadium parking lot, the fairgrounds in Del Mar, and the Naval Training Center as possible locations but ultimately settled on a 15-acre parcel across from the stadium along Camino del Rio North on the south side of the San Diego River. Part of the site is occupied by a skateboard park. The plan was to accelerate construction of a bridge that the city had already planned to build to service a new shopping center near the site, linking it to the stadium parking lot. But costs and environmental problems plagued the \$11.2 million project almost from the beginning.

According to Frank Gaines of the city engineering department, the city still lacks a secure source of funds for the last \$3.9 million. But even more significant for the NFL Experience is the opposition of Randy Berkman, a longtime Mission Valley environmental watchdog who has raised a series of questions about the motives and wisdom of rushing the bridge to completion. He has rallied the Sierra Club and other environmental allies to oppose the project.

"This bridge is basically a luxury road for a private floodplain development, paid for with mostly our tax dollars," Berkman says.

"The developer was originally supposed to pay for the whole cost of the bridge. How it went from that to where we are supposed to pay for all but \$2.6 million of an \$11 million-plus project should be reviewed in detail by the grand jury -- since it doesn't make sense as 'traffic mitigation' for the stadium remodel because such added traffic would only occur about eight days a year, during Charger sellouts."

"This is one of the most ridiculous and deceptive projects I've seen, which is why I jokingly refer to it as the Enron Bridge. The city is not honest about alternatives for the bridge, the lack of need for it, the lack of significant traffic relief, the visual impact, the recreational loss of the skate park used by hundreds of kids per day."

The NFL Experience. Berkman also notes, would destroy 7.57 acres of endangered coastal sage scrub. The bridge project itself would remove 1.6 acres of wetlands and threaten the habitat of the endangered least Bell's vireo. Libby Lucas, of the state department of Fish and Game, says that construction of the bridge couldn't begin until at least September 15 because of the vireo's nesting season. The city engineering department's Gaines says that the bridge is set for another hearing the before the city council on May 28, but Berkman and his allies will testify against the project and might sue if the city council moves to approve the project. "Let's welcome the NFL Experience as long as it's not in the flood plain or river habitat."

As the delay continued and it became obvious that the bridge could not be completed by January's Super Bowl date, the city scrambled to come up with a face-saving alternative. Its latest proposal is to use a temporary construction "trestle" to carry golf-cart-like vehicles, which would shuttle visitors from the stadium parking lot to the site. But a source close to the situation says that proposal is not practical.

"What it's all about is that the environmentalists got us on the tit-willows in the creek, and we can't build that bridge. We were going to put it on that land on Camino del Rio North, and they can't do it now in time to have it done. So who knows where it's going to be. I don't now. That's up to the NFL right now. They're making that decision as we speak.

"That's still an option to do it there and to shuttle people in, but it's more expensive and not a good tactical situation. I'd say do it offsite somewhere. The racetrack's a possibility. There's a lot of possibilities. Who knows?"

A spokeswoman for the Del Mar Fairgrounds says that the NFL Experience is "definitely not" going to be located at the fairgrounds. Due to heightened security, the stadium parking lot is also out. "Downtown somewhere. Maybe the convention center," says another source.

Insiders say the next decision point comes this week, when representatives of the NFL's major corporate sponsors jet into town to inspect the alternative venues still remaining on an increasingly short list.

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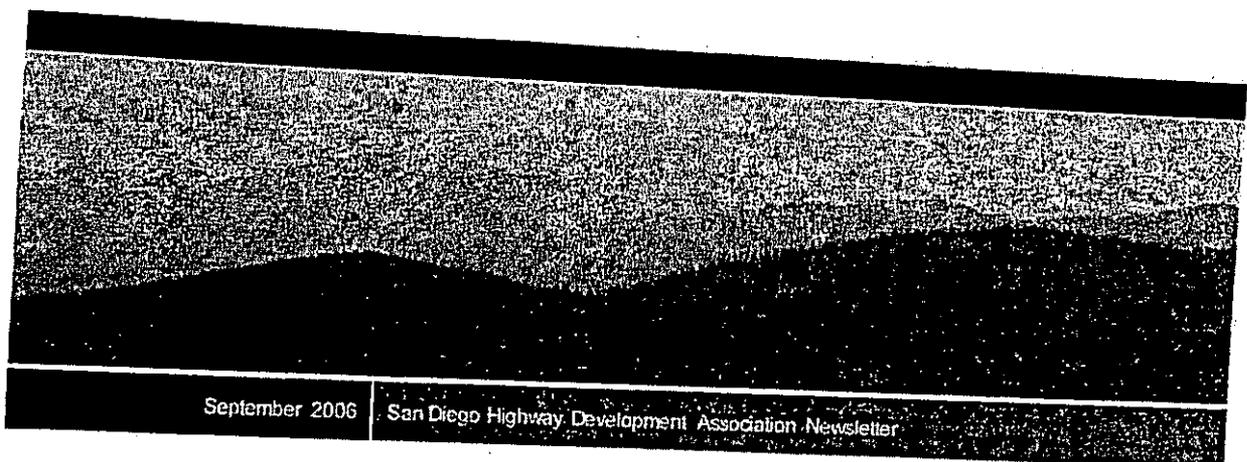
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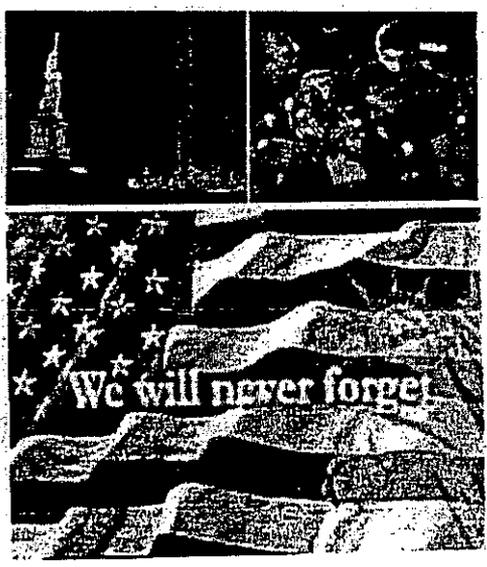


Highway Development Association

Mission Statement

To foster the timely, orderly, and efficient development of all planned transportation facilities in the San Diego region and to promote appropriate means to finance and maintain these facilities.

Tribute to 9/11



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Letter from the President

Dear SDHDA Members and colleagues:

Since our last meeting in July, the Highway Development Association participated in a tremendous success: the City of San Diego's decision to move forward with the Regents' Road bridge over Rose Canyon. In the weeks leading up to the August 1st City Council meeting, SDHDA members met with the Mayor's office, Council President Scott Peters, and his staff, and several other council members.

Because of our association's reputation and our diligent efforts on this project, we were given a 15-minute speaking slot at the hearing. Our presentation seemed to be well received by the council, and a couple of them made reference to it in their remarks. At the end of a long and emotional hearing with nearly two hours of testimony from each side, the City Council accepted the environmental document and one of our long fought GARS was saved from deletion.

There is a lot more work like this to be done in San Diego, and we will be watching for other threatened road segments to see how we can continue to help protect our planned roadway system, a core part of our association's mission.

Speaking of planned roadway systems, the County of San Diego is proposing significant changes to its Circulation Element as part of the General Plan 2020 Update. On Monday, September 11th, our speaker is Mr. Ivan Holler, Deputy Director of the County of San Diego's Department of Planning and Land Use. Mr. Holler will bring us up to speed on the proposed changes.

I hope to see you all at the meeting.



Clark Feron, President

**SEPTEMBER
Transportation Calendar**

- Sept 11th - HDA Luncheon (12PM at Best Western 7 Seas)
- Sept 12th - CELSOC Transportation Liaison Committee (closed committee; contact Clark Feron at 858.268.8080, if interested)
- Sept 13th - APWA Transportation Group (12:00PM at Best Western 7 Seas)
- Sept 14th - APWA General Meeting (11:30AM at Four Points Hotel, Aero Drive)
- Sept 15th - SANDAG Transportation Committee (9:00AM at SANDAG)
- Sept 19th - CELSOC General Meeting (11:30AM at Holiday Inn, Murphy Canyon Road)
- Sept 26th - Chamber Transportation Committee (7:30AM at Chamber, Emerald Towers)

Future SDHDA Meetings

- OCTOBER 16th - Joe Craver, San Diego Regional Airport Authority
- NOVEMBER 13th - Mohamad Fakhreddine, County of San Diego
- DECEMBER 11th - Holiday Party

Upcoming September 11th Meeting

Title of Program			
<i>Speaker: Ivan Holler, Deputy Director, Department of Planning and Land Use, County of San Diego</i>			
<i>Topic: Proposed Changes to the County's Circulation Element</i>			
AGENDA			
11:00 AM	Board Meeting	12:45PM	Presentation and Q&A
11:45 AM	Arrival and Sign-In	1:30 PM	Adjourn
12:00 PM	HDA Business:	Location:	Best Western Seven Seas
	-- Agency Reports		411 Hotel Circle South
	-- Committee Reports	Price:	\$20.00
	-- Announcements		
Ivan Holler			
<i>Deputy Director, Department of Planning and Land Use County of San Diego</i>			
<p>Mr. Ivan Holler is the Deputy Director of the San Diego County Department of Planning and Land Use. Mr. Holler's area of responsibility includes overseeing all long range planning projects including the General Plan 2020 and the Multiple Species Conservation Plan. Having been with the county for almost 10 years, he has also served as Chief of the 2020 Division and the Building Division chief. A graduate of Cal Poly San Luis Obispo, he has a degree in Landscape Architecture and is a licensed landscape architect. Mr. Holler was in private practice prior to joining the County.</p>			

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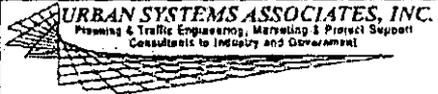
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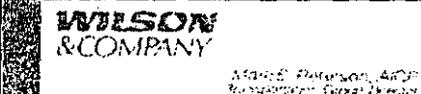
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KEY STAKEHOLDERS:

The Regents Road Bridge Alternative does not involve any property owners or businesses with a direct financial interest in the proposed alternative. The Final EIR concludes that implementation of the Regents Road Bridge Alternative would result in significant impacts related to land use and planning, biology, noise, neighborhood character/ aesthetics, landform alteration, geology/soils, recreation, hydrology/water quality, cultural resources, paleontological resources, and human health and public safety. Impacts related to neighborhood character/aesthetics, recreation and landform alteration were found to be unmitigable.

Boekamp/Haas/KS

Staff: Kris Shackelford – (619) 533-3781

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:05 p.m. – 7:57 p.m.)

Testimony in opposition by Linda Colley, Patricia Wilson, Petr Krysl, James Mayfield, Daniel Arovas, Kevin Wirsing, Deborah Knight, Mel Hinton, Eric Bowlby, Michael Beck, Marco Gonzalez, Katherine Williams, Reyna Shigetomi-Toyama, David Hopkins, Gregory Zinser, Michael White, Buzz Brewer, Karin Zirk, William Huston, Richard Ledford, Jesse Knighton, Fred Saxon, Barbara Scheidker, Charles Pratt, Shelley Plumb, Walker Fillius, Margaret Fillius, Robert Riffenburgh, Y.C. Wu, Kim Wu, Don Booth, Lyn Booth, Jerry Streichler, Jim Peugh, Karen Bender, Everett Biegeleisen, Wendy Sue Biegeleisen, Edward Smith, David Kacev, Les Kacev, Tershia d'Elgin, Chris Redfern, Pamela Colquitt, Kenneth Liebler, Alan Hamel, Meagan Beale, Marilyn Dupree, Jeanette Lancerat, Bonnie Hough, and Julie Kerr.

Testimony in favor by Harry Mathis, Marcia Munn, Miriam Brown, Peter Hekman, Robert Gleason, David Cherashore, Larry Tucker, Julie Tunnell, Clark Fernon, Jim Schmidt, Scott Alevy, Lori Salva, Deborah Horwitz, Debra Gutzmer, Ben Weinbaum, Dave Potter, Daniel Aruta, Carole Pietras, David Sanderfer, Elizabeth Hill, Steve Ziegler, Bob Parson, Dana May, Paul Anderson, E.T. Lipscomb, Chuck Sweet, John McQuown, Robert Ed Munn, Joseph Gray, Gerald Kendrick, Peter Garratt, William East, Judy Brinner, Nancy Renner, Carol Stultz, Kay Brown, Barry Braun Coggan, Elaine Jacobsen, Edward Richardson, Kevin Elliott, and Daniel Pick.