

CITY COUNCIL OF THE CITY OF SAN DIEGO
SPECIAL COUNCIL MEETING
FOR
TUESDAY, SEPTEMBER 4, 2007
CITY ADMINISTRATION BUILDING
COMMITTEE ROOM – 12TH FLOOR
202 "C" STREET
SAN DIEGO, CA 92101

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 8:50 a.m. The meeting was adjourned by Council President Peters at 9:00 a.m. into Closed Session.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-not present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-not present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (dlc)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-not present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-not present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

CLOSED SESSION ITEMS:

**CS-1 *Harvey Furgatch v. San Diego Unified Port District, et al.*
San Diego Superior Court Case No. GIC 775242**

CDCA Assigned: H. Carlyle and DCA Assigned: J. Riley

Plaintiff alleges his lawsuit was a substantial factor in causing the termination of the purchase and sale agreement for the transfer of property (Tailgate Park) from the City to the San Diego Unified Port District. The Council will be advised of the status of this litigation and discuss whether to waive the attorney client and attorney work product privileges, in a limited scope, for the purpose of defending this lawsuit.

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 4, 2007

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time Duration: 8:51 a.m. – 8:54 a.m.)

Council President Peters closed the hearing.

**CS-2 *San Diego Police Officers' Association v. Michael Aguirre, et al.* (POA1)
United States District Court Case No. 05 CV 1581 H**

EACA Assigned: D. McGrath

This matter is an action filed by the San Diego Police Officers Association for damages and declaratory relief alleging retaliation and civil rights violations. In closed session, the Executive Assistant City Attorney will brief the Mayor and City Council on the litigation's status.

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 4, 2007

Closed Session Comment 1: Hud Collins commented against this lawsuit moving forward.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time Duration: 8:51 a.m. – 8:54 a.m.)

Council President Peters closed the hearing.

**CS-3 *Marcus Abbe, et al. (190+ Individual Police Officers) v. City of San Diego (POA2)*
United States District Court Case No. 05 CV 1629 DMS; 06 CV 0538**

EACA Assigned: D. McGrath

Approximately 1500 current or former police officers of the San Diego Police Department have jointly sued the City in these two consolidated cases for violation of the federal Fair Labor Standards Act and the Memorandum of Understanding ("MOU") between the City and the Police Officers Association. The Plaintiffs allege in the lawsuit that they are entitled to compensation for nonpayment of earned overtime wages and also compensation for unpaid benefits in accordance with the MOU. In closed session, the Executive Assistant City Attorney will brief the Mayor and City Council on the litigation's status.

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 4, 2007

Closed Session Comment 1: Hud Collins suggested a public briefing of Closed Session items.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time Duration: 8:51 a.m. – 8:54 a.m.)

Council President Peters closed the hearing.

**CS-4 *Erica Aaron, et al. v. Michael Aguirre, et al.* (POA3)
United States District Court Case No.:06 CV 1451 H**

EACA Assigned: D. McGrath

This matter is a class action filed by numerous police officers against the City Attorney, the City of San Diego and a number of current and former City Council Members and employees alleging retaliation and civil rights violations. In closed session, the Executive Assistant City Attorney will brief the Mayor and City Council on the litigation's status.

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 4, 2007

Closed Session Comment 1: Hud Collins suggested a public briefing of Closed Session items.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time Duration: 8:51 a.m. – 8:54 a.m.)

Council President Peters closed the hearing.

**CS-5 *AFSCME Local 127 v. City of San Diego*
Unfair Practice Charge No. LA-CE-352-M**

EACA Assigned: D. McGrath

This is a complaint filed by AFSCME Local 127 against the City of San Diego relating to Propositions B and C as to managed competition. Trial of this matter is set before the PERB Board in late September. In closed session, the Executive Assistant City Attorney and Mark Pulliam of Latham & Watkins will brief the Mayor and City Council on the litigation's status; as well as request that Latham & Watkins continue to represent the City of San Diego in this matter.

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 4, 2007

Closed Session Comment 1: Hud Collins suggested a public briefing of Closed Session items.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time Duration: 8:51 a.m. – 8:54 a.m.)

Council President Peters closed the hearing.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 9:00 a.m.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 9:00 a.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, SEPTEMBER 10, 2007
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Pro Tem Young at 2:02 p.m. with Council President Peters not present. Council President Pro Tem Young recessed the meeting at 3:48 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:54 p.m. with Council President Peters not present. Council President Pro Tem Young recessed the meeting at 4:23 p.m. to convene into a Special Meeting of the Redevelopment Agency. Council President Pro Tem Young reconvened the regular meeting at 4:37 p.m. with Council President Peters not present. Council President Pro Tem Young adjourned the meeting at 4:37 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-not present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (mz)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-not present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Reverend Reginald Gary of the
New Creator Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Frye.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

CS-1 Adam C. Lewis v. City of San Diego, et al.
San Diego Superior Court Case No. GIC 877604

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 11, 2007

DCA Assigned: B. Hsu

Plaintiff claims personal injuries as a result of an automobile accident which occurred on May 1, 2006. The City Attorney requests the City Council consider settlement of the case in closed session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:23 p.m. – 4:23 p.m.)

Council President Peters closed the hearing.

CS-2 *People of the State of California v. Willkie Farr and Gallagher, LLP*
San Diego Superior Court Case No. 37-2007-00072585-CU-BT-CTL

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 11, 2007

EACA Assigned: D. McGrath

This is a lawsuit filed by the People of the State of California against Willkie Farr and Gallagher, LLP. In closed session, the Executive Assistant City Attorney and Bryan Vess will brief the Mayor and City Council on the litigation's status; as well as request that Bryan Vess be retained to represent the People of the State of California in this matter.

Closed Session Comment 1:

Daniel Coffey commented on the City of San Diego's involvement in the case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:23 p.m. – 4:27 p.m.)

Council President Peters closed the hearing.

**CS-3 *City of San Diego v. Willkie Farr and Gallagher, LLP*
San Diego Superior Court Case No. 37-2007-00072584-CU-BT-CTL**

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 11, 2007

EACA Assigned: D. McGrath

This is a lawsuit filed by the City of San Diego against Willkie Farr and Gallagher, LLP. In closed session, the Executive Assistant City Attorney and Bryan Vess will brief the Mayor and City Council on the litigation's status, as well as request that Bryan Vess be retained to represent the City of San Diego in this matter.

Closed Session Comment 1:

Daniel Coffey commented on the request for purchase and the process of obtaining representation in this case.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:27 p.m. – 4:29 p.m.)

Council President Peters closed the hearing.

CS-4 *City of San Diego v. Sunroad Enterprises et al.*
San Diego Superior Court Case No. GIC 877054

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 11, 2007

DCA Assigned: C. Brock

Case No. GIC 877054 was initiated by the City Attorney to abate the public nuisance created by Sunroad Enterprises' construction of a 12 story, 180 foot building which has been declared a "hazard" to air navigation at the City's Montgomery Field Airport by the Federal Aviation Administration ("FAA") Sunroad Enterprises cross-complained against the City claiming the City issued permits for the building and is responsible for any monetary loss Sunroad may incur. The City Attorney and outside counsel, Latham & Watkins, will discuss the status of the pending litigation and associated costs.

Closed Session Comment 1:

Daniel Coffey commented on associated costs of litigation to the public.

Closed Session Comment 2:

Joy Sunyata commented on closure regarding Sunroad.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:29 p.m. – 4:33 p.m.)

Council President Peters closed the hearing.

**CS-5 *La Jolla Alta Master Council v. City of San Diego*
San Diego Superior Court Case No. GIC 822281**

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 11, 2007

DCA Assigned: J. Boardman

This matter is a lawsuit filed by the La Jolla Alta Master Council for inverse condemnation and declaratory and injunctive relief. In closed session, the City Attorney will brief the Council on the status of the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:33 p.m. – 4:33 p.m.)

Council President Peters closed the hearing.

**CS-6 *Harvey Furgatch v. San Diego Unified Port District, et al.*
San Diego Superior Court Case No. GIC 775242**

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 11, 2007

CDCA Assigned: H. Carlyle and DCA Assigned: J. Riley

Plaintiff alleges his lawsuit was a substantial factor in causing the termination of the purchase and sale agreement for the transfer of property (Tailgate Park) from the City to the San Diego Unified Port District. The Council will be advised of the status of this litigation and discuss whether to waive the attorney client and attorney work product privileges, in a limited scope, for the purpose of defending this lawsuit.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:33 p.m. – 4:33 p.m.)

Council President Peters closed the hearing.

ITEM-150: Tobacco Retailer Ordinance – Version D, Relating to Requirements for Permits for Tobacco Project Sales. (Citywide)

(See Report from the City Attorney dated 6/29/2006; E-mail from Molly Bowman dated 7/12/2006; letter from Auday P. Arabo, Esq. dated 7/12/2006; City Manager Report No. 05-091; and Reports from the City Attorney dated 5/4/2007, 3/23/2007, 4/8/2005, and 4/7/2005 [not available at the Committee].)

TODAY’S ACTION IS:

Introduce the following ordinance:

(O-2007-128) INTRODUCED AS AMENDED; TO BE ADOPTED TUESDAY, SEPTEMBER 25, 2007

Introduction of an Ordinance amending Chapter 3, Article 3, of the San Diego Municipal Code by adding Division 45, Sections 33.4501 to 33.4518, titled “Permits for Tobacco Product Sales,” relating to requirements for permits for tobacco product sale. State Assembly Bill 71, codified in California Business and Professions Code section 22971.3, created a state licensing program for the sale of tobacco products, and authorizes local governments to adopt their own ordinances to provide for the suspension or revocation of a local license for any violation of a state tobacco control law. This ordinance provides for local regulation of tobacco retail businesses by requiring police permits. The intent is to discourage violations of law prohibiting the sale or distribution of tobacco products to minors to protect their health, welfare, and safety. It is also the intent that all costs associated with the administration and enforcement of this Division be borne by tobacco retailer applicants and permittees.

PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE’S RECOMMENDATION:

On 7/12/2006, PS&NS voted 4 to 0 to forward this item to the full City Council without a recommendation subject to analysis by the Independent Budget Analyst and the City Attorney, working with stakeholders, to incorporate the issues raised. (Councilmembers Faulconer, Young Maienschein, and Hueso voted yea.)

NOTE: Ordinance version D, prepared by the City Attorney in response to the Committee’s referral and questions, has neither been reviewed nor opined on by the Committee.

SUPPORTING INFORMATION:

Tobacco use by minors is a public health and safety risk. State laws are insufficient to address tobacco use by minors, and state law authorizes local governments to adopt their own ordinances to provide for the suspension or revocation of a local license for any violation of a state tobacco control law. The proposed ordinance provides for local regulation of tobacco retail businesses by requiring police permits. The proposed ordinance will discourage violations of law which prohibit or discourage the sale or distribution of tobacco products to minors.

FISCAL CONSIDERATIONS:

A proposed permit fee of \$163 allows for full cost recovery of administration and enforcement costs related to this ordinance in the first year. Costs will be reviewed annually, and the permit fee will be adjusted, as necessary, to reflect true costs. Costs will be included in the Police Department's fiscal year appropriation.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

In April 2005, the Committee on Public Safety and Neighborhood Services was presented with two versions of a Tobacco Retailer Ordinance, O-2005-65-DRAFT and O-2005-65-DRAFT - Version B. Neither version passed Committee. In July 2006, Version C was presented to the Committee. Version C received enough votes to move forward without recommendation, pending resolution and clarification of several issues. Those issues are addressed in Version D.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

American Lung Association; California Grocers Association; San Diego small business owners.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Local retailers will be required to obtain police permits to sell tobacco products.

Aguirre

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:05 p.m. – 3:48 p.m.)

MOTION BY MAIENSCHIN TO INTRODUCE THE ORDINANCE AS AMENDED TO INCLUDE A SINGLE SENTENCE IN SECTION 33.4501 UNDER "PURPOSE AND INTENT" TO READ AS FOLLOWS: IT IS FURTHER THE INTENT THAT RECOVERIES HEREUNDER SHALL BE USED TO PAY THE COST OF ENFORCEMENT OF THIS DIVISION; IN SECTION 33.4518 UNDER "REPORTING PROVISIONS" INCLUDE THE FOLLOWING: A PERMIT FEE OF \$163 FOR FISCAL YEAR 2008 AND A MANDATORY ANNUAL REPORT TO THE PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE PRIOR TO THE BUDGET HEARING WHICH WOULD INCLUDE (1) NUMBER OF VIOLATIONS, (2) NUMBER AND AMOUNT OF FINES, (3) NUMBER AND TYPE OF PENALTIES, (4) HOW FINE REVENUES ARE BEING USED, AND (5) DETAILING THE PROGRAM BUDGET. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-200: 3502 Jackdaw Street (Hill Residence), Variance to allow existing development constructed over the maximum height and maximum floor area ratio and to allow the conversion of a carport to a fully enclosed garage and vacate an unimproved portion of Walnut Street. (Uptown Community Plan Area. District 2.)

Matter of approving, conditionally approving, modifying or denying an application for a Variance to allow existing development constructed over the maximum height and maximum floor area ratio and to allow the conversion of a carport to a fully enclosed garage. This project also includes a request to vacate an unimproved portion of Walnut Street, and expand an existing Encroachment

Maintenance Removal Agreement. The property is zoned RS-1-7 (Single-Family Residential) addressed as 3502 Jackdaw Street, and located at the northwest corner of Jackdaw and Walnut Streets, legally described as Lot 13 in Block 437 of the Subdivision of the east half and the south quarter of Pueblo Lot 1122, Map No. 381.

(Variance No. 209653/Encroachment Maintenance Removal Agreement No. 209658/Street Vacation. Uptown Community Plan Area. District 2.)

(Continued from the meeting of June 19, 2007, Item 332, at Councilmember Faulconer's request, for further review.)

NOTE: Hearing open. Testimony taken on 6/19/2007.

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2008-207) ADOPTED AS RESOLUTION R-302970

Adoption of a Resolution certifying findings with respect to Variance No. 209653; and Encroachment Maintenance and Removal Agreement No. 209658 supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

That Variance No. 209653 and Encroachment Maintenance and Removal Agreement No. 209658 to remedy and authorize the existing height and design conditions previously created by the applicant without benefit of the necessary permits is granted to Steven M. and Sandi M. Hill, Owner/Permittee, under the terms and conditions set forth in the Variance attached hereto and made a part hereof.

Subitem-B: (R-2008-208) ADOPTED AS RESOLUTION R-302971

Adoption of a Resolution that the street right-of-way located adjacent to 3502 Jackdaw Street, and legally described as Lot 13, Block 437, of the Subdivision of the east half and the south quarter of Pueblo Lot 1122, Map No. 381 in connection with Variance No. 209653, and Encroachment Maintenance and Removal Agreement No. 209658, as more particularly described in the legal description marked as Exhibit "A," and shown in the drawing marked as Exhibit "B";

That the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by her under seal, to be recorded in the Office of the County Recorder.

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

OTHER RECOMMENDATIONS:

Planning Commission on April 21, 2005, voted 4-2 to approve; was opposition.

Ayes: Steele, Garcia, Schultz, Otsuji
Nays: Chase, Ontai
Not present: Griswold

Uptown Planners has taken a vote resulting in a mixed recommendation for the project. Please refer to the Planning commission Report No. PC-04-182.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of a ~~permit amendment~~, three variances, and encroachment into the unimproved public right-of-way of Walnut Avenue to allow existing improvements associated with a single family residence to remain. The project is located at 3502 Jackdaw Street in the Uptown Community Plan area.

STAFF RECOMMENDATION:

1. APPROVE ~~Hillside Review Permit/Resource Protection Ordinance Permit No. 32731~~, Variance No. 209653, and Encroachment Removal Agreement No. 209658; and
2. DENY Public Right-of-Way Vacation No. 209656.

EXECUTIVE SUMMARY:

The application was deemed complete on January 11, 1999 and is therefore subject to the Municipal Code in effect at that time. The site is located at 3502 Jackdaw Street in the Uptown Community Plan area. The 25 foot by 100 foot rectangular lot slopes approximately 30 feet down from the street. The majority of the parcel is within the Hillside Review Overlay Zone (Old Code). Previous approvals in 1989 authorized the construction of the property with two variances for yard setbacks. A soils investigation during initial grading determined that removal of undocumented full material was necessary. This resulted in modifications to the foundation design and lowered the measurement of grade approximately five feet. This resulted in the

residence observing a height of approximately 38 feet, rather than 33 feet approved with the original permit. Furthermore, changes to the foundation design using retaining walls to support the structure in lieu of caissons resulted in a previously open area beneath the structure being enclosed. Regulations require this enclosed area be included in the floor area measurement of the residence which now exceeded that allowed in the permit. A permit amendment and variance is required to remedy these conditions.

In 1990, an Encroachment Maintenance and Removal Agreement (EMRA) was approved to allow encroachments into the unimproved public right-of-way of Walnut Avenue, immediately south of the residence. These encroachments extend fifteen feet into the right-of-way and include a concrete walkway and steps which provide access to the residence and landscaping. In 1998, a Notice of Violation was issued to the owner citing non-compliance with the approved HRP/RPOZ Permit No. 88-0742. In 1999, the owner submitted the current application to amend the approved HRP/RPOZ Permit No. 88-0742 in an effort to legalize the existing height and gross floor area. The application includes a request to modify the existing structure to add additional floor area and an EMRA to legalize existing encroachments in the public right-of-way beyond those approved in the 1990 EMRA. As an alternative to an EMRA, the project includes a request to vacate a portion of the undeveloped Walnut Avenue right-of-way.

Staff recommends approval of ~~Hillside Review Permit/Resource Protection Ordinance Permit No. 32731~~, Variance No. 209653 and Encroachment Removal Agreement No. 209658 and recommends denial of Public Right-of-Way Vacation No. 209656.

The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15301(1) "Existing Facilities".

FISCAL CONSIDERATIONS:

No cost to the City. All costs are recovered through a deposit account funded by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On April 21, 2005, the Planning Commission of the City of San Diego voted 4:2:0 to recommend approval of Hillside Review and Resource Overlay Zone Permit No. 32731, amending HRP/RPOZ Permit No. 88-0742, and Variance No. 209653 to maintain the existing as-built and enclosed under-floor area of the residence; and to recommend denial of a Variance to enclose an existing carport for use as a garage; Street/Public Right-of-Way Vacation No. 209656; and

Encroachment Removal Agreement No. 209658, requiring the area that was disturbed be revegetated and returned to the state it was in prior to being encroached upon without permission, with a minimum maintenance period from one to three years.

On October 3, 2000, the Uptown Planners voted 5:3:1 to recommend denial of the street vacation. On May 1, 2001, the Uptown Planners voted 11:0:1 to recommend approval of the project, minus the street vacation.

KEY STAKEHOLDERS:

Steve M. and Sandy M. Hill, Owners/Applicant

Waring/Escobar-Eck/JSF

NOTE: The City of San Diego as Lead Agency under CEQA has determined that the action is exempt pursuant to Article 19 of the Guidelines for Categorical Exemptions, Section 15301(1), Existing Facilities.

Staff: John Fisher – (619) 446-5231
Shirley R. Edwards – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:08 p.m. – 4:19 p.m.)

Testimony in favor of the variance by Sandi Hill, Steve Hill, and Ray Slocum.

Testimony in opposition of the variance by Michael Herman.

MOTION BY FAULCONER TO ADOPT THE RESOLUTION IN SUBITEM A APPROVING VARIANCE NO. 209653, AND ENCROACHMENT REMOVAL AGREEMENT NO. 209658; AND TO ADOPT THE RESOLUTION IN SUBITEM B DENYING PUBLIC RIGHT-OF-WAY VACATION NO. 209656. Second by Atkins. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-201: La Jolla Mesa Vista Underground Utility District. In the matter of holding a public hearing and forming the District. (La Jolla Community Plan Area, District 2.)

NOTE: First Hearing was held on July 23, 2007, Item 204.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-1276 Cor. Copy 2) ADOPTED AS RESOLUTION R-302972

Adoption of a Resolution establishing an underground utility district financed through the La Jolla Mesa Vista Underground Utility Assessment District No. 4098 and the City of San Diego Undergrounding Surcharge Fund for the La Jolla Mesa Vista Community Planning Area.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTIONS:

At July 23, 2007 Council Hearing:

1. Set a date for a public hearing date of September 10, 2007 to consider creating an Underground Utility District (District); and
2. Authorizing a \$380,000 increase in the Fiscal Year 2008 Capital Improvements Program Budget in CIP-37-027.0, La Jolla Mesa Vista Underground Utilities Assessment District, Fund 30101, Underground Surcharge Fund; providing the City Auditor and Comptroller first certifies with one or more certificates that the funds are or will be on deposit with the City Treasurer; and
3. Authorizing the transfer of \$380,000 from CIP-37-028.0, Annual Allocation Undergrounding City Utilities to CIP-37-027.0, La Jolla Mesa Vista Underground Utilities Assessment District, within Fund 30101, Underground Surcharge Fund; and
4. Authorizing the Auditor and Comptroller to appropriate and expend \$380,000 from CIP-37-027.0, La Jolla Mesa Vista Underground Utilities Assessment District, Fund 30101, Underground Surcharge Fund for the purpose of utility undergrounding and associated activities as described in the Engineers Report for La Jolla Mesa Vista Underground Utility Assessment District No. 4098; and
5. Authorizing the Mayor to accept \$10,000 from the La Jolla Mesa Vista Homeowners Association for the purpose of funding the proposed formation of the La Jolla Vista Mesa Underground-Utility-Assessment-District-and;

6. Authorizing a \$10,000 increase in the Fiscal Year '08 Capital Improvements Program Budget in CIP-37-027.0, La Jolla Mesa Vista Assessment District, in Fund 63022, Private and Other Contributions.
7. Authorizing the Auditor and Comptroller to appropriate and expend \$10,000 from CIP-37-027.0, La Jolla Mesa Vista Assessment District, Fund 63022, Private and Other Contributions, for the purpose of the undergrounding utilities project, and transfer excess funds, if any, to the appropriate reserves.

At September 10, 2007 Council Hearing:

1. Hold Noticed Public Hearing and Create said District;

STAFF RECOMMENDATION:

Adopt the requested actions.

EXECUTIVE SUMMARY:

On June 5, 2007, the City Council passed Resolutions initiating proceedings to form the proposed La Jolla Mesa Vista Undergrounding Utilities Assessment District and the commencement of an assessment ballot procedure. The Council passed a Resolution which set a public hearing date of July 23, 2007 for formation of the proposed assessment district. Should the proposed *Assessment District* be formed, it is recommended that the Council consider the formation of an *Underground Utility District* at a future public hearing. These actions would set a date for a public hearing to consider creation of an *Underground Utility District*. The creation of an Underground Utility District is not a necessary action in order to consider creation of the Assessment District. Underground Utility Districts require the removal of overhead utilities and prohibits future overhead utilities within said Districts.

In addition, the Council has previously expressed its desire to cost share \$380,000 from the Underground Surcharge Fund as part of the FY 2005 and FY 2006 Annual Allocation of Undergrounding Projects. These actions would provide the necessary appropriations of those funds to the La Jolla Mesa Vista project concurrent with the creation of the Assessment District.

In accordance with San Diego Municipal Code (SDMC), Chapter 6, Article 1, Division 5, Underground Utilities Procedural Ordinance these actions will create the La Jolla Mesa Vista Underground Utility District and will underground all overhead utilities within the designated District.

The formation of this district will require by Ordinance the removal and/or underground conversion of certain overhead power and communications wires with poles within the established boundary, replacement of street lighting and street restoration.

The expense of the underground installation and removal of overhead facilities within the right-of-way (street and sidewalk area) will be the responsibility of the utility companies in accordance with California Public Utilities Commission (CPUC) Rules and Tariffs and will be financed through the proposed La Jolla Mesa Vista Assessment District No. 4098 and a cost sharing component of the City of San Diego of \$380,000 from the Underground Surcharge Fund (30100), per Council Resolutions 300051 and 300572.

By Ordinance, creation of this Underground Utility District will require all property owner(s) within said District to perform all necessary trenching and other related work to convert their property to receive electrical, telecommunication and cable television from an underground service, including all necessary permits and compliance with minimum conformance as outlined in the SDMC Chapter 14, Article 6, Division 2. Namely, that their electrical panels: (1) are dead front operated, (2) have a grounding rod; (3) have appropriate operating clearances; and (4) are sufficient load capacity.

FISCAL CONSIDERATIONS:

The estimated construction cost of \$1,070,412 for work within the public right-of-way, will be financed through the proposed La Jolla Mesa Vista Assessment District No. 4098 and a cost sharing component of the City of San Diego of \$380,000 from the Underground Surcharge Fund (30100), per Council Resolutions 300051 and 300572. Property owners are solely responsible for all work on private property necessary to convert their property to underground utility systems.

PREVIOUS COUNCIL COMMITTEE ACTION:

1. Allocation of Underground Conversion Projects for Fiscal Year 2005, Resolution 300051, January 11, 2005, Managers Report 05-001, provided for \$280,000 in cost sharing for the LJMV project.
2. Allocation of Underground Conversion Projects for Fiscal Year 2006, Resolution 300572, June 21, 2005, Managers Report 05-149, provided for \$100,000 in cost sharing for the LJMV project.
3. Approved City Council Resolutions of June 5, 2007 initiating proceedings to form the proposed La Jolla Mesa Vista Undergrounding Utilities Assessment District and setting a public hearing date of July 23, 2007 for formation of the proposed assessment district, and the commencement of the assessment ballot procedure.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

LJMV property owner representatives have worked with Engineering & Capital Projects / Undergrounding Program staff to coordinate with the various utilities to define the project and estimate the costs. At the request of district proponents, Debt Management staff and the City Attorney's Office helped formulate the Petition that was circulated by a primary district proponent.

In addition, the Underground Program Manager and the Debt Management Department sent letters to the LJMV property owners providing information regarding the project and the proceedings being undertaken by the City to consider the formation of the district and the levy of assessments on properties for the purpose of undergrounding the overhead utility lines.

At the point the Petition was prepared and distributed to the community, the Underground Program Manager met with the community at two different locales and times, both at resident's homes, one during the day and one in the evening, to provide information and answer questions regarding the underground process and information regarding the assessment district formation process.

KEY STAKEHOLDERS:

Property owners within the proposed La Jolla Mesa Vista Underground Utility Assessment District. Business entities involved in the formation of the proposed assessment district include Bureau Veritas North America, Inc. (Assessment Engineer) and Best, Best and Krieger LLP (Outside Legal Counsel).

Haas/Oskoui/NB

NOTE: This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15302(d), and Public Utilities Commission General Order 131-D dated August 11, 1995.

Aud. Cert. 2700849.

Staff: Nathan Bruner (619) 533-3777
Peter A. Mesich – Deputy City Attorney

FILE LOCATION: K-328 (38)

COUNCIL ACTION: (Time duration: 4:20 p.m. – 4:23 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-250: Notice of Pending Final Map Approval - 4170 Alabama Street Condominiums.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "4170 Alabama Street Condominiums" (T.M. No. 78500/PTS No. 95895), located on the west side of Alabama Street between Howard Avenue and Polk Avenue in the Greater North Park Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

ITEM-251: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the February 5, 2008 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	9/14/2007	144	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	9/19/2007	139	Rules Committee review
Monday	9/24/2007	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee (<i>NB: E-127 is 10/1/2007, a legislative recess</i>)
Monday	10/8/2007	120	Council adopts propositions for ballot; directs City Attorney to prepare ordinances
Monday	10/29/2007	99	Council adopts ordinances prepared by City Attorney
Friday	11/9/2007	88	Last day for City Clerk to file with Registrar of Voters all elections material
Monday	11/26/2007	71	Last day to file ballot arguments with City Clerk

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

ITEM-S400: Approval of Participation and Administration Agreements in San Diego City Employees' Retirement System (SDCERS) Group Trust.

(Continued from the meetings of June 18, 2007, Item 200; June 26, 2007, Item S400; July 10, 2007, Item 339; and September 4, 2007, Item 330; last continued at the request of City Attorney, for further review.)

SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM'S RECOMMENDATION:

Take the following actions:

CONTINUED TO MONDAY, SEPTEMBER 24, 2007

Approving the attached Participation and Administration Agreement between SDCERS and the Unified Port District; and

Approving the attached Participation and Administration Agreement between SDCERS and the Airport Authority; and

Approving the attached Participation and Administration Agreement between SDCERS and the City of San Diego;

Directing the City Attorney to prepare the appropriate resolutions in accordance with Charter Section 40.

SUPPORTING INFORMATION:

Along with the City, the Port and the Airport Authority participate in SDCERS under City Charter Section 149 and San Diego Municipal Code Sections 24.1801 et seq. These provisions allow a public agency to contract with SDCERS to participate in the SDCERS Trust Fund, after the City Council makes a finding that the public agency is eligible and approves the contract between the agency and SDCERS. In 2002, the City Council found that the Port and the Airport Authority were eligible to participate in SDCERS under Charter Section 149, and approved the initial contracts between SDCERS and each agency.

Under Charter Section 149 and Municipal Code Section 24.1806, all funds contributed by a contracting public agency and its employees must be held in trust and used only to pay benefits and necessary expenses related to administering the retirement benefits of that agency.

In order to carry out the intent of these provisions, and prevent the use of any contracting agency's plan assets to pay the liabilities associated with another agency's plan, tax counsel advised SDCERS to establish a Group Trust, within which SDCERS would administer each public agency's plan as a separate trust. Based on this advice, on March 16, 2007, the SDCERS Board unanimously approved a "Declaration of Trust" establishing the SDCERS Group Trust effective July 1, 2007. At that same time, the Board unanimously approved the three attached Participation and Administration Agreements with the City, the Port and the Airport Authority.

The Port and Airport Authority Boards have unanimously approved their respective Participation and Administration Agreements. Municipal Code Section 24.18020(j) requires that the Participation and Administration Agreements between SDCERS and each contracting public agency be approved by the City Council by Resolution.

A Council vote to approve the Participation and Administration Agreements of the City, Port, and Airport will ensure that the plan assets associated with each plan sponsor currently participating in SDCERS are unavailable to satisfy the liabilities of each other plan sponsor's plan. Both the Port and Airport Boards have made it clear that the participation of their assets in the SDCERS Group Trust is critical to their continued participation in SDCERS. If the City Council does not approve their Participation and Administration Agreements, the Port and Airport may be forced to seek out another pension alternative to SDCERS.

FISCAL CONSIDERATIONS:

There is no financial impact associated with this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are the City, Port, and Airport Authority, as well as their employees and retirees. Council approval of the three SDCERS Group Trust Participation and Administration Agreements will assure the employees and retirees of all three agencies that the assets in their retirement plans are safe from claims by or against the other SDCERS-administered plans.

Hebrank/Wescoe

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:05 p.m.
3:54 p.m. – 4:08 p.m.)

MOTION BY MADAFFER TO CONTINUE TO MONDAY, SEPTEMBER 24, 2007,
FOR FURTHER REVIEW. Second by Atkins. Passed by the following vote: Peters-not
present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-
yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Pro Tem Young at 4:37 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:37 p.m. – 4:37 p.m.)

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, SEPTEMBER 11, 2007
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Pro Tem Young at 10:00 a.m.
The meeting was recessed by Council President Pro Tem Young at 11:58 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Pro Tem Young at 2:03 p.m. with Council President Peters and Council Member Hueso not present. Council President Pro Tem Young recessed the meeting at 2:06 p.m. to convene the Housing Authority and thereafter the Redevelopment Agency. Council President Pro Tem Young reconvened the regular meeting at 2:07 p.m. with Council President Peters not present. Council President Pro Tem Young recessed the meeting at 3:29 p.m. for the purpose of a break. Council President Pro Tem Young reconvened the meeting at 3:34 p.m. with Council President Peters and Council Member Atkins not present. Council President Pro Tem Young recessed the regular meeting at 4:03 p.m. to reconvene the Redevelopment Agency. Council President Pro Tem Young reconvened the regular meeting at 4:13 p.m. with Council President Peters not present and thereafter reconvened the Redevelopment Agency. Council President Pro Tem Young reconvened the regular meeting at 4:14 p.m. with Council President Peters not present. Council President Pro Tem Young recessed the regular meeting at 4:16 p.m. to reconvene the Redevelopment Agency and thereafter the Housing Authority. Council President Pro Tem Young reconvened the regular meeting at 4:39 p.m. with Council President Peters not present. The meeting was adjourned by Council President Pro Tem Young at 4:42 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-not present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present

- (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (dlc/sr)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-not present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:22 a.m. - 10:25 a.m.)

PUBLIC COMMENT-2:

Homer Barrs commented on a mobile home park.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. - 10:27 a.m.)

PUBLIC COMMENT-3:

Allyson Smith commented on the Amicus brief regarding same sex marriages.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:27 a.m. - 10:30 a.m.)

PUBLIC COMMENT-4:

Phil Hart commented on parking concerns.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:30 a.m. - 10:32 a.m.)

PUBLIC COMMENT-5:

Robert Sutton and Kim Tran commented on the organization, the Blue Star Mothers.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. - 10:37 a.m.)

PUBLIC COMMENT-6:

James Hartline commented on San Diego Fire Fighters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:37 a.m. - 10:40 a.m.)

PUBLIC COMMENT-7:

Jarvis Ross commented on various current events.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:43 a.m.)

PUBLIC COMMENT-8:

Catherine Strohlein commented on alcohol abuse.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:43 a.m. - 10:44 a.m.)

PUBLIC COMMENT-9:

Al Strohlein commented on a riot on Labor Day.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. - 10:47 a.m.)

PUBLIC COMMENT-10:

Lani Lutar commented on IROC – the Independent Rates Oversight Committee.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. - 10:49 a.m.)

PUBLIC COMMENT-11:

Referred to Mayor: Katheryn Rhodes commented on the FAA Part 77 Map and Airport Land Use Commission Airspace review for new construction.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:49 a.m. - 10:52 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Hueso wanted to thank the San Diego Housing Association with regard to the issue of affordable housing.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:52 a.m. - 10:54 a.m.)

COUNCIL COMMENT-2:

Council Member Frye announced an Electronic Recycling event to be held Saturday, September 15, 2007, from 8:00 a.m. to 12:00 p.m. in the Sea World parking lot.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:54 a.m. - 10:55 a.m.)

COUNCIL COMMENT-3:

Council Member Madaffer welcomed all to attend the 21st Annual Lake Murray Street Fair and 2nd Annual Duck Race held at the north side of Lake Murray, Saturday, September 15, from 9:00 a.m. to 6:00 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:56 a.m. - 10:58 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

Karen Heumann announced that the City Attorney's office presented checks to two important nonprofit agencies, the San Diego Childhood Lead Poisoning Prevention Program and Lamba Archives of San Diego.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:14 a.m. - 10:18 a.m.)

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS:

APPROVED

Approval of Council Minutes for the meetings of:

07/23/2007

07/24/2007

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:04 a.m. – 10:04 a.m.)

MOTION BY ATKINS TO APPROVE. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-31: Phyllis A. Shess Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-174) ADOPTED AS RESOLUTION R-302973

Commending Phyllis Shess for her years of service to the City of San Diego and the community of North Park;

Proclaiming September 11, 2007, to be "Phyllis A. Shess Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:06 a.m. – 10:08 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Young. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-32: Eleanor A. Mang Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-156) ADOPTED AS RESOLUTION R-302974

Proclaiming September 11, 2007, to be "Eleanor A. Mang Day" in the City of San Diego, and thanking Eleanor for all of her contributions to the Clairemont Community and the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:09 a.m. – 10:14 a.m.)

MOTION BY FRYE TO ADOPT. Second by Young. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-100: Hickman Athletic Field Improvements. (Kearny Mesa Community Area. District 6.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-160) ADOPTED AS RESOLUTION R-302975

Authorizing and directing the City Auditor and Comptroller to amend the Capital Improvement Budget to add CIP-29-795.0, Hickman Athletic Field Improvements, in accordance with the 2008 Annual Appropriation Ordinance;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$200,000 from Fund 39223, General Dynamic Fund to CIP-29-795.0, Hickman Athletic Field Improvements;

Authorizing the expenditure of an amount not to exceed \$200,000 from CIP-29-795.0, Hickman Athletic Field Improvements, solely and exclusively, for the purpose of providing funds for consultant services to prepare construction documents for Hickman Athletic Field;

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

Declaring this activity is not a "project" and therefore not subject to CEQA per CEQA Guidelines Section 15060 (c)(3). This activity will provide funding for a project consultant, design, and construction documents. There is no construction associated with this action. Any future activity involving construction will be subject to a separate review under CEQA and conditioned to comply with the provisions of CEQA.

STAFF SUPPORTING INFORMATION:

This funding will provide for consulting services to prepare construction documents for the future implementation of site improvements when funding is available. The construction documents will be based on the existing Hickman Athletic Field Master Plan, approved on June 20, 2005. This will be instrumental in estimating financial needs, and assist in applying for grants to complete the site improvements in accordance with the Hickman Fields Master Plan.

Council District Six identified the funding through General Dynamic Fund for the project. City staff will coordinate and work with the Hickman Youth Athletic Association (HYAA), lessee of the park, for the scope of work to be done. HYAA has a 25 year lease agreement with the City of San Diego; the lease will expire on June 20, 2030. HYAA maintains and implement improvements within the property. HYAA conducts and promotes non-profit youth sports activities such as baseball, tee ball and soccer. The multi sport's field is open to the public; reservation can be made by contacting the North Clairemont Recreation Center for scheduling the use of fields and other facilities at the property.

FISCAL CONSIDERATIONS:

This action authorizes the use of \$200,000, Fund 39223, General Dynamic Fund, for the purpose as stated above.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

- R-262865 - Hickman Field, April 8, 1985
- R-267203 - Land transfer between the United States Navy and the City, December 8, 1986
- R-268447 - City/Navy Land Exchange June 1, 1987
- R-289276 - MOU City and USA - October 7, 1997
- Document No. 00-19390 - Lease Agreement, June 20, 2005

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Staff coordination with Hickman Youth Athletic Association.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Stakeholders: Hickman Youth Athletic Association.

Lomedico/Reynolds

Aud. Cert. 2800074.

Staff: Jim Winter - (619) 533-3040
 Kimberly Ann Davies - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:20 a.m. – 10:21 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-101: Amendment to Residential Permit Parking Area "B". (College Community Area. District 7.)

(See Report to the City Council No. 07-136.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-155) ADOPTED AS RESOLUTION R-302976.

Authorizing the addition of the 6200-block of Stewart Street between 62nd Street and 63rd Street to Residential Permit Parking Area "B";

Authorizing the City Auditor and Comptroller to expend \$900 from Fund 100 for the installation of 6 regulatory sites;

Declaring that the project is the minor alteration in the use of an existing public structure with no expansion in use, and is therefore exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301.

STAFF SUPPORTING INFORMATION:

The Residential Permit Parking Program was established to mitigate the impact on residential areas of long-term commuter parking generated by a facility such as a large college, a hospital, or a major industrial center. Since the program was enacted in 1977, five Residential Permit Parking Districts have been created. Residential Permit Parking Area "B", in the San Diego State University area, was established in 1984. This would be the sixth expansion of that district. This action was initiated in response to a petition representing 69% of the affected residences. This action has the support of the College Area Community Council.

FISCAL CONSIDERATIONS:

The current fee for annual permits in Area "B" is \$14, as established by the City Council. Average permit sales in Area "B" are 2 permits per address. The maximum number of permits allowed per address is 4. The area to be added on Stewart Street contains 16 addresses. Accordingly, it is estimated that the probable annual revenue from permit sales for the 16 residences on Stewart Street would be about \$448 (based on 32 permits at \$14 per permit).

According to a recent Parking Management review, the administrative costs of Area "B" are paid for by fees collected from permit sales. Additionally, there would be an initial start-up expense for the installation of 6 regulatory signs, at a cost of \$150 per sign, for a total of \$900; this cost is being absorbed in the General Services budget.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

In accordance with the requirements of Section 86.2006 of the Municipal Code, a public hearing was held in conjunction with the monthly meeting of the College Area Community Council (CACC) on May 10, 2006. The results of the study were presented, and public comment was

offered by residents of Stewart Street and others in the community. Favorable input was received from those residents of Stewart Street present at the meeting, after which the board of the CACC voted 14-0 with 3 abstentions to approve the request to include Stewart Street in Residential Permit Parking Area "B". We are not aware of any opposition.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The proposed action would relieve the residents of the 6200-block of Stewart Street of the presence of non-resident parkers. There would be an impact on those non-resident parkers currently utilizing Stewart Street, in that they would have to find another place to park. There are no businesses in the immediate area to experience an impact on employees or customers.

Boekamp/Van Wanseele/Haas

Aud. Cert. 2800146.

Staff: Deborah Van Wanseele - (619) 533-3012
Michael P. Calabrese – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:20 a.m. – 10:21 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-102: Urban Search and Rescue Grant Program.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-154) ADOPTED AS RESOLUTION R-302977

Authorizing the Mayor, or his delegate, to accept a grant of \$769,500 from Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) for San Diego Fire-Rescue Department as sponsoring agency in the National Urban Search and Rescue Response System;

Authorizing the Mayor, or his delegate, to apply for annual grants from DHS/FEMA enabling San Diego Fire-Rescue Department to continue as sponsoring agency in the National Urban Search and Rescue Response System, including any amendments, extensions, augmentations or renewals of funding from DHS/FEMA;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend funds from this grant program;

Authorizing the City Auditor and Comptroller to establish a special interest-bearing fund for this grant program.

STAFF SUPPORTING INFORMATION:

In February, 1992, Resolution R-279396 authorized San Diego Fire-Rescue Department (SDFD) to participate as a sponsoring agency in the Federal Emergency Management Agency (FEMA) National Urban Search and Rescue (US&R) Response System. US&R is a nationwide network of task forces, designed to perform search and rescue operations at major catastrophic disasters at the direction of Department of Homeland Security/FEMA. Known as California Task Force 8 (CA-TF-8), San Diego's task force has been deployed to such incidents as the World Trade Center destruction and Hurricanes Katrina/Rita.

San Diego's CA-TF-8 includes team members from participating agencies county-wide. SDFD manages task force activities which include search, rescue, medical and technical functions. As sponsoring agency, SDFD coordinates training, maintains the personnel rosters and supply/equipment cache in readiness for deployment and ensures the efficient and timely deployment of the team when activated by DHS/FEMA.

Since the creation of this program in 1992, program management costs, as well as supply/equipment/maintenance/training costs, have been funded by continuing grants from DHS/FEMA. The grants are made available annually and require annual application. The most recent grant award of \$769,500 will be applied to program management, training, equipment and maintenance costs for the period from June, 2007 through September, 2008. Program management includes 1.00 Battalion Chief, 1.00 Administrative Aide, 1.00 Cache Manager and 1.00 Fire Captain. There are no matching requirements attached to this grant. In the event of activation, the personnel and non-personnel costs resulting from the team deployment are reimbursed to the City by DHS/FEMA via a claim reimbursement process, distinct from the grant program.

FISCAL CONSIDERATIONS:

\$769,500 has been awarded to San Diego Fire-Rescue; there are no matching fund requirements and there is no impact to the General Fund. There would also be no matching fund requirements or impact to the General Fund resulting from subsequent awards.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

City Council approved Resolution R-279396, dated February 10, 1992, authorizing San Diego Fire-Rescue Department's participation in the National Urban Search & Rescue Response System as a sponsoring agency, together with any reasonably necessary modifications or amendments which did not increase project scope or cost and which the City Manager would have deemed necessary in order to carry out the purposes and intent of this project and agreement, and accepting the initial award of \$46,809 which was matched at that time with \$46,809 from Fire's 1992 budget.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Firefighting personnel within San Diego California Task Force 8 are the key stakeholders as this grant ensures their readiness for deployment to major disasters, strengthens their commitment to public safety, and enhances the reputation of the City of San Diego as a participant in nation-wide disaster preparedness.

Jarman/Olen

Staff: Deputy Chief Brian Fennessy - (619) 533-4388
William J. Gersten - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:20 a.m. – 10:21 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-103: Grant Funding from U.S. Environmental Protection Agency (EPA) for Targeted Grants to Reduce Childhood Lead Poisoning.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-124) ADOPTED AS RESOLUTION R-302978

Authorizing the Mayor, or his designee, to negotiate, execute an agreement for, and accept grant funding in the amount of \$99,914 from the U.S. Environmental Protection Agency in connection with the Targeted Grants to Reduce Childhood Lead Poisoning, to be used for public education and outreach regarding prevention of and screening for childhood lead poisoning;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend U.S. EPA grant award funds in the amount of \$99,914 to be used for the above purposes, subject to execution by the Mayor, or designee, of a grant agreement;

Authorizing the City Auditor and Comptroller to establish a special non-interest bearing account for such grant funds consistent with grant requirements;

Declaring the above activity is not a project pursuant to CEQA Guidelines Section 15378(b)(2) because this activity constitutes ongoing administrative or maintenance activities and, therefore, is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

The City's Lead Safe Neighborhoods Program (LSNP), coordinated by the Environmental Services Department (ESD), has been aggressively tackling the problem of lead poisoning in San Diego, since approved by City Council in the spring of 2002. During the past five years, LSNP has been developing strategies and relationships designed to tackle the issue of lead poisoning in a multi-faceted way, relying on a blend of outreach, training, lead hazard control, and code enforcement activities. Primary funding source for LSNP have been grants totaling in excess of \$10,000,000.

In November 2006, EPA announced \$3,000,000 in grant funding for eligible entities to conduct activities to reduce incidences of childhood lead poisoning in vulnerable populations, to be awarded regionally in amounts ranging from \$25,000 - \$100,000. ESD competed at the national level for this 2 year grant and has been awarded \$99,914 with a targeted start date of October 1, 2007. This grant project is called the San Diego Lead Awareness Project (SDLAP).

SDLAP focuses on lead outreach, education and training to reduce the number of children that are lead poisoned in the Target Area and to increase the rate of blood-lead level screenings in the City. SDLAP consists of a broad array of partner organizations that will be coordinated and led by the City's ESD. Grant partners consist of San Diego Housing Commission (in-kind match \$100,000); County of San Diego, Childhood Lead Poisoning Prevention Program (in-kind match \$136,698); YMCA Childcare Resource Center Services (in-kind match \$4,600); Community College District, English as Second Language Program; American Lung Association of CA, San Diego Office (in-kind match \$5,250); Bayside Community Center; and Comprehensive Health Centers (in-kind match \$16,400).

FISCAL CONSIDERATIONS:

Total Project Amount: \$389,669

EPA Grant Amount: \$99,914 (all grant funds pay for City grant related activities)

SDLAP Match Amount: \$289,755

City's Share of SDLAP Match Amount: \$26,747. In-kind labor match is from ESD Program Manager and Public Information Officer over 2 year grant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are the citizens of the City of San Diego.

Heap/Haas

Staff: Alan Johanns - (858) 573-1262
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:20 a.m. – 10:21 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-104: Settlement of Property Damage Claim of James & Lisa Thomas. (District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-150) ADOPTED AS RESOLUTION R-302979

A Resolution approved by the City Council in Closed Session on Monday, July 23, 2007, by the following vote: Council President Peters-yea; Faulconer-yea; Atkins-yea; Council President Pro Tem Young-not present; Maienschein-not present; Frye-yea; Madaffer-yea; Hueso-yea.

Authorizing the Mayor to pay the sum of \$65,218.12 in settlement of each and every claim against the City, its agents and employees, resulting from the Property Damage Claim of James and Lisa Thomas;

Authorizing the City Auditor and Comptroller to issue one check in the amount of \$65,218.12, made payable to James Thomas and Lisa Thomas, d.b.a. Sandpatch, LLC.

STAFF SUPPORTING INFORMATION:

The proposed settlement would resolve all claims brought by James & Lisa Thomas.

FISCAL CONSIDERATIONS:

Settlement will be paid from the MWWD Operating Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was heard in closed session on July 23, 2007 the City Council approved the settlement amount of \$65,218.12. City Council voted 6 to 0 to approve. The motion was made by Councilmember Madaffer and seconded by Councilmember Hueso. Councilmembers Young and Maienschein were absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Bych/Goldstone

Aud. Cert. 2800127.

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

Staff: Leroy Hostetler - (619) 236-6619
Christine M. Fitzgerald - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:20 a.m. – 10:21 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-105: Center on Policy Initiatives Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-114) ADOPTED AS RESOLUTION R-302980

Commending the Center on Policy Initiatives for 10 years of successful research and advocacy in the San Diego Community;

Proclaiming October 18, 2007, to be "Center on Policy Initiatives Day" in the City of San Diego.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:20 a.m. – 10:21 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-330: Site Location of the Single Adult Shelter FY 2008 Homeless Emergency Winter Shelter Program. (Citywide.)

(See Report to the City Council No.07-138; Site Reviewed for Winter Homeless Shelter Location dated 8/29/2007.)

STAFF'S RECOMMENDATION:

Take the following actions:

CONTINUED TO TUESDAY, OCTOBER 16, 2007

Designating a site location of the Single Adult Shelter for the FY 2008 Homeless Emergency Winter Shelter Program from the following alternative sites:

- Newton Avenue at 16th Street (1535 Newton Avenue) in the East Village Community;
- Enterprise Street between Jessop and Midway, across from the Midway Post Office in the Point Loma Community; or
- Park Boulevard at President's Way in the former Navy Hospital's lower parking lot in the Balboa Park Area;

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

STAFF SUPPORTING INFORMATION:

Homeless Services was requested to pursue alternative locations for the Single Adult Program with Real Estate Assets Department (READ). READ completed a property search to identify potential locations. After identifying and evaluating twelve (12) sites, nine (9) were eliminated as unsuitable and three (3) were seen as viable possibilities. The following minimum requirements were used to evaluate potential sites for relocation of the Single Adult Program's homeless shelter sprung structure:

- The footprint of the single adults' shelter sprung structure is 60' x 180'. For purposes of conducting shelter operations, an area of 75' (width) x 760' (length), or larger of paved, flat, relatively level space to accommodate the needed infrastructure for sanitation, food service and medical support;
- Proximity (easy walking distance) to public transportation or mass transit;
- Availability of electrical and water hookups;
- Near "core City area"; and
- Minimal disruption to the surrounding area.

In addition to the Real Estate Assets Department's evaluation of 12 sites, the Transportation Engineering Division reviewed 1/4 mile radius around the street addresses of the service providers that either provide meals or other services to homeless. The review considered street width and traffic impacts, including accessibility for fronting property and impacts from street closure and traffic detours.

Traffic Engineering determined that both the Enterprise Street location and 16th Street at Newton Avenue were acceptable locations. Eight (8) were evaluated and it was determined that the streets could not be closed to traffic without significant impacts to traffic. The Balboa parking site was not evaluated by Traffic Engineering.

For the three sites that were noted as being physically suitable for the single adult shelter's sprung structure and corresponding services, a collaborative of City staff from Homeless Services, General Services, Water Department, and Transportation Department's Streets and Electrical Divisions did site evaluation to determine infrastructure capacity.

FISCAL IMP ACT:

There is no impact to the General Fund from this action. However, additional infrastructure costs would result in the need to adjust the designated line items included in the existing FY 2008 Homeless Emergency Winter Shelter Program budget.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Residents and businesses in downtown area of East Village community and residents and businesses in the Midway area.

Kessler/Anderson

Staff: Sharon Johnson - (619) 533-6525

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:58 a.m. - 11:58 a.m.;
2:08 p.m. - 3:25 p.m.;
3:35 p.m. - 3:36 p.m.)

Motion by Hueso to adopt the resolution with direction to the Mayor's staff to come back to the Council with one location, excluding the Midway site, and to include the 2,000-square-foot requirement as part of the selection criteria. Second by Atkins. No vote taken.

MOTION BY FRYE TO CONTINUE TO TUESDAY, OCTOBER 16, 2007, FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-nay.

ITEM-331: Fiscal Year 2008 Homeless Emergency Winter Shelter Program. (Citywide.)

(See Report to the City Council No. 07-137.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-168) ADOPTED AS RESOLUTION R-302982

Finding that a significant number of persons within the City of San Diego are without the ability to obtain shelter, and that the weather conditions during the cold weather season result in a threat to the health and safety of those persons;

Declaring a homeless shelter crisis to exist in the City of San Diego, in accordance with California Government Code Section 8698.2(a)(1);

Approving the FY 2008 Homeless Emergency Winter Shelter Program (Program) (known in FY 2007 as the Homeless Emergency Shelter Program, and prior to that as the Winter Shelter Program), as described in Report to the City Council No. 07-137, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the Mayor, or his designee, to enter into a Memorandum of Understanding between the San Diego Housing Commission (SDHC) and the City of San Diego for FY 2008, under which the City shall receive a total of \$344,200 from the SDHC for the operation of the Program;

Authorizing the City Auditor and Comptroller to accept the \$344,200 from the SDHC, and to accept \$129,800 from the United Way of San Diego County (UWSDC), for the operation of the Program, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the Mayor, or his designee, to negotiate and execute agreements, and any amendments thereto, to expend the \$344,200 from the SDHC and the \$129,800 from the UWSDC for the operation of the Program, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to appropriate and expend the \$344,200 from the SDHC and the \$129,800 from the UWSDC for the operation of the Program, contingent upon certification of funds availability by the City Auditor and Comptroller;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend any and all additional contributions, private donations, interest earnings, and other City funds associated with the Program, for the operation of the Program;

Authorizing the Mayor, or his designee, to negotiate and execute agreements, and any amendments thereto, to expend any and all additional contributions, private donations, interest earnings, and other City funds associated with the Program, for the operation of the Program, contingent upon certification of funds availability by the City Auditor and Comptroller.

STAFF SUPPORTING INFORMATION:

As reported in the Federal Supportive Housing Program application, an estimated 3,485 homeless individuals were living in the City of San Diego in February 2007. Of those, approximately 2,000 were in year-round homeless shelters, and 520 were in the FY 2007 Homeless Emergency Shelter Program (which, at that time, included an additional 115 beds at St. Vincent de Paul Village). During the survey, volunteers counted 1,016 unsheltered homeless people on the streets. The shortage of shelter beds in the City is significant.

Added to the lack of available shelter beds are the weather conditions during the cold weather season that create the potential to adversely impact the health and safety of homeless individuals living outside on a long-term or constant basis. Given the existing shortage of available shelter beds, it is recommended that a homeless shelter crisis be declared in the City of San Diego and that the FY 2008 Homeless Emergency Winter Shelter Program (Program) be adopted to provide shelter services to approximately 400 homeless individuals.

The Program consists of three separate programs: Single Adult Shelter operated by Alpha Project for the Homeless; Veterans Shelter, operated by Veteran's Village of San Diego; and Family Emergency Shelter, administered by the County of San Diego. The City-funded portion of the Program will be for 120 days (from December 5, 2007 through April 2, 2008).

However, at the operator's request, the Single Adult Shelter will operate for a total of 154 days (from November 1, 2007 through April 2, 2008), the additional thirty-four days being provided at no cost to the City through the fund-raising efforts of the operator.

FISCAL IMPACT:

There is no impact to the General Fund from this action. This action accepts \$344,200 from the SDHC and \$129,800 from the UWSDC for the Program. An additional \$201,676 of Emergency Shelter Grant (ESG) funds was allocated to the Program by the City Council on May 15, 2007, as part of the FY 2008 Social Services Program budget (R-302639). It should be noted that the funds from the SDHC are contingent upon approvals by the Redevelopment Agency and the Housing Authority, that are scheduled on the same day as this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:
FY 2008 Social Services Program (R-302639)

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Residents and businesses in the vicinity of the shelters' locations will experience some impacts. The Veterans Shelter is in the Midway/Sports Arena area; however, the location of the Single Adult Shelter is not known at this time but will be determined by the City Council in a separate action.

Kessler/Anderson

Staff: Sharon Johnson - (619) 533-6525
Michael D. Neumeyer - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:37 p.m. - 3:52 p.m.)

Motion by Madaffer to adopt. Second by Atkins. No vote taken.

Motion by Hueso to continue. Second by Maienschein. Failed. Yeas -458. Nays-2367. Not present-1.

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-nay.

ITEM-332: Approval of Real Estate Purchase and Sale Agreement for the Acquisition of the Former Valencia Park Library Located at 101 50th Street (Southeastern San Diego Community Area. Districts 4 and 8.)

(See Southeastern Economic Development Corporation Report No. SEDC 07-009.)

**SOUTHEASTERN ECONOMIC DEVELOPMENT CORPORATION'S
RECOMMENDATION:**

Adopt the following resolution:

(R-2008-145 Rev.) ADOPTED AS RESOLUTION R-302983

Finding that the City-owned parcel of land located at 101 50th Street, San Diego, California, APN 630162 (Property), is required for a public purpose;

Declaring the Council deems the sale of the Property to the Redevelopment Agency of the City of San Diego for a sale price of no less than Five Hundred Thirty Thousand Dollars (\$530,000) [Sale Price] to be fair and equitable and in the public interest.

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a Real Estate Purchase and Sale Agreement (Sale Agreement);

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a Grant Deed conveying the Property to the Redevelopment Agency of the City of San Diego;

Authorizing the Mayor, or his designee, to make such changes to either or both the Sale Agreement and the Grant Deed as he deems reasonable and necessary and in the best interests of the City of San Diego, provided the Sale Price is not reduced, and subject to the approval of the City Attorney;

Authorizing the City Auditor and Comptroller to accept the Sale Price and deposit it in the appropriate Capital Outlay Fund.

SUPPORTING INFORMATION:

BACKGROUND

The relocation of the Valencia Park Library from 50th Street and Imperial Avenue to Euclid Avenue and Market Street (Malcolm X Library) offers an opportunity to purchase property for the purpose of redevelopment without the use of eminent domain.

DISCUSSION

As we continue to implement the Central Imperial Redevelopment Plan and specifically the Imperial Avenue Corridor Master Plan, SEDC is positioned to assist with the acquisition of property along the Corridor. The Valencia Park Library site is one of the properties the corporation is recommended for purchase by the Agency.

The following are the basic terms of the Agreement:

- The Purchase Price is Market Value "As Is" Condition \$530,000. The payment shall include a deposit of \$10,000 upon the opening of escrow. The deposit shall be fully refundable to the corporation if escrow is terminated anytime prior to the expiration of the due diligence period (which is 30 days from the day escrow is opened). After the expiration of the due diligence period the escrow deposit shall become non-refundable in favor of the Seller.
- In order to close escrow, SEDC shall cause to be deposited the balance of the funds due within three (3) days of written request from the escrow holder. The close of escrow is to occur on or before sixty (60) days after the opening date unless extended in writing by the parties.
- SEDC shall have access to the site to conduct its due diligence. In addition, SEDC shall have approval of the results of any and all inspections, investigations, tests, and studies.

The funds necessary for the acquisition of this property are part of the approved FY 07/08 budget approved by the City Council May 15, 2007.

CONCLUSION

The acquisition of the site at 101 50th Street will assist the corporation in meeting the goals outlined in the Imperial Avenue Corridor Master Plan which encourages this portion of Imperial Avenue to be pedestrian oriented with a mix of residential and commercial uses which are elements of the City of Villages Plan.

ALTERNATIVE

Do not approve the Purchase and Sale Agreement. This alternative would negatively impact the implementation of the Imperial Avenue Corridor Master Plan and the Central Imperial Redevelopment Project Area.

FISCAL CONSIDERATION

The \$530,000 expenditure was approved in the FY 07/08 budget by the City Council May 15, 2007.

PREVIOUS COUNCIL ACTIONS: None.

COMMUNITY PARTICIPATION & PUBLIC OUTREACH EFFORTS:

The public outreach is conducted through the SEDC Board of Directors meetings. The SEDC Board of Directors heard and recommended approval of the item on May 30, 2007.

NOTE: See the Redevelopment Agency Agenda of September 11, 2007, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:15 p.m. - 4:16 p.m.)

MOTION BY HUESO TO ADOPT. Second by Young. Passed by the following vote:
Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,
Madaffer-yea, Hueso-yea.

ITEM-333: Installation of Streetlights along University Avenue – Crossroads Redevelopment Project Area. (Mid-City and Eastern Community Areas. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-130) ADOPTED AS RESOLUTION R-302984

Declaring that the City Council finds and determines that the installation of streetlights within the Crossroads Redevelopment Project Area, for which the Redevelopment Agency proposed to contribute funding, is consistent with the Implementation Plan for the Project Area adopted pursuant to Community Redevelopment Law Section 33490; is of benefit to the Crossroads Redevelopment Project Area; that no other reasonable means of financing the project is available to the community; and that payment of Agency funds for the costs of the improvements will assist in the elimination of one or more blighting conditions inside the Project Area;

Authorizing the Mayor, or designee, to accept the Redevelopment Agency funds in the amount of \$500,000, for CIP-52-762.0, for the installation of streetlights along University Avenue from 54th Street to 68th Street (Project) within the Crossroads Redevelopment Project Area;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend funds up to \$500,000 from the Redevelopment Agency for CIP-52-762.0, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Amending the Fiscal Year 2008 Capital Improvements Program Budget by adding CIP-52-762.0, University Avenue Streetlights;

Amending the Fiscal Year 2008 Capital Improvements Program Budget by increasing CIP-52-762.0, Crossroads, by \$500,000;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend funds in an amount up to \$500,000 from CIP-52-762.0, University Avenue Streetlights, Crossroads, for the purpose of installing streetlights along University Avenue from 54th Street and 68th Street;

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

STAFF SUPPORTING INFORMATION:

The requested actions will allow for the installation of additional streetlights along University Avenue from 54th Street to 68th Street within the Crossroads Redevelopment Project Area. Approximately 47 new streetlights may be installed along University Avenue with an estimated total project cost of \$500,000. The new streetlights will create a safe, walkable environment for Eastern Area residents, visitors, and merchants, and help generate economic vitality for this vital commercial/transit corridor and remove blight.

University Avenue east of 54th Street to the City of La Mesa has a deficient inventory of streetlights which has contributed to the existence of blight, crime and unsafe lighting conditions within this vital commercial/transit corridor. Agency staff has worked with the community, property owners, merchants, San Diego Police Department, and Engineering and Capital Projects to identify locations along University Avenue that need additional streetlights. The existing street lighting within this portion of University Avenue does not meet the current City standard for commercial/transit corridor lighting requirements. This project will provide for the installation of approximately 47 additional streetlights on both sides of University Avenue from 54th Street to 68th Street.

This project is consistent with the First Five Year Implementation Plan for the Crossroads Redevelopment Project, which is recorded with the Agency as Document No. D-03613 and dated May 6, 2003. The need for this improvement was evaluated and determined several years ago and CIP-52-762.0 was established afterwards. The improvements will eliminate and prevent the spread of blight and deterioration, and redevelop the proposed Redevelopment Project Area in accordance with the General Plan, applicable community plans, and local codes and ordinances.

Pursuant to California Community Redevelopment Law (CCRL) Section 33445, the Agency is legally authorized to pay for the installation of public improvements if special findings can be made by the Agency. Attachment - Special Findings provides the necessary findings to satisfy the requirements under CCRL Section 33445.

FISCAL CONSIDERATIONS:

The total estimated project cost is \$500,000, which will be funded by Agency funds. The annual maintenance and electricity cost for 47 street lights is approximately \$8,695. The general fund will assume this annual cost because the streetlights are consistent with City standards.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This project implements the goals and recommendations of the Mid-City Community Plan and the Crossroads Redevelopment Plan and is in conformance with the City's Progress Guide and General Plan.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On April 26, 2007, the Crossroads Project Area Committee (PAC) discussed this project and voted 8-0-1 to recommend the Agency fund this public improvement with Crossroad Redevelopment Project tax increment funds.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Property owners and merchants along University Avenue east of 54th Street to the City of La Mesa.

Weinrick/Anderson

Staff: Tracy Reed - (619) 236-6543
Carol A. Leone – Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda for September 11, 2007, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:14 p.m. - 4:15 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-334: El Cajon Boulevard Medians – Crossroad Redevelopment Project. (College and Eastern Community Areas. District 7.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-42) ADOPTED AS RESOLUTION R-302985

Declaring that Council finds and determines that funding the construction of the Project with tax increment funds is:

- a) A benefit to the Crossroads Redevelopment Project Area;
- b) Appropriate because no other reasonable means of financing the Project is available to the community;
- c) Appropriate because the public improvements will assist in the elimination of one or more blighting conditions within the Project Area; and

- d) Consistent with the Implementation Plan for the Project Area adopted by the Agency on May 6, 2003, on file as Document No. 0-19174 in the office of the Secretary to the Agency pursuant to California Health and Safety Code Section 33490;

Declaring that the Council amends and increases the Capital Improvement Program Budget No. 39-234.0 to include the \$250,000 in Agency public improvement contributions, provided the City Auditor and Comptroller first furnishes a certificate certifying the funds are, or will be, on deposit with the City Treasurer;

Declaring that the Council accept, appropriate and expend the funds from the Agency for the Project in the amount of \$250,000;

Declaring that this activity is categorically exempt from the California Environmental Quality Act [CEQA], pursuant to CEQA Guidelines section 15301(c), and exempt from the National Environmental Policy Act [NEPA] pursuant to 24 CFR Part 58, Section 58.34(b).

STAFF SUPPORTING INFORMATION:

Several years ago the Transportation Department received funding to initiate the planning and engineering to restore the medians along El Cajon Blvd. The project was to replace the substandard curbs and asphalt-surfaced raised medians with new curbs, color stamped concrete, landscaping and irrigation from 54th Street to 73rd Street. After the planning and engineering work was completed on this, construction was deferred until funds were identified and a maintenance assessment district was established. The College Heights Maintenance Assessment District established in April 2004.

The contract for the base bid of this project was awarded on October 30, 2006. The contractor was authorized to proceed with the base bid and three alternate bids in late January 2006. The pre-construction meeting for the project was held on March 1, 2007. The contractor commenced work on the project on March 12, 2007. The contractors anticipated completion of the project is early November 2007.

Construction is underway, however, the cost of the demolition is much higher than anticipated because of unforeseen concrete removal beneath the asphalt cap of the existing medians at several locations. The irrigation cost has increased beyond the engineer's estimate due to issues

regarding the use of mainline piping sleeves that were previously installed. Several of the piping sleeves that were installed are damaged and unusable. The current funding gap is approximately \$250,000 and the only funds available for this unanticipated cost increase are Crossroads Redevelopment Project tax increment funds.

California Community Redevelopment Law requires that certain findings be made by the Redevelopment Agency and the City Council prior to the expenditure of Agency funds for public improvements. The replacement of substandard median curbs and the installation of landscaping and irrigation will assist in the elimination of blighting conditions inside the Project Area, and that the medians and landscaping are consistent with the Redevelopment Plan and the Five-Year Implementation Plan. The landscaping will be maintained by the College Heights Maintenance Assessment District.

FISCAL CONSIDERATIONS:

If the Agency approves the additional \$250,000 requested through this action, the total Agency expenditure for this project will be \$2,340,000. Funds in the amount of \$250,000 are available from tax increment within the Crossroads Redevelopment Project. The total cost of this project is anticipated to be \$2,460,920. The funding consists of \$2,340,000 in tax increment funds, \$60,000 of Water Department funds, \$45,000 of College Heights MAD funds and \$15,920 of County of San Diego funds for the community signs.

PREVIOUS AGENCY and/or COMMITTEE ACTION:

The Redevelopment Agency provided \$340,000 of tax increment funds from the Crossroads Redevelopment Project on January 9, 2007. The City Council authorized the construction of this project on August 8, 2006. The Redevelopment Agency authorized \$1,750,000 of tax increment funds from the Crossroads Redevelopment Project on September, 14, 2004.

COMMUNITY PARTICIPATION and PUBLIC OUTREACH EFFORTS:

The project is supported by the College Heights MAD, College Area Business Improvement District, Crossroads PAC, and College and Eastern community planning groups. Outreach efforts to these groups have been conducted on a regular basis. The Crossroads PAC will be asked to make a recommendation regarding this funding request at their July 26, 2007 meeting. Staff will inform the Agency of their recommendation.

KEY STAKEHOLDERS and PROJECT IMPACTS:

College Heights MAD, College Area BID, College Area Community Council, Eastern Area Community Planning Community and Crossroads PAC.

Weinrick/Waring

Staff: Tracy Reed - (619) 236-6543
Carol A. Leone - Deputy City Attorney

NOTE: See the Redevelopment Agency Agenda of September 11, 2007, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:13 p.m. - 4:13 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-335: Creation of Conflict of Interest Code for Independent Rates Oversight Committee. (Citywide.)

(See Report from City Attorney dated 7/23/2007.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-1277) ADOPTED AS RESOLUTION R-302981

Adopting a Conflict of Interest Code for the Independent Rates Advisory Committee, consisting of standard language embodied in title 2, section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories;

Adopting the Conflict of Interest Code for the Independent Rates Advisory Committee and on file with the Office of the City Clerk;

Declaring that the persons whose positions are designated in the Conflict of Interest Code for the Independent Rates Advisory Committee shall file their statements of economic interest with the City Clerk;

Declaring the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction;

Declaring the Conflict of Interest Code for the Independent Rates Advisory Committee becomes effective upon the date of final passage of this resolution.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:58 a.m. – 10:58 a.m.)

MOTION BY FRYE TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-336: Garfield Starbucks, Project No. 84191. Application to amend permits to maintain an existing 15,300 square foot, single story office-retail center and to construct a 6,206 square foot building to include a 4,366 square foot shell retail space and a 1,840 square foot Starbucks Cafe with drive-up/drive through on a 2.4 acre site located on the southeast corner of Balboa Avenue and Clairemont Drive.
(Clairemont Mesa Community Area. District 6.)

Matter of approving, conditionally approving, modifying or denying an application for an amendment to Planned Commercial Development Permit No. 48 and Planned Commercial Development Permit No. 30-048-1, and rescission of Planned Commercial Development Permit No. 30-048-2, Conditional Use Permit No. 454-PC and Conditional Use Permit No. 85-0628, to maintain an existing 15,300 square foot, single story office-retail center and to construct a 6,206 square foot building to include a 4,366 square foot shell retail space and a 1,840 square foot Starbucks Cafe with drive-up/drive through on a 2.4 acre site located on the southeast corner of Balboa Avenue and Clairemont Drive.

STAFF RECOMMENDATION:

Subitem-A: (R-2007-216) ADOPTED AS RESOLUTION R-302986

Adoption of a Resolution Granting the Appeal and Approving Planned Development Permit No. 265516.

Subitem-B: (R-2007-217) ADOPTED AS RESOLUTION R-302987

Adoption of a Resolution Certifying Mitigated Negative Declaration No. 84191, and Adopt the Mitigation, Monitoring and Reporting Program

OTHER RECOMMENDATIONS:

Planning Commission on August 9, 2007, voted 4-1-2 to deny; no opposition.

Ayes: Naslund, Otsuji, Garcia, Griswold,

Nays: Ontai

Abstaining: Smiley

Not Present: Schultz

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

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Appeal of the Planning Commissions' decision to deny a Planned Development Permit to allow the construction of a 6,206 square foot retail building on the southeast corner of Balboa Avenue and Clairemont Drive within the Clairemont Mesa Community Planning Area.

EXECUTIVE SUMMARY:

The project site is located on the southeast corner of Balboa Avenue and Clairemont Drive and is zoned Commercial Neighborhood (CN) within the Clairemont Mesa Community Plan. The project site is also located within the Balboa Avenue Revitalization Action Program (RAP), adopted by the City Council on September 12, 2005.

The project consists of an existing 15,300 square foot, single-story retail/office building, with parking in the front and rear, and associated landscaping, located on the easterly portion of the 2.4 acre site. No additions or modifications are proposed to this portion of the project site. A 6,206 square foot building, to include a 4,366 square foot shell retail space and a 1,840 square foot Starbucks Café with drive-up/drive through, is being proposed. Project features include a pedestrian gateway entrance with seating area, water fountain, scored concrete and raised planter beds, street trees, and a public open area, including outdoor café seating. While the proposed café and retail uses are allowed by the underlying zone and land use plan, the drive-through proposed by this project is not allowed by the underlying zone. Therefore, a deviation is required to allow for a drive-through.

On June 21, 2007 the Planning Commission voted 6-0-1 (with one vacancy) to continue the project with direction that the applicant provide a solution that meets the objectives of the Draft Urban Design Element of the General Plan. Specifically, the Commissioners' requested that the applicant look into the possibility of moving the building closer to the corner of Balboa Avenue and Clairemont Drive and placing the parking behind the building, with the objective of making the project more pedestrian friendly. The Commissioners also requested that the proposed landscape plan and planting palette be reexamined to better accommodate local conditions and goals.

The applicant considered the recommendations of the Planning Commission and revised the proposed landscape plan to provide a wider canopy and additional screening from the adjacent streets to enhance both the pedestrian and dining experience of patrons of the Garfield Starbucks (see attached August 1, 2007 letter from Sheppard Mullin Richter & Hampton LLP).

They were not able to relocate the building closer to the intersection, meet the required parking and also provide a drive-through meeting Starbucks design principles. Starbucks' experience has been that placing its drive-through locations in such a way that would require pedestrians to walk across the drive-through lane to reach their automobiles in a parking lot creates a public safety hazard. The applicant chose to follow the recommendation of its urban design planner, who believed the applicant's design met the Draft Urban Design Element of the General Plan better than the Commission's proposed corner location because the applicant's would create a quieter, more relaxed setting for Starbucks' patrons away from the dust and commotion of the busy street corner.

On August 9, 2007, after receiving public testimony in favor of the project (there was no opposition), the Planning Commission voted 4-1-1 to deny the project. They commended the applicant on the streetscape design improvements but felt that a better design would be to push the building to the corner of the intersection and to wrap the parking behind the building. The Commissioners also felt that Starbucks would need to agree to allow some amount of pedestrian crossing over the drive-thru lane.

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are recovered by a deposit account maintained by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On August 9, 2007 the Planning Commission voted 4-1-1 to deny the project. On March 20, 2007 the Clairemont Mesa Community Planning Group voted 10-1-0 to recommend approval of the project with one condition.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Clairemont Rental Properties, a California general partnership, Owner, and Java Acquisition Company 0013, LLC, Applicant

Escobar-Eck/Murray/LG

LEGAL DESCRIPTION:

The project site is located at 3895 Clairemont Drive in the CN-1-2 Zone within the Clairemont Mesa Community Planning Area, Clairemont Mesa Height Limit Overlay Zone (Legal Description: Parcel 1 of Parcel Map No. 5331, and Parcel 1 of Parcel Map No. 8421.

Staff: Leslie Goossens – (619) 446-5431

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:52 p.m. - 4:03 p.m.)

MOTION BY FRYE TO ADOPT THE RESOLUTION GRANTING THE PERMIT IN SUBITEM A AND CERTIFYING THE MITIGATED NEGATIVE DECLARATION IN SUBITEM B. Second by Madaffer. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-337: Actions Related to the Construction of the Bayshore Bikeway, PTS No. 1901 of a 1.8-mile Class I bikepath to be located along the Otay River Berm and the Main Street Dike and the relocation of an existing haul road utilized by the South Bay Salt Works. (Otay Mesa-Nestor Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying or denying an application for the construction and operation of a 1.8-mile Class I bikepath to be located along the Otay River Berm and the Main Street Dike and the relocation of an existing haul road utilized by the South Bay Salt Works. The bikepath would be a segment of the 24-mile Bayshore Bikeway and would connect to an existing segment at 13th Street (City of Imperial Beach) on the west side and Main Street (City of San Diego) on the east.

The bike path would be located primarily within the Metropolitan Transit System (MTS) right-of-way, on an asphalt path with 2-foot wide paved porous concrete shoulders on each side of the bikepath. A chain link fence would be erected on both sides of the bikepath along the entire alignment. The proposed project would include the placement of two steel truss bridges above the existing, unserviceable wooden trestle bridges that currently cross the Otay River at these locations. The existing wooden trestle bridges, as well as, the existing wooden railroad rails and ties, are part of the locally historically designated Coronado Railroad Belt Line (CBL) Historical Resources Board (HRB) Number 640.

The proposed project requires a Site Development Permit due to impacts to Environmentally Sensitive Lands (ESL), specifically to sensitive biological resources and for deviations to construct two steel truss bridges where structures are not permitted in special flood hazard areas and to impact Historical Resource No. 640, the Coronado Belt Line (CBL) Railroad. The impacts to the historically designated railroad are related to the removal of the existing wooden ties, capping the existing railroad rails with soil and placement of steel truss bridges on top of the existing wooden trestle bridges.

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2007-) CONTINUED TO TUESDAY, SEPTEMBER 18, 2007

Adoption of a Resolution certifying that the information contained in Project No. 1901 has been completed in compliance with the California Environmental Quality Act (CEQA) of 1970 and State CEQA Guidelines, and that said Environmental Impact Report (EIR) reflects the independent judgment of the City of San Diego as Lead Agency; stating for the record that the Final EIR has been reviewed and considered prior to approving the project; certifying the Final EIR; adopting the Final EIR; adopting the Findings and Statement of Overriding Considerations; and adopting the Mitigation, Monitoring, and Reporting Program.

Subitem-B: (R-2007-) CONTINUED TO TUESDAY, SEPTEMBER 18, 2007

Adoption of a Resolution approving Site Development Permit No. 3276.

Subitem-C: (R-2007-) CONTINUED TO TUESDAY, SEPTEMBER 18, 2007

Adoption of a Resolution authorizing the Auditor and Comptroller to establish a new fund to receive SANDAG Transnet Major Corridor (MC) funds.

Subitem-D: (R-2007-) CONTINUED TO TUESDAY, SEPTEMBER 18, 2007

Adoption of a Resolution authorizing the Mayor, or his representative, to accept \$3,774,000 in SANGAG MC Transnet funds to full fund CIP-58-140.0.

Subitem-E: (R-2007-) CONTINUED TO TUESDAY, SEPTEMBER 18, 2007

Resolution authorizing the Auditor and Comptroller to increase the amount of Transnet Bikeway funds (Fund 30301) by \$718,000

Subitem-F: (R-2007-) CONTINUED TO TUESDAY, SEPTEMBER 18, 2007

Resolution authorizing the increase in the FY 2008 budget of CIP-58-140.0 to \$4,802,306.13.

Subitem-G: (R-2007-) CONTINUED TO TUESDAY, SEPTEMBER 18, 2007

Resolution authorizing the deappropriation and return of previously received Federal and State funds (Fund 38683, not to exceed \$850,000) to the appropriate agencies.

Subitem-H: (R-2007-) CONTINUED TO TUESDAY, SEPTEMBER 18, 2007

Resolution authorizing the Auditor and Comptroller to return excess budgeted funds, if any, to the appropriate reserves.

Subitem-I: (R-2007-) CONTINUED TO TUESDAY, SEPTEMBER 18, 2007

Resolution authorizing the Mayor, or his representative, to expend up to \$4,802,306.13 for purposes of designing and constructing the Bayshore Bikeway, CIP-58-140.0.

Subitem-J: (R-2007-) CONTINUED TO TUESDAY, SEPTEMBER 18, 2007

Resolution authorizing the Mayor, or his representative, to accept an easement deed from M&A Gabae, CLP, for that portion of the bikeway not owned by MTS/SD&AE.

Subitem-K: (R-2007-) CONTINUED TO TUESDAY, SEPTEMBER 18, 2007

Resolution authorizing the Mayor, or his representative, to enter into a license agreement for the use of the MTS/SD&AE right-of-way for purposes of constructing and operating the Bayshore Bikeway.

Subitem-L: (R-2007-) CONTINUED TO TUESDAY, SEPTEMBER 18, 2007

Resolution authorizing the Mayor, or his representative, to enter into a Construction Contract (BID No. K083903C) with the lowest responsible and reliable bidder contingent upon receipt of all permits.

OTHER RECOMMENDATIONS:

Planning Commission Board will be meeting on September 6, 2007.

The Otay Mesa-Nestor Community Planning Group voted on September 18, 2002, to approve this project with no conditions.

On August 23, 2007, HRB voted 7:0:1 to support the preservation of the bridges, those areas proposed for preservation of lines and ties in place, and the interpretive programs, with further research and consideration given to preserving more ties in place through capping and limiting the chain link fence to 3feet-6 inches.

There was clarification that there should be consideration of both technological and economic factors in determining the feasibility of capping more of the resource. Their motion to preserve the ties in place through capping has not been implemented. This situation is considered unsafe and presents significant safety issues for future users of the bike path because the wooden ties are in various states of deterioration and are expected to continue to deteriorate. If the ties were to remain in place the bike path would be expected to experience surface pavement deterioration (potholes, cracks, and surface level changes) over time, as the ties continue to deteriorate and crumble under the bike path surface, creating voids under the bike path users and an uneven path surface. The US Fish and Wildlife Service required a 7-foot security fence to provide a barrier between the bike path and adjacent sensitive habitat.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTIONS:

Approval of a Site Development Permit and associated actions for the construction and operation of the 1.8-mile long "Western Salt Segment" of the Bayshore Bikeway which is to be located along the Otay River Berm and the Main Street Dike, and the relocation of an existing haul road utilized by the South Bay Salt Works in the Otay Mesa-Nestor Community Plan area.

STAFF RECOMMENDATIONS:

1. CERTIFY Environmental Impact Report (EIR) No. 1901; ADOPT Final EIR No. 1901; ADOPT the Findings and Statement of Overriding Considerations; and ADOPT the Mitigation, Monitoring, and Reporting Program;
2. APPROVE Site Development Permit No. 3276;
3. APPROVE the Resolution authorizing the Auditor and Comptroller to establish a new fund to receive SANDAG Transnet Major Corridor (MC) funds;

4. APPROVE the Resolution authorizing the Mayor, or his representative, to accept \$3,774,000 in SANDAG MC Transnet funds to fully fund CIP-58-140.0;
5. APPROVE the Resolution authorizing the Auditor and Comptroller to increase the amount of Transnet Bikeway funds (Fund 30301) by \$718,000
6. APPROVE the Resolution authorizing the increase in the FY 2008 budget of CIP-58-140.0 to \$4,802,306.13;
7. APPROVE the Resolution authorizing the deappropriation and return of previously received Federal and State funds (Fund 38683, not to exceed \$850,000) to the appropriate agencies;
8. APPROVE the Resolution authorizing the Auditor and Comptroller to return excess budgeted funds, if any, to the appropriate reserves;
9. APPROVE the Resolution authorizing the Mayor, or his representative, to expend up to \$4,802,306.13 for purposes of designing and constructing the Bayshore Bikeway, CIP-58-140.0;
10. APPROVE the Resolution authorizing the Mayor, or his representative, to accept an easement deed from M&A Gabae, CLP, for that portion of the bikeway not owned by MTS/SD&AE;
11. APPROVE the Resolution authorizing the Mayor, or his representative, to enter into a license agreement for the use of the MTS/SD&AE right-of-way for purposes of constructing and operating the Bayshore Bikeway; and
12. APPROVE the Resolution authorizing the Mayor, or his representative, to enter into a Construction Contract (BID No. K083903C) with the lowest responsible and reliable bidder contingent upon receipt of all permits.

EXECUTIVE SUMMARY:

The proposal is for the construction and operation of a 1.8-mile Class I bike path to be located along the Otay River Berm and the Main Street Dike and the relocation of an existing haul road utilized by the South Bay Salt Works. The bike path would be a segment of the 24-mile Bayshore Bikeway and would connect to an existing bike path segment at 13th Street (City of Imperial Beach) on the west side and Main Street (City of San Diego) on the east.

The bike path would be located primarily within the Metropolitan Transit System (MTS) railroad right-of-way. The bike path would be 12-feet wide, including an 8-foot wide paved asphalt path with 2-foot wide paved porous concrete shoulders on each side of the bike path. A chain link fence would be erected on both sides of the bike path along the entire alignment. The proposed project would include the placement of two steel truss bridges above the existing, unserviceable wooden trestle bridges that currently cross the Otay River at these locations. The existing wooden trestle bridges, as well as, the existing wooden railroad rails and ties, are part of the locally historically designated Coronado Railroad Belt Line (CBL) Historical Resources Board (HRB) Number 640.

The proposed project requires a Site Development Permit due to impacts to Environmentally Sensitive Lands (ESL), specifically to sensitive biological resources and for deviations to construct two steel truss bridges where structures are not permitted in special flood hazard areas and to impact Historical

Resource No. 640, the Coronado Belt Line (CBL) Railroad. The impacts to the historically designated railroad are related to the removal of the existing wooden ties, capping the existing railroad rails with soil and placement of steel truss bridges on top of the existing wooden trestle bridges.

FISCAL CONSIDERATIONS:

All costs are recovered through CIP-58140.0, Bayshore Bikeway, which will be fully funded by Transnet Bikeway and Transnet Major Corridor funds from SANDAG.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The previously authorized funding (see below) for the Bayshore Bikeway Capital Improvement Project (CIP) No. 58.140.0 was Federal Congestion Management Air Quality (CMAQ) funds. In order to expedite the project approval process and construction to begin during the October 1st to February 15th allowable window this fall (an annual restriction based on endangered species nesting seasons), the decision was made by SANDAG to substitute additional SANDAG Transnet Bikeway and SANDAG Transnet Major Corridor (MC) funds for the Federal funds, thereby removing the need for Federal review and approval time prior to advertising for construction. The project was able to be advertised for bids in July/August, with bids opened August 8, 2007. The SANDAG Transnet MC funds were substituted from another project (SR52 Highway Improvements) which already had Federal FHWA approval required. The Transnet funds received by these actions are in addition to the City's Transnet allocation.

R-293689 (8/15/2000) Established the CIP/Accepted \$350,000 in Federal CMAQ funding for preliminary engineering C-10288 (9/25/2000) Consultant Contract with Kimley-Horn, and Associates, Inc. R-300662 (7/18/2005) Increased the Federal CMAQ funding by \$500,000 to \$850,000, and authorized Amendment #1 to Consultant Agreement with Kimley-Horn.

PLANNING COMMISSION ACTION:

This information is unavailable at this time. The Planning Commission will be acting on matter on September 6, 2007.

HISTORICAL RESOURCES BOARD ACTION:

On August 23, 2007, HRB voted 7:0:1 to support the preservation of the bridges, those areas proposed for preservation of lines and ties in place, and the interpretive programs, with further research and consideration given to preserving more ties in place through capping and limiting the chain link fence to 3feet-6 inches. There was clarification that there should be consideration of both technological and economic factors in determining the feasibility of capping more of the resource. Their motion to preserve the ties in place through capping has not been implemented. This situation is considered unsafe and presents significant safety issues for future users of the bike path because the wooden ties are in various states of deterioration and are expected to continue to deteriorate. If the ties were to remain in place the bike path would be expected to

experience surface pavement deterioration (potholes, cracks, and surface level changes) over time, as the ties continue to deteriorate and crumble under the bike path surface, creating voids under the bike path users and an uneven path surface. The US Fish and Wildlife Service required a 7-foot security fence to provide a barrier between the bike path and adjacent sensitive habitat.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Otay Mesa-Nestor Planning Group - The planning group voted to approve the project, with no conditions, on September 18, 2002.

Save Our Heritage Organization (SOHO) - The City has worked with SOHO to redesign the project to response to their input and concerns. Specific project features that have been incorporated include: 1) maintaining the existing railroad trestle bridges in their current condition and in a manner that maintains the ability to view the structures from various locations; 2) maintaining the existing steel rails in place; and 3) providing interpretive facilities regarding the history of the CBL on the proposed bikeway segment. Their request to leave the wooden ties in situ has not been implemented. This situation is considered unsafe and presents significant safety issues for future users of the bike path because the wooden ties are in various states of deterioration and are expected to continue to deteriorate. If the ties were to remain in place the bike path would be expected to experience surface pavement deterioration (potholes, cracks, and surface level changes) over time, as the ties continue to deteriorate and crumble under the bike path surface, creating voids under the bike path users and an uneven path surface.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

City of San Diego Engineering and Capital Project Department, Applicant
MTS/SD&AE, Owner
M&E Gabae, CLP, Owner
South Bay Salt Works, Lessee
Har Construction, Inc.

FISCAL IMPACT: None.

Boekamp/Haas/PG

LEGAL DESCRIPTION:

The proposed project is located in the northern portion of the Otay Mesa-Nestor Community Plan Area, west of Interstate 5, and is bordered by the City of Imperial Beach to the west and south, and the City of Chula Vista to the north.

Staff: Patricia Grabski – (619) 446-5277

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

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:03 p.m. - 2:04 p.m.)

MOTION BY FAULCONER TO CONTINUE THIS ITEM TO TUESDAY, SEPTEMBER 18, 2007, FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-not present, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

REPORT OUT OF CLOSED SESSION:

To view the list of all available City Council Closed Session Meetings Reports refer to the link below:

<http://www.sandiego.gov/city-clerk/closedsess.shtml>

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:19 a.m. – 10:20 a.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Pro Tem Young at 4:42 p.m. in honor of the memory of:

Christopher Abell at the request of Council Member Atkins; and
Dwain Kantor at the request of Council Member Atkins.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:39 p.m. - 4:42 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR SPECIAL COUNCIL MEETING
OF
MONDAY, SEPTEMBER 17, 2007
AT 10:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:06 a.m. Council President Peters recessed the meeting at 11:03 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 11:09 a.m. with all Council Members present. The meeting was recessed by Council President Peters at 12:00 p.m. to convene the regular meeting at 2:00 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (sr)

FILE LOCATION: MINUTES

**Minutes of the Council of the City of San Diego
for the Special Meeting of Monday, September 17, 2007**

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ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-not present

FILE LOCATION: MINUTES

ITEM-601: Informational Item - Financial Training on Debt Issuance and Administration for the City Council.

HEARING HELD

The City Council will receive financial training on debt issuance and administration, as recommended in the Kroll Report and approved by the Council on December 6, 2006. The Council may also discuss related issues.

INDEPENDENT BUDGET ANALYST'S RECOMMENDATION:

The City Council will receive training with respect to the City's debt issuance and administration processes at 10:00 a.m. on September 17, 2007. On December 6, 2006, the City Council adopted Resolution R-302243 implementing a plan to provide financial training to the City Council as recommended in IBA Report Number 06-59, with support from the CFO and City Attorney as needed. Financial training is also: 1) required by the City's Disclosure Ordinance (O-19320) and 2) recommended in the Kroll Remediation Plan that has been supported by the Mayor and the City Council. The training will be provided by the Debt Management Director, the Chief Deputy City Attorney for finance and disclosure, and Arto Becker of Hawkins Delafield & Wood LLP. Written materials will be provided in advance of the training.

000077

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for the Special Meeting of Monday, September 17, 2007**

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FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:06 a.m. - 12:00 p.m.)

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 12:00 p.m..

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 12:00 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

UNAPPROVED
THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, SEPTEMBER 17, 2007
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:02 p.m. Council President Peters recessed the meeting at 2:49 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 2:55 p.m. with Council Member Young and Council Member Frye not present. Council President Peters recessed the meeting at 4:26 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:33 p.m. with Council Member Frye and Council Member Hueso not present. Council President Peters recessed the meeting at 4:54 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:02 p.m. with Council Member Frye not present. The meeting was adjourned by Council President Peters at 5:37 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (mz)

FILE LOCATION: MINUTES

Minutes of the Council of the City of San Diego
for the Regular Meeting of Monday, September 17, 2007

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Larry Coalson of Horizon Christian Fellowship

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Madaffer.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

CS-1 *Beacon Electric Supply v. Saturn Electric, Inc.*
San Diego Superior Court Case No. GIC 849095

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 18, 2007

DCA Assigned: J. Taylor

This matter involves litigation against the City related to a construction contract for the rehabilitation of Sewer Pump Station 77. The City Attorney requests that the Mayor and the City Council authorize settlement of the litigation.

Closed Session Comment 1:

Tim Dudek commented on the hardship to his company working on this project.

Closed Session Comment 2:

Andrew Berg commented on paying contractors directly for their work rather than through a general contractor.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:35 p.m.)

Council President Peters closed the hearing.

CS-2 *Store Safe Miramar, et al. v. City of San Diego*
City Files No. LP07-0705-0918

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 18, 2007

DCA Assigned: R. Palmucci

This is an un-litigated claim arising out of a water main break which caused flood damage to real and personal property of the owners and tenants of a storage facility on November 15, 2006. The losses are being handled in accordance with City Council Policy 400-10 and City Council Policy 000-09. The City Attorney requests that the City Council be informed of the ongoing costs of these claims in Closed Session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:24 p.m.)

Council President Peters closed the hearing.

CS-3 *City of San Diego v. Willkie Farr and Gallagher, LLP*
San Diego Superior Court Case No. 37-2007-00072584-CU-BT-CTL

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 18, 2007

EACA Assigned: D. McGrath

This is a lawsuit filed by the City of San Diego against Willkie Farr and Gallagher, LLP. In closed session, the Executive Assistant City Attorney and Bryan Vess will brief the Mayor and City Council on the litigation's status, as well as request that Bryan Vess be retained to represent the City of San Diego in this matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:24 p.m. – 2:24 p.m.)

Council President Peters closed the hearing.

ITEM-200: Approving a Schedule of Real Estate Broker Commissions for the Sale of Excess City-Owned Real Properties Previously Approved for Sale by the City Council on May 21, 2007.

(See memorandum from the City Attorney dated 8/24/07.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-50) ADOPTED AS RESOLUTION R-302989

Approving the commission schedule related to the sale of certain excess City-owned real properties previously approved for sale by the City Council on May 21, 2007.

STAFF SUPPORTING INFORMATION:

On May 21, 2007, the City Council approved the sale of seventeen properties excess to the City needs. Also approved was the "payment of a real estate broker's commission relating to the sale of the Properties, in each instance, at the discretion of the Mayor, or his designee, and in conformance with San Diego Municipal Code Section 22.0905".

The City's Purchasing & Contracting Department issued a Request for Statement of Qualifications (RSFQ) seeking bids for "Professional Commercial Brokerage Services". The RSFQ was advertised in the City's official newspaper, the Daily Transcript, listed on the City's web site and notices were sent to commercial real estate firms. The City received proposals from eleven companies: Grubb & Ellis, NAI San Diego, Lee Associates, Associated Realtors, Coldwell Banker Commercial, Colliers International, CBRE, Cushman & Wakefield, Inc., Wiese & Associates, Burnham and Coldwell Banker Commercial.

A Technical Evaluation Committee, consisting of members of the Real Estate Assets Department, reviewed the proposals for technical merit and ranked them according to: Qualifications and Experience of Assigned Staff; References and Past Performance; Financial Capability to Perform; Suitability and Rapport; Firms' Relevant Experience; Executive Summary; Litigation History; Interpretation and Assessment of relevant market trends, Assessment of property sale opportunities; and Development of a Comprehensive Marketing Plan.

The top five qualifiers, Burnham, Colliers International, Grubb & Ellis, CBRE and Cushman & Wakefield, Inc., were invited for one-on-one interviews resulting in all five being selected and placed on a qualified vendors list for Commercial Real Estate contracts with the City. This list is valid for two years from the award date of June 27, 2007.

A Request for Proposals (RFP) was sent to these five companies to bid on the sale of eight properties, categorized in three groups - 1) Office Buildings, 2) Vacant Land and 3) Ground Leases. Each company submitted a written proposal and presentation to the Evaluation Committee. Each proposal was rated according to its technical merits and then the final pricing structure was evaluated with the best value selected by the City. Notification of intent to award was sent out on July 12, with a protest period to end on July 23, 2007.

A question arose as to whether the fact that Grubb & Ellis Corporate Services, from Chicago, performed a study of the "Best Practices Methodology" for the City's Real Estate Assets Department could possibly cause a conflict of interest with the San Diego Grubb & Ellis affiliate that would preclude them from being awarded Brokerage Contracts. The matter was directed to the City Attorney's Office for their review and comment. In a report to the Mayor and Council members dated August 24, 2007, the City Attorney's Office opined that was no conflict of interest that would prohibit the San Diego Grubb & Ellis affiliate from providing brokerage services to the City of San Diego.

This action requests approval of the best value proposals which do reflect, in this case, the lowest commission percentages that were received through the bid process described above (Attachment A), for the properties.

FISCAL CONSIDERATIONS:

All commissions are paid from the proceeds of the sale of the individual properties. The commission structures are well below market value rates for both commercial and residential properties.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The sale and payment of broker commissions was approved by Council on May 21, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

Barwick/Anderson

Staff: James F. Barwick - (619) 236-6145
Brock Ladewig – Chief Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:13 p.m.)

MOTION BY YOUNG TO ADOPT. Second by Hueso. Passed by the following vote:
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-nay, Frye-nay,
Madaffer-yea, Hueso-yea.

ITEM-201: Carmel Valley Neighborhood Ten, PTS No. 72526. Application for a public right-of-way and easement vacation, to subdivide and develop 44.80 acres into 145 lots and construct 121 single family dwellings located west of Carmel Country Road along both sides of Carmel Mountain Road. (Carmel Valley Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying an application for a public right-of-way and easement vacation, Vesting Tentative Map, Site Development Permit and Coastal Development Permit to subdivide and develop 44.80 acres into 145 lots and construct 121 single family dwellings located west of Carmel Country Road along both sides of Carmel Mountain Road. The project is composed of four separate locations within the neighborhood. Unit 2 South (A) is located at the terminus of Briarlake Woods Drive south of Carmel Mountain Road and north of Los Peñasquitos Canyon Preserve. Unit 5 South (B) is located south of Carmel Mountain Road and west of Gaylemont Lane and Furlong Place. Unit 9 South is located south of Carmel Mountain Road in the southwestern most corner of the Plan area west of the new Carmel Mountain Road bridge at the boundary between the Torrey Hills and Neighborhood Ten communities. Unit 12 South (B) is located north of Carmel Mountain Road, west of the new Carmel Mountain Road bridge and west of Canter Heights Drive. All four properties are located in the SF-2, SF-3 & OS Zones of the Carmel Valley Planned District.

STAFF'S RECOMMENDATION:

Adopt the following resolutions.

Subitem-A: (R-2007-1290 Cor. Copy) ADOPTED AS RESOLUTION R-302990

Adoption of a Resolution certifying that Addendum to Environmental Impact Report and Subsequent Environmental Impact Report No. 72526, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of Public Right-of-Way Vacation No. 266026, Easement Vacation No. 266925, Vesting Tentative Map No. 232063, and Site Development Permit No. 232067/Coastal Development Permit No. 225393 for the Carmel Valley Neighborhood Ten Project;

Adopting the Mitigation Monitoring and Reporting Program, or alterations to *implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment*, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference, pursuant to California Public Resources Code Section 21081.6;

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

Subitem-B: (R-2007-1291) ADOPTED AS RESOLUTION R-302991

Adoption of a Resolution vacating the water easement, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20681-B, marked as Exhibit "B,";

Certifying a copy of this Resolution, with attached exhibits, attested by her under seal, to be recorded in the Office of the County Recorder.

Subitem-C: (R-2007-1292) ADOPTED AS RESOLUTION R-302992

Adoption of a Resolution with respect to Vesting Tentative Map No. 232063;

The findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Vacating the public service easements, located within the project boundaries as shown in Tentative Map No. 232063, contingent upon the recordation of the approved final map for the project, pursuant to California Government Code Section 66434(g);

Vacating the slope easement granted June 1, 2000, Doc No. 2000-0288862, located within the project boundaries as shown in Tentative Map No. 232063, pursuant to California Government Code Section 66434(g), contingent upon the recordation of the approved final map for the project;

Vacating all of the building restricted easement granted over Lot "E" per final map 15067, August 10, 2005, File No. 2005-0683772, located within the project boundaries as shown in Tentative Map No. 232063, pursuant to California Government Code Section 66434(g), contingent upon the recordation of the approved final map for the project;

Granting to Pardee Homes, Subdivider/Applicant and Curtis J. Turner, Engineer, subject to the attached conditions which are made a part of this Resolution by this reference, Vesting Tentative Map No. 232063 and Public Right-of-Way Vacation No. 232063.

Subitem-D: (R-2007-1293 Rev.) ADOPTED AS AMENDED AS
RESOLUTION R-302993

Adoption of a Resolution with respect to Coastal Development Permit No. 225393/Site Development Permit No. 232067;

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference;

Granting to Pardee Homes, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this Resolution, Coastal Development Permit No. 225393/Site Development Permit No. 232067.

OTHER RECOMMENDATIONS:

Planning Commission on June 21, 2007, voted 6-0-1 to approve this project. No opposition.

Ayes: Garcia, Otsuji, Schultz, Griswold, Ontai, Naslund
One vacancy

The Carmel Valley Community Planning Board has recommended approval of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of a subdivision and development project for the development of 121 single family homes within the Carmel Valley Neighborhood Ten located west of Carmel Country Road north and south of Carmel Mountain Road.

STAFF RECOMMENDATION:

1. Recommend the City Council **Certify** Addendum No. 72526, and Adopt the Mitigation Monitoring and Reporting Program; and
2. Recommend the City Council **Approve** Public Right-of-Way Vacation No. 266926, Easement Vacation No. 266925, Vesting Tentative Map No. 232063, Site Development Permit No. 232067 and Coastal Development Permit No.225393.

EXECUTIVE SUMMARY:

The Carmel Valley Neighborhood Ten project is located within the precise plan area of Carmel Valley Neighborhood Ten on property designated for single family residential development at a density range of 1-5 dwelling units per acre. The project is composed of four separate locations within the neighborhood. Unit 2 South is located at the terminus of Briarlake Woods Drive south of Carmel Mountain Road and north of Los Peñasquitos Canyon Preserve. Unit 5 South is located south of Carmel Mountain Road, west of Gaylemont Lane and Furlong Place. Unit 9 South is located south of Carmel Mountain Road in the southwestern most corner of the community plan area. Unit 12 South is located north of Carmel Mountain Road, west of Canter Heights Drive. All four properties are located in the SF-2, SF-3 & OS Zones of the Carmel Valley Planned District of the Carmel Valley Community Plan Area.

The applicant, Pardee Homes, entered into a legally binding development agreement with the City of San Diego for all development within the Pacific Highlands Ranch Subarea III area of the North City Future Urbanizing Area. In return for reducing development and the associated impacts in the Pacific Highlands Ranch community Pardee was granted the right to increase the maximum density in the Carmel Valley Neighborhood Ten Precise Plan Area. The maximum increase of single family dwellings is 72-74 units. The proposed project would realize a portion of this density increase and develop 63 dwelling units above the limit of the Carmel Valley Neighborhood Ten Precise Plan. Site constraints prevent any additional increase above 63 units.

The project would develop 44.8 acres with a total of 145 lots; 121 single family lots for single family development, six lots for dedication to the City of San Diego for open space, sixteen lots for manufactured slopes, brush management, monument entries, pocket parks, green space and a private driveway to be owned by the home owners association and two lots for access to an adjacent property to be conveyed at fair market value.

On March 13, 2007, the Carmel Valley Community Planning Board voted 10:0:1 to approve the proposed actions, with concerns. The Board expressed five areas of concern; Change in residential product mix and intensity, Pocket parks, Tavelman property, SDG&E right-of-way and pedestrian trails, and other trail issues. All the Board's concerns have been resolved with the exception of the Tavelman property item. Development of the Tavelman property is not before the Council at this time and has no relevance to the requested actions.

Staff has reviewed the proposed request for a public right-of-way and easement vacation, Vesting Tentative Map, Site Development Permit and Coastal Development Permit to subdivide and develop 44.8 acres into 145 lots and construct 121 single family structures. All issues identified through the review process have been resolved in conformance with the adopted City Council policies and regulations of the Land Development Code. Staff recommends the City Council approve the project as proposed.

FISCAL CONSIDERATIONS:

No fiscal impact. All costs associated with the processing of the application are recovered through a deposit account funded by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On June 21, 2007 the Planning Commission voted 6:0:0 to recommend approval of the project. On March 13, 2007, the Carmel Valley Community Planning Board voted 10:0:1 to approve the proposed actions, with concerns. For a full discussion of their concerns, please refer to Planning Commission Report No. PC-07-090. At the Planning Commission hearing on June 21, 2007 no one appeared in opposition to the project. There is no known opposition to the project in the community.

KEY STAKEHOLDERS:

Pardee Homes.

FISCAL IMPACT: None.

Escobar-Eck/Waring/JF

LEGAL DESCRIPTION:

The site is spread over 4 locations, one on the north (Unit 12 South B) and south ends (Unit 9 South) of Canter Heights Drive, the third at the cul-de-sac of Gaylemont Lane (Unit 5 South B), and the fourth at the cul-de-sac of Briarlake Woods Drive (Unit 12 South A). All locations are in Carmel Valley Neighborhood-10 of the Carmel Valley Community Plan Area, San Diego, CA, 92130 (Accessor Parcel No.'s Unit 9 South 307-100-08, -13, -16, -17, -18, -20, -35; Unit 5 South 307-100-08, -44; Unit 12 South B 307-100-09, -10, -11, -13 & 307-760-25; Unit 2 South A 308-031-02).

Staff: John S. Fisher – (619) 446-5231
Andreas Contreras Dixon – Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:23 p.m.;
2:35 p.m. – 2:39 p.m.)

Testimony in favor by Jack Tavelman, Allen Kashani, and Thomas Steinke.

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN SUBITEMS A, B, C, AND AS AMENDED FOR SUBITEM D WITH THE ADDITION OF CONDITION NUMBER 65 ADDED TO SITE DEVELOPMENT PERMIT NUMBER 232067 AND COASTAL DEVELOPMENT PERMIT NUMBER 225393, "FOR A PERIOD NOT TO EXCEED A MAXIMUM OF TWO YEARS FROM THE DATE OF APPROVAL, SEPTEMBER 17, 2007, THE OWNER/PERMITTEE AND THE OWNER OF APN 307-199-14 SHALL ENTER INTO NEGOTIATIONS TO DETERMINE A MUTUALLY ACCEPTABLE PRICE FOR THE SALE OF THE PROPERTY DESCRIBED ON VESTING TENTATIVE MAP NO. 232063 AS LOTS "T" AND "U." THE AGREED UPON PRICE SHALL BE BETWEEN 20,000 AND 176,000 DOLLARS. IF THE PARTIES CANNOT REACH AN AGREED UPON PRICE, THE PARTIES SHALL ENTER INTO BINDING ARBITRATION AND BE BOUND BY THE DECISION OF THE ARBITRATOR. BINDING ARBITRATION PROCEEDINGS SHALL BE IN ACCORD WITH ALL STANDARDS AND PROFESSIONAL PRACTICES FOR SUCH ARBITRATION. IF THE NEGOTIATION AND ARBITRATION, IF NECESSARY, EXTENDS BEYOND TWO YEARS FROM THE DATE OF APPROVAL, SEPTEMBER 17, 2007, THIS CONDITION SHALL BE DEEMED NULL AND VOID." Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-202: Shaw Lorenz, Application to stay (toll) the expiration date for a 139 single family residential development within the Del Mar Mesa Specific Plan, located on the southwest quadrant of Del Mar Mesa Road and Carmel Mountain Road. (Del Mar Mesa Community Plan Area. District 1.)

Pardee Homes has requested that the City Council consider a resolution to stay (toll) the expiration date for the Shaw Lorenz project, a 139 single family residential development within the Del Mar Mesa Specific Plan, approved by City

Council on May 11, 2004, pending the resolution of the October 13, 2006, United States District Judge Rudi M. Brewster in the Southern District of California's Decision and Injunction in the case entitled, "Southwest Center for Biological Diversity, et al. vs. Jim Bartel, Anne Badgley, and Gale Norton, and Building Industry Legal Defense Foundation, et al.," Case No. 98-CV-2234-B (JMA). The project approvals consist of Vesting Tentative Map No. 25674, Planned Development Permit No. 25675, Site Development Permit No. 25676, Coastal Development Permit No. 25677, and Neighborhood Use Permit No. 76234 located on the southwest quadrant of Del Mar Mesa Rd and Carmel Mountain Rd within the Del Mar Mesa Community Plan.

(Environmental Impact Report (EIR) No. 2873/Vesting Tentative Map (VTM) No. 25674/Planned Development Permit (PDP) No. 25675/Site Development Permit (SDP) No. 25676/Coastal Development Permit (CDP) No. 25677/Neighborhood Use Permit (NUP) No. 76234/Project No. 126895.)

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-164) ADOPTED AS RESOLUTION R-302994

Adoption of a Resolution stating for the record that the approval staying the Shaw Lorenz Project approvals is a subsequent discretionary approval of the Project addressed in the Master Environmental Impact Report and therefore not a separate project under CEQA Guideline sections 15060(c)(3);

Stating for the record that the information contained in the final Master Environmental Impact Report, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that this subsequent discretionary approval staying the Shaw Lorenz Project approvals does not involved change in circumstances, project changes, or new information of substantial importance which would warrant any additional environmental review.

Subitem-B: (R-2008-165 Rev.) ADOPTED AS RESOLUTION R-302995

Adoption of a Resolution stating that City Council approval will stay the expiration of the Shaw Lorenz Project approvals, the Vesting Tentative Map No. 25674, Planned Development Permit No. 25675, Site Development Permit No.

25676, Coastal Development Permit No. 25677, and Neighborhood Use Permit No. 76234, until the Injunction is vacated or the injunction or any modification(s) thereof is no longer applicable to the Shaw Lorenz Project. In no event shall this stay exceed the applicable statutory time limits of the Subdivision Map Act;

That at such time as City determines the Injunction, and any modification(s) thereto, no longer apply to the Shaw Lorenz Project, the City will terminate the Stay through City Council action. If the City determines that the Injunction no longer applies to the Shaw Lorenz Project, City shall notify Pardee Homes in writing.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Request to stay (toll) the expiration date for the Shaw Lorenz project approvals while the Decision and Injunction precluding Pardee Homes from obtaining an Extension of Time or subsequent ministerial approvals for the Shaw Lorenz Project remains in effect.

STAFF RECOMMENDATION:

Approve a resolution to stay (toll) the expiration date for the Shaw Lorenz project approvals while the Decision and Injunction precluding Pardee Homes from obtaining an Extension of Time or subsequent ministerial approvals for the Shaw Lorenz Project remains in effect.

EXECUTIVE SUMMARY:

The Shaw Lorenz project for residential development in the Del Mar Mesa Community Planning area was approved by City Council on May 11, 2004. The project approvals consist of Vesting Tentative Map no. 25674, Planned Development Permit no. 25675, Site Development Permit no. 25676, Coastal Development Permit no. 25677, and Neighborhood Use Permit no. 76234. Pardee Homes, the Owner/Permittee for the Shaw Lorenz project, has applied for an Extension of Time (EOT) on the aforementioned approvals; however, on October 13, 2006, United States District Judge Rudi M. Brewster in the Southern District of California rendered a decision and issued a Decision and Injunction in the case entitled, "*Southwest Center for Biological Diversity, et al. vs. Jim Bartel, Anne Badgley, and Gale Norton, and Building Industry Legal Defense Foundation, et al.*," Case No. 98-CV-2234-B(JMA)[Attachment 1]. As a result of the issuance of the Decision and Injunction, Pardee Homes' Shaw Lorenz Project, as well as other development projects, has been precluded from obtaining further discretionary or ministerial approvals from the City (Attachment 2).

Pardee Homes has requested that the City Council consider a resolution to stay (toll) the expiration date for the Shaw Lorenz project approvals while the Decision and Injunction

precluding Pardee Homes from obtaining an EOT or subsequent ministerial approvals for the Shaw Lorenz Project remains in effect.

The State Subdivision Map Act – Government Code Sections 66452.6 and 66452.12 authorizes the City to stay the running of the expiration date for the project approvals under these conditions (Attachment 3). Pardee Homes' request for a stay of the Shaw Lorenz project approvals is consistent with the Subdivision Map Act.

This resolution to stay (toll) the expiration date for the Shaw Lorenz Project No. 2873 approvals is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Therefore, the activity is not a separate project for purposes of CEQA review pursuant to State CEQA Guidelines Section §15060(c)(3).

FISCAL CONSIDERATIONS:

All costs associated with the processing of this project are recovered by a deposit account maintained by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Pardee Homes, Owner

Boekamp/Anderson/TD

NOTE: This activity is covered under Project No. 2873, Shaw Lorenz. The activity is adequately addressed to the environmental document and there is no change in circumstances, additional information, or project changes to warrant additional environmental review. Therefore, the activity is not a separate project for purposes of CEQA review pursuant to State CEQA Guidelines Section 16050(c)(3).

Staff: Tim Daly – (619) 446-5356
Shirley R. Edwards – Chief Deputy City Attorney

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:40 p.m. – 2:49 p.m.)

Testimony in favor by Paul Metcalf.

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN SUBITEMS A AND B. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-recused, Madaffer-yea, Hueso-yea.

ITEM-203: Monte Verde, Application for an amendment to construct four high rise residential buildings, with a total of 560 condominium units and a subterranean parking structure, located at 8995 Costa Verde Boulevard. (University Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying an application for an amendment to the Progress Guide and General Plan, the University Community Plan, and the Costa Verde Specific Plan, Public Right-of-Way and Easement Vacation, Vesting Tentative Map, Planned Development Permit, Site Development Permit, and Public Right of Way Permit to construct four high rise residential buildings; a 23-story building, two 22-story buildings, and a 21-story building with a total of 560 condominium units and a combined area of approximately 1,223,000 square feet and 1,312 parking spaces in subterranean parking structures on a 4.77 acre site located at 8995 Costa Verde Boulevard in the University community area. The project would also include several offsite improvements including the construction of a pedestrian bridge over La Jolla Village Drive, enhancement of the existing pedestrian bridge over Genesee Avenue, and the replacement of an existing offsite 10- to 12-inch sewer line with an 18-inch sewer line commencing from the project, south along Genesee Avenue, and into Rose Canyon. The project site is generally bound by La Jolla Village Drive to the north, Genesee Avenue to the east, Trophy's restaurant and Costa Verde retail/commercial center to the south, and multi-family residential to the west.

(See Report to the Planning Commission-PC-07-043/Project No. 6563/EIR No. 6563/MMRP/Findings and Statement of Overriding Consideration/Progress Guide and General Plan/University Community Plan/Costa Verde Specific Plan/Vesting Tentative Map No. 372429/Easement vacation No. 372423/Public Right-of-Way Vacation No. 372426/Planned Development Permit No. 10761/Site Development Permit No. 372422/Public Right-of-Way Permit No. 464724.)

STAFF'S RECOMMENDATION:

Take the following actions:

Subitem-A: (R-2007-1310) ADOPTED WITH DIRECTION AS
RESOLUTION R-302996

Adoption of a Resolution certifying that information contained in Project 6563 has been completed in compliance with the California Environmental Quality Act and the State CEQA Guidelines, and that said Environmental Impact Report No. 6563, SCH No. 2003091106 reflect the independent judgement of the City of San Diego as Lead Agency, stating for the record that the final Environmental Impact Report has been reviewed and considered prior to approving the project, certifying the final Environmental Impact Report, adopting the Findings and State of Overriding Consideration, and adopting the Mitigation, Monitoring, and Reporting Program;

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

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

Subitem-B: (R-2007-1309) ADOPTED WITH DIRECTION AS
RESOLUTION R-302997

Adoption of a Resolution approving an amendment to the University Community Plan Costa Verde Specific Plan and Progress Guide and General Plan for the Monte Verde project;

That it adopts the amendments to the University Community Plan, Costa Verde Specific Plan and Progress Guide and General Plan, a copy of which is on file in the Office of the City Clerk;

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

Subitem-C: (R-2007-1311) ADOPTED WITH DIRECTION AS
RESOLUTION R-302998

Adoption of a Resolution certifying findings supported by the minutes, maps and exhibits, all of which are herein incorporated by reference, with respect to Planned Development Permit (PDP) Permit No. 10761, Site Development Permit (SDP) Permit No. 372422, and Public Right-Of-Way No. 464724, with appropriate findings to support Council actions;

That the recommendation of the Planning Commission is sustained, and Planned Development Permit No. 10761, Site Development Permit No. 372422, and Public Right-of-Way No. 464724 is granted to Costa Verde Hotel, LLC, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof;

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

Subitem-D: (R-2007-1312) ADOPTED WITH DIRECTION AS
RESOLUTION R-302999

Adoption of a Resolution certifying findings supported by the minutes, maps and exhibits, all of which are herein incorporated by reference, with respect to Vesting Tentative Map No. 372429, Easement Vacation No. 372423, and Public Right-of-Way Vacation No. 372426, with appropriate findings to support Council actions;

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

OTHER RECOMMENDATIONS:

Planning Commission on March 15, 2007, voted 4-1-2 to recommend approval; was opposition.

Ayes: Garcia, Ontai, Otsuji, Schultz

Nay: Naslund

Not present: Griswold

(One vacancy)

Recommend to the City Council to accept the project's Final Environmental Impact Report No. 6563, Reduced Project Alternative: 21-Story, of which the maximum building would be 21-stories and the maximum number of units would be 408.

Planning Commission is unable to find the extraordinary benefit that allows the Planning Commissioners to make the Statement of Overriding Considerations for the project as defined by the applicant. The Commissioners recognize that the 21-story "Reduced Project Alternative" discussed in the Final Environmental Impact (FEIR) reduces the cumulative and unmitigable impacts' however, the Commissioner's acknowledge that there remains a significant unmitigated negative impact of which the finds of overriding consideration for this "reduced alternative" cannot be made.

The University Community Planning Group recommended denial of this project.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTION:

Approval of the Monte Verde project, a request for the development of a 23-story building, two 22-story buildings, and a 21-story building with a total of 560 condominium units on the undeveloped 4.77-acre site at 8995 Costa Verde Boulevard in the University Community Planning area.

STAFF RECOMMENDATIONS:

1. ADOPT resolution and CERTIFY Environmental Impact Report No. 6563, ADOPT the Mitigation Monitoring and Reporting Program, and ADOPT the Findings and Statement of Overriding Consideration; and
2. ADOPT resolutions amending the Progress Guide and General Plan, the University Community Plan, and the Costa Verde Specific Plan; and

3. ADOPT resolutions and APPROVE Vesting Tentative Map No. 372429, Easement Vacation No. 372423, Public Right-of-way Vacation No. 372426, Planned Development Permit No. 10761, Site Development Permit No. 372422, and Public Right of Way Permit No. 464724.

EXECUTIVE SUMMARY:

The project, as originally proposed, was to develop the 4.77-acre site with two 35-story towers and two 32-story towers with a total of 800 condominiums as referenced in the Report to the Planning Commission No. PC-07-043, <http://www.sandiego.gov/planning-commission/pcreports/07043.pdf>, (Attachment 1). However, in response to the recommendation made by the Planning Commission during the hearing on March 15, 2007 for a reduced development of 21-stories and a maximum of 408 units, the applicant has reduced the maximum height of the development to 23 stories and reduced the number of condominium units to 560.

The majority of the project characteristics would remain unchanged and the applicant has provided exhibits for the reduced project (Attachment 2).

The Environmental Impact Report (EIR) for the proposed Monte Verde project analyzed and provided conclusions for the 800-unit "Project" as well as the recommended alternatives of a Reduced Project Alternative of which included both a 30-story development and a 21-story development. The 21-story alternative included 408 units while the 30-story alternative included 662 units. The City's Environmental Analysis Section (EAS) has reviewed the documents provided and has determined the proposed 560-unit project is not beyond the alternatives already discussed in the EIR. Therefore, the impacts of constructing 560 units can be deduced from the discussions of the impacts related to these two alternatives. EAS staff has prepared an Additional Information Statement (AIS) for the EIR and has concluded that the 560-unit project would not result in any new impacts when compared with the 800-unit project. Nor would it increase the intensity of impacts associated with the 800-unit project. In fact, in the case of visual/neighborhood character, the reduction in height would eliminate this significant impact on the building site associated with the 800-unit development; however, the visual impact on Rose Canyon from the offsite sewer line would remain. While the reduction in the number of residential units would not eliminate the significant traffic impacts, it would proportionately reduce them.

The reduced 560-unit project continues to comply with the applicable sections of the Municipal Code and adopted City Council policies. City staff has prepared resolutions and permits for the reduced project and recommends approval.

FISCAL CONSIDERATION:

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

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On March 15, 2007, the Planning Commission recommended the City Council accept the project's Environmental Impact Report's Reduced Project Alternative: 21-Story. This alternative would allow the development with the maximum building height of 21-stories with a maximum number of 408 condominium units. The Planning Commission was unable to find the extraordinary benefit that allows the Commissioners to make the Statement of Overriding Considerations for the project as defined by the applicant. The Commissioners recognize that the 21-story "Reduced Project Alternative" discussed in the Final Environmental Impact (FEIR) reduces the cumulative and unmitigable impacts; however, the Commissioners acknowledge that there remains a significant unmitigated negative impact of which the findings of overriding consideration for this "reduced alternative" cannot be made.

The Motion made by Commissioner Ontai, second by Commissioner Garcia. Passed by a 4-1-2 vote with Commissioner Naslund voting NAY, Commissioner Griswold not present, and one vacancy.

The University Community Planning Board voted 10:4:0, on February 13, 2007, to recommend denial of the project.

KEY STAKEHOLDERS:

Costa Verde Hotel, L.L.C, owners
University Community Planning Group

Waring/Escobar-Eck/Anderson/TD

NOTE: The City of San Diego as Lead Agency under CEQA has prepared and completed a Environmental Impact Report, Project No. 6563, dated December 22, 2006 and Mitigation, Monitoring, and Reporting Program covering this activity.

LEGAL DESCRIPTION:

The project site is generally bound by La Jolla Village Drive to the north, Genesee Avenue to the east, Trophy's restaurant and Costa Verde retain/commercial center to the south, and multi-family residential to the west. (Lot 12 of Costa Verde, Map No. 12045.)

Staff: Tim Daly – (619) 446-5356

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:55 p.m. – 4:26 p.m.;
4:33 p.m. – 5:35 p.m.)

Testimony in opposition by Janay Kruger, Hugh Pates, Kevin Wirsing, Deborah Knight, Charles Pratt, Elizabeth Reers, Lorraine Stein, James Mayfield, Linda Colley, Arlie Martin, Sandra Lippe, and Patricia Wilson.

Testimony in favor by Paul Robinson, Martin Poirier, Stuart Posnock, Scott Barnett, Alice Tana, Mike Engel, Nicole Clay, Betsy Lane, John Jozwiak, Florence Masters, Lawrence Levy, Ruth Resnick, Harvey Christensen, and Jerry Livingston.

MOTION BY MADAFFER TO ADOPT THE RESOLUTIONS IN SUBITEMS A, B, C, AND D WITH DIRECTION TO ADD:

- A) ELEVATOR ACCOMMODATIONS FOR NON-MOTORIZED VEHICLES INCLUDED IN THE PEDESTRIAN BRIDGE DESIGN;
- B) THE DESIGN WILL BE THAT OF WHAT THE DEVELOPMENT APPROVALS ARE FOR THE BUILDING PERMIT;
- C) CITY PROTECTION AGAINST THE COST OF LITIGATION;
- D) OWNER/PERMITTEE SHALL CONTRIBUTE TO THE SUPER LOOP STATION;
- E) COUNCIL RESOLUTIONS WILL CERTIFY THAT THE INFORMATION CONTAINED IN PROJECT NUMBER 6563 HAS BEEN COMPLETED IN COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT AND STATE CEQA GUIDELINES AND ENVIRONMENTAL IMPACT REPORT;
- F) COUNCIL RESOLUTIONS APPROVING THE PROGRESS GUIDE, GENERAL PLAN, THE UNIVERSITY COMMUNITY PLAN, AND THE COSTA VERDE SPECIFIC PLAN AMENDMENT NO. 10763;
- G) COUNCIL RESOLUTIONS APPROVING THE VESTING TENTATIVE MAPS, THE EASEMENT VACATIONS, AND THE PUBLIC RIGHT-OF-WAY VACATION AS LISTED ON THE COUNCIL 1472;

- H) COUNCIL RESOLUTIONS APPROVING THE PLANNED DEVELOPMENT PERMIT NO. 10761, SITE DEVELOPMENT PERMIT NO. 372422, AND PUBLIC RIGHT-OF-WAY PERMIT NO. 464724;
- I) AN ERRATA SHEET TO THE ENVIRONMENTAL DOCUMENT THAT THE CITY COUNCIL HAS CONSIDERED THE ISSUE RAISED BY THE CITY ATTORNEY WITH RESPECT TO THE FEDERAL COURT RULING AND THAT COUNCIL AGREES THE WATER SUPPLY IS ADEQUATE BASED ON THE INFORMATION COUNCIL HAS HEARD;
- J) AN ERRATA SHEET TO THE WATER SUPPLY ASSESSMENT REPORT, WHICH IS DATED 2004, STATING THAT NOTHING HAS CHANGED SINCE THEN;
- K) THAT CONDITION 57, UNDER THE TITLE "TRANSPORTATION REQUIREMENTS" OF THE PLANNED DEVELOPMENT SITE PERMIT IS CHANGED TO READ, PRIOR TO THE ISSUANCE OF THE FIRST BUILDING PERMIT, EXCLUSIVE OF A BUILDING PERMIT TO CONSTRUCT A FOUNDATION FOR THE PARKING GARAGE FOR THE FIRST AND SECOND TOWERS;
- L) OWNER/PERMITTEE SHALL ASSURE, BY PERMIT AND BOND, CONSTRUCTION OF A PEDESTRIAN BRIDGE FROM COSTA VERDE TO THE NORTH SIDE OF LA JOLLA VILLAGE DRIVE AS STATED IN THE COSTA VERDE SPECIFIC PLAN, FINAL ENVIRONMENTAL IMPACT REPORT, AND AS SHOWN IN EXHIBIT "A", SATISFACTORY TO THE CITY ENGINEER;
- M) IF THE CITY HAS ACQUIRED THE NECESSARY LAND BEFORE A VERTICAL BUILDING PERMIT FOR EACH TOWER IS ISSUED, THE BRIDGE SHALL BE CONSTRUCTED AND ACCEPTED BY THE CITY PRIOR TO THE OCCUPANCY OF ANY UNIT WITHIN THAT TOWER;
- N) IF THE CITY CHOOSES TO PURCHASE AT FAIR MARKET VALUE OR CONDEMN THE NECESSARY INTEREST, THE OWNER/PERMITTEE SHALL PAY ALL REASONABLE COSTS OF THE ACQUISITION OR OF CONDEMNATION;

- O) TO THE EXTENT THAT CONSTRUCTION OF THE PEDESTRIAN BRIDGE WILL BENEFIT OTHER PROJECTS, THE OWNER/PERMITTEE SHALL BE ENTITLED TO, BUT NOT NECESSARILY OBLIGATED TO, SEEK REIMBURSEMENT BY ANY APPROPRIATE MECHANISM;
- P) THAT ALL CONDITIONS ON THE PLANNED DEVELOPMENT PERMIT, SITE DEVELOPMENT PERMIT, VESTING TENTATIVE MAP, OR OTHER ENTITLEMENTS ABOVE THAT ALLOW THE OWNER/APPLICANT TO SEEK REIMBURSEMENT BY A SPECIFIC MECHANISM, SUCH AS A COST REIMBURSEMENT DISTRICT, BE CHANGED THAT WILL ALLOW THE OWNER/APPLICANT TO SEEK REIMBURSEMENT BY ANY APPROPRIATE MECHANISM;
- Q) TITLE 6, UNDER THE TITLE, "GENERAL," OF THE VESTING TENTATIVE MAP, EASEMENT VACATION, AND PUBLIC RIGHT-OF-WAY VACATION BE REVISED TO READ, THAT THE SUBDIVIDER SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY INCLUDING ITS AGENTS, OFFICERS AND EMPLOYEES TOGETHER, THE "INDEMNIFIED PARTIES", HARMLESS FROM ANY CLAIM, ACTION, OR PROCEEDING AGAINST ANY "INDEMNIFIED PARTY" TO ATTACK, SET ASIDE, VOID, OR ANNUL THE CITY'S APPROVAL OF THIS PROJECT WHICH ACTION IS BROUGHT WITHIN THE TIME PERIOD PROVIDED IN GOVERNMENT CODE 66499.37;
- R) THE CITY SHALL PROMPTLY NOTIFY THE SUBDIVIDER OF ANY CLAIM, ACTION, OR PROCEEDING AND SHALL COOPERATE FULLY IN THE DEFENSE;
- S) IF THE CITY FAILS TO PROMPTLY NOTIFY SUBDIVIDER OF ANY CLAIM, ACTION, OR PROCEEDING, OR IF THE CITY FAILS TO COOPERATE FULLY IN THE DEFENSE; SUBDIVIDER SHALL NOT, THEREAFTER, BE RESPONSIBLE TO DEFEND, INDEMNIFY, OR HOLD CITY HARMLESS;
- T) CITY MAY PARTICIPATE IN THE DEFENSE OF ANY CLAIM, ACTION, OR PROCEEDING; IF CITY BOTH BEARS ITS OWN ATTORNEY'S FEES AND COSTS, AND DEFENDS THE ACTION IN GOOD FAITH AND THAT THE SUBDIVIDER NOT BE REQUIRED TO PAY OR PERFORM ANY SETTLEMENT UNLESS THE SETTLEMENT IS APPROVED BY THE SUBDIVIDER;

- U) MONTE VERDE PAY 554,000 DOLLARS OR HAVE AN OPTION TO BOND AND BUILD IN THE APPROPRIATE SUPER LOOP TRANSNET FUND FOR STATION CONSTRUCTION ON JUDICIAL DRIVE AND GOLDEN HAVEN;
- V) MONTE VERDE PAY THEIR FAIR SHARE OF THE PROPOSED UNIVERSITY HIGH SCHOOL FIELD RENOVATION PROJECT UPON APPROVAL OF, AND INCLUDING, THE PROJECT INTO THE NORTH UNIVERSITY FACILITIES BENEFIT ASSESSMENT;
- W) ALL BUILDING MATERIALS DESCRIBED IN EXHIBIT "A" IS CONSISTENT AND WRITTEN INTO THE PERMITS FOR THE PROJECT;
- X) A RECYCLING COMPONENT WILL BE INCORPORATED INTO THE PROJECT ALONGSIDE GARBAGE SHOOTS;
- Y) ANY CHALLENGE UNDER GOVERNMENT CODE SECTION 66473, WHICH WOULD SPECIFICALLY ADDRESS THE WATER ADEQUACY ISSUE THAT THE CITY COULD BE SUBJECT TO CHALLENGE;
- Z) TO THE PERMIT, REGARDING SOLID WASTE MANAGEMENT, PRIOR TO ISSUANCE OF A GRADING PERMIT FOR ANY OF THE FOUR RESIDENTIAL TOWERS, THE OWNER/PERMITTEE SHALL RECEIVE APPROVAL FROM THE ASSISTANT DEPUTY DIRECTOR THAT A WASTE MANAGEMENT PLAN HAS BEEN PREPARED WITH A MINIMUM OF 50 PERCENT DIVERSION OR AS MANDATED BY THE STATE, APPROVED BY THE ENVIRONMENTAL SERVICES DEPARTMENT, AND IMPLEMENTED FOR THE PROJECT;
- AA) PRIOR TO ISSUANCE OF THE GRADING PERMIT, THE APPLICANT SHALL SUBMIT EVIDENCE TO THE ASSISTANT DEPUTY DIRECTOR THAT THE FINAL DEMOLITION/CONSTRUCTION REPORT HAS BEEN APPROVED BY THE MITIGATION MONITORING COORDINATION AND ENVIRONMENTAL SERVICES DEPARTMENT. THIS REPORT SHALL SUMMARIZE THE RESULTS OF IMPLEMENTING THE ABOVE WASTE MANAGEMENT PLAN ELEMENTS, INCLUDING AND NOT LIMITED TO; THE ACTUAL WASTE GENERATED AND DIVERTED FROM THE PROJECT, THE WASTE REDUCTION PERCENTAGE ACHIEVED, AND HOW THAT GOAL WAS ACHIEVED;

- BB) APPLICANT WILL UTILIZE, ONCE AVAILABLE, ANY RECLAIMED WATER SOURCES FOR THEIR IRRIGATION WITHIN THEIR DEVELOPMENT;
- CC) THE SPECIFIC PLAN WILL CONSTITUTE THE ZONING FOR THE PROJECT AREA;
- DD) THE 50 PERCENT OR HIGHER, DEPENDING ON WHAT STATE LAW SAYS; AS WELL AS CONSTRUCTION AND RECYCLING, USE OF RECLAIMED WATER ON-SITE WHERE AVAILABLE;
- EE) IF THERE IS ANY CHANGE IN THE DESIGN CONTEMPLATED, THIS PROJECT WILL COME BACK AS A SUBSTANTIAL CONFORMANCE REVIEW PROCESS 2;
- FF) COSTA VERDE SPECIFIC PLAN, DATED SEPTEMBER 13, 2007 IS ACCEPTABLE TO STAFF.

Second by Peters. Passed by the following voté: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-recused, Madaffer-yea, Hueso-yea.

ITEM-250: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the February 5, 2008 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	9/14/2007	144	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	9/19/2007	139	Rules Committee review
Monday	9/24/2007	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee (<i>NB: E-127 is 10/1/2007, a legislative recess</i>)
Monday	10/8/2007	120	Council adopts propositions for ballot; directs City Attorney to prepare ordinances
Monday	10/29/2007	99	Council adopts ordinances prepared by City Attorney
Friday	11/9/2007	88	Last day for City Clerk to file with Registrar of Voters all elections material
Monday	11/26/2007	71	Last day to file ballot arguments with City Clerk

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 5:36 p.m. in honor of the memory of:

Michael "Mick" Dawson as requested by Council President Peters.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:36 p.m. – 5:37 p.m.)

Elizabeth S. Maland, City Clerk
City of San Diego

UNAPPROVED
THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, SEPTEMBER 18, 2007
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:00 a.m. Council President Peters recessed the meeting at 11:08 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 11:15 a.m. with Council Member Madaffer not present. The meeting was recessed by Council President Peters at 12:00 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:02 p.m. with Council Member Hueso not present and thereafter convened the Housing Authority. Council President Peters reconvened the regular meeting at 2:04 p.m. with Council Member Hueso not present. Council President Peters recessed the meeting at 3:11 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:17 p.m. with Council President Pro Tem Young not present. Council President Peters recessed the meeting at 4:45 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:56 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 6:10 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present

Minutes of the Council of the City of San Diego
for the Regular Meeting of Tuesday, September 18, 2007

(8) Council Member Hueso-present

Clerk-Maland (dlc/sr)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:37 a.m. - 10:39 a.m.)

PUBLIC COMMENT-2:

Hud Collins commented on the pension and the Iraq War.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:39 a.m. - 10:42 a.m.)

PUBLIC COMMENT-3:

Gloria Johnson commented on Fire Chief, Tracy Jarman.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:42 a.m. - 10:44 a.m.)

PUBLIC COMMENT-4:

Thomas Glasser commented on health care in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. - 10:47 a.m.)

PUBLIC COMMENT-5:

Al Strohlein commented on fire works and thunderboats.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:48 a.m. - 10:51 a.m.)

PUBLIC COMMENT-6:

Phil Hart commented on the Charger Stadium.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:51 a.m. - 10:54 a.m.)

PUBLIC COMMENT-7:

Mignon Scherer commented on water usage in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. - 10:56 a.m.)

PUBLIC COMMENT-8:

Nancy Warwick commented on street parking in La Jolla.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:56 a.m. - 10:58 a.m.)

PUBLIC COMMENT-9:

Referred to Mayor: Robert Haynes commented on concerns with San Diego sidewalks.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:58 a.m. - 11:02 a.m.)

PUBLIC COMMENT-10:

Ron Boshun commented on the actions of Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:02 a.m. - 11:05 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council Member Frye requested the Audit Committee, Budget Committee or City Council to docket a hearing regarding the Actuarial Evaluation and Retirement Liability.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:25 a.m. - 10:29 a.m.)

COUNCIL COMMENT-2:

Council President Peters announced the Grand Opening of the North University City Branch Library, Wednesday, September 19, 2007.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:30 a.m. - 10:30 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Stephen P. Doyle Day.

MAYOR SANDERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-141) ADOPTED AS RESOLUTION R-302988

Recognizing Stephen P. Doyle for his tireless work as a champion for the City and People of San Diego;

Proclaiming September 18, 2007, to be "Stephen P. Doyle Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:01 a.m. – 10:07 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-31: Fred Lewis Day.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-177) ADOPTED AS RESOLUTION R-303000

Commending Fred Lewis for his substantial contributions to San Diego;

Proclaiming September 18, 2007, to be "Fred Lewis Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:07 a.m. – 10:16 a.m.)

MOTION BY YOUNG TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-32: Hillcrest Centennial Celebration Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2007-1226) ADOPTED AS RESOLUTION R-303001

Congratulating Hillcrest for its historic contributions over the past 100 years;

Proclaiming August 2, 2007, to be "Hillcrest Centennial Celebration Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. - 10:23 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-50: Twelfth Amendment to Lease Between the City of San Diego and Civic Center Associates, LLC to Add Space Leased at Civic Center Plaza Building Located at 1200 Third Avenue. (Centre City Community Area. District 2.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 9/4/2007, Item 56. (Council voted 8-0):

(O-2008-1) ADOPTED AS ORDINANCE O-19665 (New Series)

Authorizing the Mayor, or his designee, to execute and deliver, for and on behalf of the City of San Diego, a Twelfth Amendment to Lease (Amendment) amending that certain Lease dated October 21, 1991, by and between the City Of San Diego, as tenant, and Civic Center Associates, LLC, a California limited liability company, as landlord, and relating to the addition of approximately 19,890 square feet of office space to the Lease premises located in the Civic Center Plaza building at 1200 Third Avenue, San Diego, California, under the terms and conditions set forth in the Amendment;

Authorizing and directing the City Auditor and Comptroller to expend up to \$350,254.90 in Fiscal Year 2008 as required under the Amendment, and to make such fund transfers and re-allocations as may be necessary and prudent to effect such payment.

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

FILE LOCATION: LEAS - Civic Center Association, LLC

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Frye. Passed by the following vote: Peters-yea, Falconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

Authorizing the Mayor, or his designee, to execute an agreement with Project Design Consultants, together with any reasonable necessary modifications or amendments which do not increase the project scope or cost and which the Mayor or his designee deem necessary from time to time in order to carry out the purposes and intent of this project and agreement, for the purpose of preparing supplemental environmental document, obtaining permits, and providing design services for the Regents Road Bridge and Limited Roadway Changes Project;

Authorizing the expenditure of an amount not to exceed \$4,861,373 for the agreement, provided the City Auditor and Comptroller first certifies the necessary funds are, or will be, on deposit in the City Treasury;

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

Stating that this activity is not a "project" and is therefore exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(3).

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:31 a.m. – 10:31 a.m.)

MOTION BY MADAFFER TO CONTINUE TO MONDAY, OCTOBER 9, 2007, FOR FURTHER REVIEW. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-recused, Madaffer-yea, Hueso-yea.

* ITEM-100: Grant Application to CalTrans and Agreement with Simon Wong Engineering for Shoal Creek Pedestrian Bridge Over Ted Williams Parkway Project. (Carmel Mountain Ranch Community Area. District 5.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-134) ADOPTED AS RESOLUTION R-303002

Authorizing the Mayor, or designee, for and on behalf of the City, to apply for and take all necessary actions to secure \$221,094 in grant funding from CalTrans in Safe Accountable Flexible Efficient Transportation Equity Act: A Legacy for Users, California High Priority Project funds (SAFETEA-LU) for the design and preparation of environmental documents for the Shoal Creek Pedestrian Bridge Over Ted Williams Parkway, CIP-54-012.0 (Project);

Authorizing the City Auditor and Comptroller to take all necessary actions to accept funds if grant funding is received;

Authorizing the City Auditor and Comptroller to accept, appropriate, and expend \$221,094 in CIP-54-012.0, Fund No. 38928, on the Project if the CalTrans grant is secured;

Amending Fiscal Year 2008 Capital Improvements Program Budget by increasing CIP-54-012.0, Fund No. 38928, by \$221,094, contingent upon receipt of a fully executed grant agreement;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$56,687 from Fund CIP-59-021.0, Transnet Grant Matches, to CIP-54-012.0, Shoal Creek Pedestrian Bridge Over Ted Williams Parkway, within Fund No. 30300, Transnet, for the purpose of providing funds for the Project;

Authorizing the Mayor to execute, for and on behalf of the City, an agreement with Simon Wong Engineering (Agreement), for the design and preparation of environmental documents in CIP-54-012.0, Shoal Creek Pedestrian Bridge Over Ted Williams Parkway, in the amount of \$757,867, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$757,867, from CIP-54-012.0, for the purpose of executing the agreement, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3). This determination is predicated on Section 15004 of the Guidelines, which provides direction to lead agencies on the appropriate timing for environmental review. Construction activities related to this action will be subject to review under the provisions of CEQA.

STAFF SUPPORTING INFORMATION:

In 2003, a feasibility study was prepared to construct a pedestrian bridge at the intersection of Ted Williams Parkway and Shoal Creek Drive. As a result of the study it was concluded that this bridge fit the criteria established by The San Diego City Council Policy 800-1 B that provides the guidelines for a pedestrian bridge to be installed over a signalized intersection.

Previously, the Federal Highway Administration had identified specific projects for funding from the Safe Accountable Flexible Efficient Transportation Equity Act: A Legacy for Users, California High Priority Project funds, (SAFETEA-LU). An earmark of \$1,200,000 was allocated for this project in increments. A portion of these funds become available annually over a 5 year period. The first two years has previously been applied for, accepted and authorized for expenditure by City of San Diego Council. This request is to apply for and accept the third year allocation of \$221,094 in Federal Grant Funds, which has recently become available. In addition, the Federal Grant matching funds are available through the transfer of funds from CIP-59-021.0, Transnet Grant Matches.

Consultants submitted letters of interest and five firms were interviewed in conformance with Council Policy 300-7 and Administrative Regulation 25.60. The firm, Simon Wong Engineering, was selected to design the project. The proposed agreement is for preliminary engineering, preparation of environmental documents, and preparation of plans specifications and estimates.

FISCAL CONSIDERATIONS:

Funding necessary for these actions, in the amount of \$757,867, of which \$606,294 is available from SAFETEA-LU Funds, and \$151,573, in matching funds, is available from fund 30300, Transnet, CIP-54-012.0, Shoal Creek Pedestrian Bridge Over Ted Williams Parkway.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Approval of the first two years of Federal Grant Funds per Resolution R-302591, dated May 14, 2007.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On June 14, 2006 the Carmel Mountain Ranch Community Council was given an informational presentation on the Shoal Creek Pedestrian Bridge Project. The design team will be working with the Shoal Creek Pedestrian Bridge Committee and the Carmel Mountain Ranch Community Council to seek their approval for conceptual design.

KEY STAKEHOLDERS:

City of San Diego, Carmel Mountain Ranch Community Council, CalTrans, Congressman Hunter, FHWA, Shoal Creek Elementary School, Simon Wong Engineering, Helix Environmental Planning, Inc., Kimley Horn Associates, and Geocon.

Boekamp/Haas

Aud. Cert. 2800108.

Staff: Dave Zoumaras - (619) 533-3138
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-101: Participation Agreement with Pardee Homes for Design and Construction of Sewer Pump Station 79 Upgrades. (Carmel Valley and Del Mar Community Areas. District 1.)

(See Executive Summary Sheet dated June 11, 2007.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2008-167) ADOPTED AS RESOLUTION R-303003

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an agreement with Pardee Homes for the design and construction of upgrades to Pump Station 79 and its sewer force mains, under the terms and conditions set forth in the Participation Agreement;

Authorizing the expenditure of an amount not to exceed \$4,279,224 from Sewer Fund No. 41506, CIP-46-602.6, Sewer Pump Station 79 Upgrades, solely and exclusively, to provide funds for the above agreement and related actions, to be expended as follows: \$576,761 for preliminary design; \$2,965,646 for the Participation Agreement with Pardee Homes; and \$736,817 for project related costs;

Authorizing the City Auditor and Comptroller to return any unexpended funds to the appropriate reserve upon request of the administering department;
Declaring that the information contained in the final Mitigated Negative Declaration Project No. 9203, including any comments received during the public review process, has been previously reviewed and considered, and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with the approval of upgrades to Pump Station 79.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

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

SUPPORTING INFORMATION:

The existing sewer Pump Station 79 (PS 79) has been in operation since 1984. The facility is located in the Del Mar area east of the intersection of El Camino Real and San Dieguito Road, on the north side of San Dieguito Road. The City has determined that many of the components in PS 79 have reached their design life and are in need of replacement and that the pump station is nearing its capacity. A new force main is needed to provide redundancy. The new force main is proposed for installation in El Camino Real.

A previous engineering design for the pump station addressed the ultimate projected flows for full development build out of the drainage basin. These projections were based on standard dry weather criteria plus the addition of a wet weather factor. The wet weather factor was derived from historical meter data during rain events. Subsequent to these design flow projections a significant inflow and infiltration problem was identified within the existing pipelines of this

drainage basin. The City recently completed improvements to these existing sewer mains which significantly reduced the amount of infiltration thereby reducing the ultimate design capacity of the pump station which in turn has significantly reduced the scope of work from the initial design.

Pardee Homes is the owner and developer of a portion of the area commonly known as Pacific Highlands Ranch (PHR). The PS 79 sewer basin serves parts of PHR.

Pardee Homes, through a Participation Agreement with the City, will design and construct the required upgrades to PS 79. The upgrades shall include the construction of approximately 8,230 feet of 12-inch force main and up sizing and replacement of three submersible and three horizontal wastewater pumps. Additionally, to accommodate the upgraded pumps, the piping system and electrical system will be upgraded along with the instrumentation and control system.

The project approvals for PHR Units 5 through 11 and Units 17 through 22 require the developer to contribute their fair share cost for upgrading PS 79. Vesting Tentative Map (VTM) No. 7248 (PHR Units 5-11) Condition 15(a) states that "The Developer shall enter into a Participation Agreement with the City to contribute their fair share cost for upgrading PS 79 to accommodate sewer flows from the proposed development.

Approval of this action will provide an agreement mechanism for Pardee to satisfy its obligations to enter into a Participation Agreement with the City, to pay its fair share costs for the PS 79 improvements, and will have satisfied VTM No. 7248 Condition 15(a), VTM No. 4653 Condition 70, and related obligations for PHR Units 5-11 and 17-22.

The Pump Station 79 Upgrades are identified in the Final Consent Decree as a required project with a completion deadline of December 2008.

The PS 79 Improvements are necessary and benefit the City as a whole. Both the City and Pardee find it in their best interests to expedite the PS 79 Improvements. The agreement calculates the unit cost per equivalent dwelling unit (EDU) to be paid by all future development within the PS 79 basin.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$6,385,567 of which \$1,183,104 is allocated as Pardee's share (taking a credit against their first 936 EDU's), \$921,239 was previously authorized (R-294378), and \$2,000 was previously authorized (R-298364), leaving a balance of \$4,279,224 which will be available in Fund 41506, CIP-46-602.6, Sewer Pump Station 79 Upgrades. The project costs may be bond reimbursed approximately 80% by current or future debt financings.

Pardee will ultimately pay an additional \$1,231,136 associated with their future 974 EDU's at time of issuance of permits. The City anticipates approximately another \$601,000 in reimbursement from other developers in the tributary area to the pump station at time of issuance of their permits.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

R-294378 12/11/2000 \$921,239 for a design agreement with Brown and Caldwell.

R-298364 09/15/2003 \$2,000 for a sewer easement.

R-297087 09/24/2002 Granted Vesting Tentative Map No. 7248 to Pardee Homes

R-299673 09/21/2004 Granted Vesting Tentative Map No. 4653 to Pardee Homes

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

City of San Diego and Pardee Homes.

Ferrier/Haas

Aud. Cert. 2800067.

Staff: Craig Whittmore - (858) 292-6471
Thomas C. Zeleny - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-102: First Amendment to Agreement with Vasquez + Marshall & Associates for Downtown Fire Station No. 1. (Centre City Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-149) ADOPTED AS RESOLUTION R-303004

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a First Amendment to the Agreement with Vasquez + Marshall & Associates, for Architectural Services for Downtown Fire Station No. 1, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this Project and Agreement;

Authorizing a \$162,612 increase in the Fiscal Year 2008 Capital Improvement Program Budget in CIP-33-093.0, Downtown Fire Station No. 1, Fund No. 99044, Fire Stations;

Authorizing the appropriation and expenditure of an amount not to exceed \$162,612 from CIP-33-093.1, Downtown Fire Station No. 1, Fund 99044, Fire Stations, for the purpose of providing funds for the First Amendment with the Consultant;

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

Declaring that this activity (an amendment to an existing agreement) is not a "project" and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3); while the overall activity is exempt from CEQA pursuant to CEQA Guidelines Section 15268(b), as the activity of rehabilitating Fire Station No. 1 is ministerial in nature.

STAFF SUPPORTING INFORMATION:

Downtown Fire Station No. 1 is a 32 years old facility located on the first floor of the San Diego City Operation/Development Services Building. It is the largest downtown fire station providing service to the entire community and handling over 12,000 calls for fire and medical assistance during the past year.

In April 2002, City Council approved a Lease Revenue bond financing plan for the Lifeguard and Fire Facility Improvement Projects. In July 2003, the City Council approved an architectural design agreement with Vasquez + Marshall & Associates, Inc. for the full renovation and remodel of the Downtown Fire Station No. 1 (FS1). The original scope of work included complete demolition and reconstruction of the interior space, including full asbestos removal, installation of fire sprinkler system, and separation of all utilities and electrical and mechanical systems from the rest of the building.

Due to City's inability to issue bonds over the last three years, and provide full funding, estimated at approximately \$7.0M in 2005, construction of the project was put on hold. In the meantime, the conditions within the station have continued to deteriorate creating operational and safety concerns. Given these concerns, on March 27, 2007, the City Council approved (RR-302472 and RR-302473) a cooperation agreement with the Redevelopment Agency for funding improvements in an amount not to exceed \$1.5M for FS1. Additionally, on July 31, 2007, CCDC issued a request for qualifications to redevelop the Civic Center Complex. Should the redevelopment of the Civic Center Complex proceed, FS1 would be completely rebuilt as part of the project, or if it is determined FS1 will not be included, a replacement facility for FS1 would need to be sited and constructed so as to provide the necessary emergency response coverage. Based on the available funding from the Redevelopment Agency and in consideration of the potential redevelopment of Civic Center Complex, the scope for the improvements changed from a complete renovation project to rehabilitation of the most critical components to help maintain a safe, and livable operational environment for the foreseeable future. These improvements provide for the highest Fire priority needs in the station.

Should the proposed redevelopment not take place, the items identified for correction under the complete renovation project originally approved by Council would need to be addressed to ensure continued long term operation of FS1.

The scope of the consultant work has been modified to rehabilitate the Fire Station versus a complete renovation and remodel. A portion of the original work by the consultant may be reused for the new scope, such as the original research and base maps. The Fire Department narrowed the scope of the project to those items which will get the station back to a standard operation level.

Asbestos abatement will be localized in the areas that will need to be disturbed as part of other improvements such as the electrical and mechanical upgrades. The new scope will require additional services to design and specify different floor layouts, materials, new electrical plans, ventilation and exhaust extraction system, new roll up doors, modified asbestos abatement plans to include only portions to be disturbed, modified mechanical/ventilation system designed for the

new configuration, modified kitchen area remodel and a new accessible restroom will have to be provided at a different location among other improvements.

FISCAL CONSIDERATIONS:

The total consultant's fee for professional services required for this First Amendment is \$162,612. Funds for this purpose are available in CIP-33-093.1, Downtown Fire Station No. 1, Fund No. 99044, Dept. No. 97743, Org. No. 4005.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On July 22, 2003, City Council adopted Resolution R-298235 for Phase I of the phased-funded consultant agreement with Vasquez + Marshall Associates for the remodel of Downtown Fire Station No. 1. On April 4, 2005, the City adopted resolution RR-300268 to receive funds from CCDC to fund Phase II of the consultant agreement with Vasquez and Marshall Associates. On March 27, 2007, the City adopted Resolutions RR-302472 and RR-302473 to meet safety codes and authorize the expenditure of funds needed to rehabilitate Fire Station No. 1 in an amount not to exceed \$ 1.5 million.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Presentations were made to CCDC subcommittees and Board, and to the Centre City Advisory Committee.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Fire Staff that work in the station.

Oskoui/Haas/Jarman

Aud. Cert. 2800141.

Staff: Afshin Oskoui - (619) 533-3102
Christina L. Bellows - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:55 a.m. – 12:00 a.m.)

MOTION BY FAULCONER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-not present, Hueso-not present.

* ITEM-103: FY 2007 Gang Prevention Coordination Assistance Program. (Encanto Community Area. District 4.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-115) ADOPTED AS RESOLUTION R-303005

Authorizing the Mayor, or his designee, for and on behalf of the City of San Diego, to apply for, accept, appropriate and expend the Office of Juvenile Justice and Delinquency Prevention (OJJDP) funds from the U.S. Department of Justice;

Authorizing the Mayor, or his designee, to execute all aspects of program operation, including any amendments, extensions, or renewals, for a period of up to five years, provided funding is made available, and to certify that the City will comply with all applicable statutory or regulatory requirements related to the OJJDP program, in an amount not to exceed \$200,000;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend these grant funds;

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

STAFF SUPPORTING INFORMATION:

The Commission on Gang Prevention and Intervention has been working on strategic goals and action plans for impacting gang activity in the City of San Diego.

The FY07 Gang Prevention Coordination Assistance Program is a competitive process requiring local entities to submit coordinated strategies and related program planning documents for impacting gang activity in target areas. For FY 2007, funding is based on the critical nature of the gang problem, the design of the program, the ability of the program to demonstrate competencies as well as monitor and provide outcomes and evaluation.

The Commission has submitted an application to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) on June 22, 2007. The application addresses expanding and coordinating of gang prevention, suppression and intervention strategies within a targeted area known as the Encanto neighborhoods. The goal of OJJDP program is to reduce gang activity in targeted communities through improved coordination of existing resources and activities that support multiple complimentary anti-gang strategies. Award notifications for the 2007 grant funds are to be announced on or about September 30, 2007.

FISCAL CONSIDERATIONS:

There is no non-federal match or cost share required for grants under the Gang Prevention Coordination Assistance Program covered by this resolution. The Commission has applied for \$200,000 for two years.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Not applicable.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Identified below.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The targeted approach grant application will impact the area called the Encanto neighborhoods, a high gang activity area in San Diego.

The youth of the neighborhood will benefit from an increase in resources in the focus area.

Sharpe-Underwood/Olen

Staff: Lynn Sharpe-Underwood - (619) 236-5936
Mary T. Nuesca - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-104: Grant Application to Highway Bridge Program (HBP) for West Mission Bay Drive Bridge over Mission Bay Channel Seismic Retrofit Project (Bridge No. 57C-426). (Mission Bay Park Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-135 Cor. Copy) ADOPTED AS RESOLUTION R-303006

Authorizing the Mayor, or designee, for and on behalf of the City, to make an application to Highway Bridge Program (HBP) for an additional federal grant funding in an amount of \$77,104 for the West Mission Bay Drive Bridge Over Mission Bay Channel Seismic Retrofit Project (Project);

Authorizing the City Auditor and Comptroller to accept, appropriate and expend funds on the Project if the grant funding is secured;

Authorizing the City Auditor and Comptroller to establish a special interest bearing fund for the grant;

Amending Fiscal Year 2008 Capital Improvements Program Budget by increasing CIP-53-055.0, West Mission Bay Drive Bridge Over Mission Bay Channel Seismic Retrofit Project, by \$77,104, contingent upon receipt of a fully executed grant agreement;

Authorizing the appropriation and expenditure of an amount not to exceed \$77,104 HBP funding from CIP-53-055.0, West Mission Bay Drive Bridge Over Mission Bay Channel Seismic Retrofit Project, solely and exclusively, for the purpose of fulfilling Environmental Mitigation and Monitoring requirements contingent upon receipt of a federal funding authorization (E-76) for the Project, and provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$19,278 from CIP-59-021.0, Transportation Grant Matches, Fund 30244, to CIP-53-055.0, West Mission Bay Drive Bridge Over Mission Bay Channel Seismic Retrofit Project, Fund 30300, Transnet, as the local match to the grant, for the purpose of providing funds for the Project provided that the City Auditor and

Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is not a "project" and is therefore not subject to CEQA per CEQA Guidelines Section 15060(c)(2).

STAFF SUPPORTING INFORMATION:

The West Mission Bay Drive Bridge over Mission Bay Channel was identified as a seismically deficient bridge by Caltrans. To address the structural deficiencies, construction of the seismic retrofit was successfully completed in August of 2003.

As part of the project, five year eelgrass mitigation & monitoring program was required. Funding for the mitigation effort recently became available through the Highway Bridge Program.

FISCAL CONSIDERATIONS:

Of the \$96,382, \$77,104 (80%) is available through the Highway Bridge Program funding and \$19,278 (20%) is available from CIP-59-021.0, Transportation Grant Matches.

PREVIOUS COUNCIL COMMITTEE ACTION:

- Accepting \$8,000,000 of Federal HBP grant funds, Resolution R-296943, dated August 5, 2002, for the construction of West Mission Bay Drive Bridge over Mission Bay Channel Seismic Retrofit Project.
- Accepting additional \$1,397,013 of Federal HBP grant funds, Resolution R-296943, dated November 25, 2002 for construction funding.
- Authorizing the transfer, appropriation and expenditure of \$135,000 for non-reimbursable construction expenses, Resolution R-2006-1094 dated June 27, 2006.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None required for this action.

KEY STAKEHOLDERS:

City of San Diego, CalTrans and FHWA

Boekamp/Haas

Aud. Cert. 2800112.

Staff: Dave Zoumaras - (619) 533-3138
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-105: Approving Black Mountain Ranch North Village Unit No. 3A Final Map. (Black Mountain Ranch Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-163) ADOPTED AS RESOLUTION R-303007

Adopting all the findings under Section 66458 of the Subdivision Map Act as follows:

1. The MAP conforms to all requirements for the Subdivision Map Act, and
2. The Map conforms to all the requirements of the local subdivision ordinance contained in the San Diego Municipal Code Section 144.0401 et. seq.;

Finding that the MAP is made in the manner and form prescribed by law and conforms to the surrounding surveys; that the MAP is in substantial conformance with the approved tentative map; and that the MAP and subdivision of land shown thereon is hereby approved and accepted;

Accepting, on behalf of the City of San Diego, the building restricted easement for recreation purposes over, upon or across all those portions of Lot "A" with the exception of those portions of said lot as are shown and designated as building sites, as shown on the MAP and designated "Building Restricted Easement for

Recreation Lot Granted Hereon," as granted and shown on the MAP and subject to the conditions set forth on the MAP;

Accepting, on behalf of the City of San Diego, the easements for general utility and access purposes over, under, upon and across a portion of Lot 9 as shown on the map and designated as "General Utility and Access Easement Granted Hereon" as granted and shown on the MAP and subject to the Conditions set forth on the MAP;

Authorizing and directing the City Clerk to endorse upon the MAP, as and for the act of the Council, that the Council has approved the MAP as stated in this resolution;

Directing the City Clerk to transmit the MAP to the County Recorder of the County of San Diego, California for recordation.

STAFF SUPPORTING INFORMATION:

This project is located in the Black Mountain Rancho Community Plan area southeasterly of Paseo Del Sur and Camino Del Sur. This map is an amendment of a portion of Black Mountain Ranch North Village Unit No. 3. This map requires Council approval because a building restricted easement granted on Black Mountain Ranch North Village Unit No. 3 is being vacated. A building restricted easement in the same location of almost identical size is being granted on the new map. This easement will be maintained by the Home Owner's Association.

A Substantial Conformance Review was approved on November 27, 2001. All public improvements for this subdivision were provided for in connection with Black Mountain Ranch North Village Unit 3. There are no additional requirements for approval of this map.

FISCAL CONSIDERATIONS:

There are no fiscal impacts in connection with this action. All costs are being paid by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): -

Black Mountain Ranch LLC

Manis/Murray

Staff: G. Bollenbach - (619) 446-5417
Marianne Greene - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-106: Jacobs International Teen Leadership Institute Day.

MAYOR SANDERS' AND COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-112) ADOPTED AS RESOLUTION R-303008

Proclaiming the day of July 17, 2007, to be "Jacobs International Teen Leadership Institute Day" in the City of San Diego in recognition of the positive global impact the Jacobs International Teen Leadership Institute brings to the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-107: Solana Beach Little League Majors All Stars Day.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-178) ADOPTED AS RESOLUTION R-303009

Commending the Solana Beach Little League Majors All Stars Team;

Proclaiming August 25, 2007, to be "Solana Beach Little League Majors All Stars Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-108: Aaron Price Fellows Day.

COUNCIL PRESIDENT PETERS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-111) ADOPTED AS RESOLUTION R-303010

Proclaiming July 23, 2007, to be "Aaron Price Fellows Day" in the City of San Diego in recognition of the positive impact the Aaron Price Fellows Program brings to the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-109: Geralyn White Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-176) ADOPTED AS RESOLUTION R-303011

Proclaiming September 8, 2007, to be "Geralyn White Day" in the City of San Diego, and commending Geralyn White for the countless volunteer hours that she has given to the Community of Serra Mesa and for working tirelessly in her attempts to make this year's Serra Mesa Street Fair a wonderful day for the community.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-110: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-1214) ADOPTED AS RESOLUTION R-303012

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION: GEN'L – State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

* ITEM-111: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2007-1233) ADOPTED AS RESOLUTION R-303013

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L –State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego

COUNCIL ACTION: (Time duration: 10:33 a.m. – 10:37 a.m.)

CONSENT MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-330: City of San Diego's Participation in Amicus Curiae Brief in the Case of *In Re: Marriage Cases*.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Take the following actions:

(R-2008-183) ADOPTED AS RESOLUTION R-303015

Declaring the City of San Diego's support for eliminating discrimination against same sex couples in the State of California's civil marriage laws, acknowledging the initiative of the City and the County of San Francisco in its appeal to the California Supreme Court, and directing the City Attorney to sign on to the *amicus curiae* brief in support of San Francisco in a timely manner so as to comply with the Court's September 17, 2007 deadline.

SUPPORTING INFORMATION:

The California Supreme Court is currently considering the case of *In Re: Marriage Cases* which involves several lawsuits filed in March 2004 on behalf of same sex couples denied the ability to marry in California, many of whom had applied to obtain marriage licenses in San Francisco during the period when San Francisco was issuing such licenses to all couples, regardless of sexual orientation. Before these couples could marry, the California Supreme Court ordered San Francisco Mayor Gavin Newsom to stop issuing licenses to same sex couples. At the same time, the state Supreme Court invited litigation to resolve the constitutional issues presented by the discrimination against same sex couples in the state's civil marriage laws.

In 2005, San Francisco Superior Court Judge Richard Kramer ruled that it was unconstitutional to deny same sex couples the right to marry because it violated California's equal protection guarantees and the fundamental right to marry, which has been recognized through a long line of jurisprudence, including landmark cases eliminating statutory prohibitions against interracial marriage. As a general proposition, rights deemed fundamental may not be restricted without a compelling governmental justification. In the current case, the state argues that the traditional exclusion of same sex couples from marriage and the desire of the majority of Californians to maintain that discrimination is its justification.

The Superior Court decision was overturned by the California Court of Appeal in 2006. In eight *amicus curiae* (friend-of-the-court) briefs filed with the Court of Appeal, more than 250 religious and civil rights organizations urged the court to end the discrimination in state law against same

sex couples. Among these amici were the California NAACP, the Mexican American Legal Defense and Educational Fund (MALDEF), the United Church of Christ, the Union for Reform Judaism, the Unitarian Church, and the California Council of Churches.

The case has now been appealed to the California Supreme Court and a number of local governments will submit an *amicus* brief on or before September 17, 2007, urging the Court to overturn the Court of Appeal.

The essence of the argument in the local government brief is that government's duty to treat all equally is not trumped by any compelling, or even rational, governmental goal. The *amicus* brief argues that the mere desire to exclude a traditionally disfavored group - even a desire that is popular and of long standing - can never be a constitutionally sufficient reason to deprive Californians of any right conferred by the laws of this state. The brief further asserts that the creation of a separate, but somewhat less equal, institution for same sex couples -- that is, domestic partnership -- does not fulfill the state's obligation to equal protection. Not only is domestic partnership an inferior institution because it provides fewer rights and obligations than marriage in a variety of ways, it is also inferior in that it does not carry with it the societal imprimatur of approval and support for a couple's commitment to each other that is associated with marriage.

Current local government signers of the *amicus brief* include the cities of Los Angeles, San Jose, Oakland and Berkeley and San Mateo and Santa Clara Counties. The addition of San Diego, the state's second largest city, to the list of municipalities signing the brief would not only be extremely persuasive to the Court, it will also be persuasive with other local governments currently considering whether or not to join the case as an *amicus*.

FISCAL CONSIDERATIONS:

There is no financial impact associated with this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are the City, parties to the litigation, and same sex couples throughout the state who wish to marry. Council approval of this action will enhance the likelihood that these couples will receive equal treatment under California law.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:17 p.m. – 6:05 p.m.)

MOTION BY ATKINS TO ADOPT. Second by Frye. Passed by the following vote:
Peters-yea, Faulconer-nay, Atkins-yea, Young-nay, Maienschein-nay, Frye-yea,
Madaffer-yea, Hueso-yea.

ITEM-331: Establishment of Past Grand Jurors Association Implementation Review Board.

(See Independent Budget Analyst Report No. 06-50; City Attorney Report to the
City Council dated 5/30/2007 [not available at the Committee]; and City Attorney
Report to the Rules Committee dated 7/19/2006 [not available at the Committee].)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2007-135 Cor Copy) INTRODUCED AS AMENDED; TO BE
ADOPTED ON TUESDAY, OCTOBER 9, 2007

Introduction of an Ordinance amending Chapter 2, Article 6, of the San Diego
Municipal Code by adding Division 20, titled City of San Diego Past Grand
Jurors Association Implementation Review Board, to establish a review board
comprised of past San Diego County Grand Jury members to assist in the
implementation of County Grand Jury recommendations that have been accepted
by the City of San Diego.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS
COMMITTEE'S RECOMMENDATION:**

On 11/22/2006, Rules voted 5 to 0 to adopt an ordinance establishing the City of San Diego Past
Grand Juror's Association Implementation Review Board with changes to indicate that members
of the board shall not have been members of the criminal Grand Jury and that the board shall
designate its own chairperson during January of each year. (Councilmembers Peters, Young,
Maienschein, Frye, and Madaffer voted yea.)

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:16 a.m. – 11:50 a.m.)

MOTION BY FRYE TO INTRODUCE AS AMENDED TO INCLUDE AN ANNUAL CAP OF \$10,000. IN ADDITION, THIS WILL BE A TWO-YEAR TRIAL PERIOD AND THE INDEPENDENT BUDGET ANALYST WILL BE INVITED TO ALL MEETINGS. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-332: Settlement of Attorney Fees in the Matter of McGuigan vs. City of San Diego.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-180) ADOPTED AS RESOLUTION R-303014

A Resolution approved by the City Council in Closed Session on Tuesday, July 31, 2007, by the following vote: Council President Peters-not present; Faulconer-yea; Atkins-yea; Council President Pro Tem Young-yea; Maienschein-not present; Frye-yea; Madaffer-yea; Hueso-not present.

Authorizing the Mayor to pay the sum of \$1,600,000 payable to Michael A. Conger, Esq. in settlement of attorney fees against the City of San Diego, its agents and employees, resulting from the Claim, William McGuigan v. The City of San Diego, SDSC Case No. GIC849883;

Authorizing the City Auditor and Comptroller to issue the first installment in the amount of \$800,000 payable on August 31, 2007;

Authorizing the City Auditor and Comptroller to issue two (2) additional payments in the amount of \$400,000 each due no later than August 31, 2008 and August 31, 2009, respectively, upon Council approving the appropriation of funding for the respective years;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$1,600,000 from the Public Liability Fund, solely and exclusively, for the purpose of providing funds for the above described settlement, contingent upon the City Auditor and Comptroller first furnishing one or more certificates demonstrating that the funds necessary for expenditures are, or will be, on deposit in the City Treasury.

STAFF SUPPORTING INFORMATION:

The proposed settlement would resolve all attorney fees arising from the Claim, McGuigan vs. The City of San Diego.

FISCAL CONSIDERATIONS:

Settlement will be paid from the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was considered in closed session on July 31, 2007, the City Council approved the settlement amount of \$1,600,000. City Council voted 5 to 0 to approve. The motion was made by Councilmember Madaffer with a second by Councilmember Frye. Council President Peters, Councilmembers Maienschein, and Hueso were absent.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Heumann/Goldstone

Aud. Cert. 2800177.

NOTE: The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

Staff: Jean Peters - (619) 235-5710
Todd F. Bradley - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 11:51 a.m. – 11:54 a.m.)

MOTION BY FRYE TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-recused, Frye-yea, Madaffer-not present, Hueso-not present.

ITEM-333: Contract Change Order No. 2 for the Torrey Pines Golf Course and Clubhouse Improvements. (University Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-120) RETURNED TO MAYOR

Amending the Fiscal Year 2008 Capital Improvements Program Budget for CIP-25-012.0, Torrey Pines Golf Course South Course Improvements, in Fund 41400, Golf Enterprise Fund, by increasing the budget amount by \$600,000; and CIP-25-018.0, Torrey Pines Golf Course - Existing Clubhouse Maintenance Requirements, in Fund 41400, Golf Enterprise Fund, by increasing the budget amount by \$400,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$600,000 from CIP-25-012.0, Torrey Pines Golf Course South Course Improvements, Fund No. 41400, Golf Enterprise Fund; and \$400,000 from CIP-25-018.0, Torrey Pines Golf Course - Existing Clubhouse Maintenance Requirements, Fund 41400, Golf Enterprise Fund, solely and exclusively for the purpose of providing funds for constructing golf course improvements in anticipation of the 2008 US Open golf tournament, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the Change Order No. 2 to Contract K-073923 in the amount of \$383,633.53, which will increase the total construction contract to \$1,204,780.17;

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

Declaring this activity is covered under the Torrey Pines Golf Course Improvements Mitigated Negative Declaration, dated April 15, 2005. That this activity is adequately addressed in the environmental document and that there is no change in circumstance, additional information, or project changes to warrant additional review. Therefore, this activity is not a separate project for purposes of CEQA review pursuant to State CEQA Guidelines Section 15060 (c)(3).

STAFF SUPPORTING INFORMATION:

On October 14, 2002, City Council entered into a lease agreement with the Friends of Torrey Pines, LLC (Friends), for the use of the Torrey Pines Golf Course for the 2008 US Open (R-297193). The Lease Agreement obligates the Friends to operate and organize the 2008 US Open and pay for a portion of the course improvements for the event as directed by the United States Golf Association (USGA). The City's improvements to the South Torrey Pines Course will include removal and replacement of Kikuyu turf, installation of cart paths to ensure success of the turf prior to the US Open, and aesthetic improvements to the existing halfway house and comfort station.

The cost of improvements to the South Course has exceeded the amount originally anticipated, and additional funding is required. Additional improvements have been requested by the USGA and Golf Operations staff to prepare the course for the 2008 US Open. Additional funding in the amount of \$600,000 within CIP-25-012.0, Torrey Pines Golf Course South Course Renovation is requested to complete the scope of improvements required prior to the US Open.

On June 8, 2007, the City entered into a construction contract with Kubly Golf Course Construction, Inc. for the construction of improvements to the South Course in association with CIP-25-012.0 (K073923). The original construction contract amount is \$621,393.46. As noted above, additional work is desired to prepare the South Course for the 2008 US Open as directed by the USGA and Golf Operations staff. Construction Change Order #1 has been issued in the amount of \$199,753.18, which addresses additional turf replacement (conversion from Bermuda turf to Kikuyu turf). A second construction change order in the amount of \$383,633.53 is required, which will increase the total construction contract amount to \$1,204,780.17.

On December 1, 2006, City Council authorized amendment to the FY 07 CIP Budget to add CIP-25-018.0, Torrey Pines Golf Course - Existing Clubhouse Maintenance Requirements with an initial appropriation of \$400,000. Improvements anticipated for the clubhouse included painting, landscaping, irrigation, and enhanced paving. Additional improvements are desired, including construction of a new Starter's Booth, installation of the Rolex clock (clock donated by Rolex), a new course map, and a new snack cart pad with screen fencing.

Additional funding in the amount of \$400,000 within this project is requested to complete these and any other additional improvements prior to the US Open.

FISCAL CONSIDERATIONS:

Funding in the amount of \$1,000,000 is available in Fund 41400, Golf Enterprise Fund, for these actions.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The following are Council or Committee actions previously taken:

- October 14, 2002 - City Council approval of the Lease Agreement with the Friends of Torrey Pines, LLC, for the use of the Torrey Pines Golf Course for the 2008 US Open (R-297193).
- January 11, 2005 - City Council approval of CIP-25-012.0, Torrey Pines Golf Course South Course Renovation (R-300047).
- June 26, 2006 - City Council adoption of the Golf Operations Five Year Business Plan.
- December 1, 2006 - City Council approval of CIP-25-018.0, Torrey Pines Golf Course Existing Clubhouse Maintenance Requirements.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Improvements to the Torrey Pines Golf Complex have received input and review from the Golf Advisory Committee, Council Committee, City Council, and the California Coastal Commission.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The following are stakeholders in the proposed resolutions:

Daily local and visiting golfers
Kubly Golf Course Construction, Inc.
Heffler Company, Inc.
Friends of Torrey Pines, LLC
United States Golf Association (USGA)

Boekamp/Haas

Aud. Cert. 2800165.

Staff: Ali Darvishi - (619) 533-6526
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:32 a.m. – 10:32 a.m.)

MOTION BY COMMON CONSENT TO RETURN TO THE MAYOR WITH DIRECTION TO BRING THE ITEM BACK FOR DISCUSSION AT THE NATURAL RESOURCE COMMITTEE. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-334: Issuance of Multifamily Housing Revenue Bonds for Bay Vista. (Encanto Community Area. District 4.)

(See San Diego Housing Commission Report HAR07-026.)

SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-173) CONTINUED TO TUESDAY, SEPTEMBER 25, 2007

Approving the issuance of not to exceed \$27,000,000 aggregate principal amount of multifamily housing revenue bonds (Bonds) by the Housing Authority of the City of San Diego, to finance the acquisition and rehabilitation of a multifamily rental housing project in the City of San Diego, pursuant to Section 147(f) of the Internal Revenue Code of 1986;

Declaring the City does not warrant the creditworthiness of the Bonds or guarantee, in any way, the payment of the Bonds. No moneys of the City will be pledged or applied to the repayment of the Bonds.

SUPPORTING INFORMATION:

Bay Vista is an existing 268-unit affordable housing complex located at 4888 Logan Avenue. The project includes 100 two-bedroom and 168 three-bedroom units in 32 buildings. Bay Vista also includes three playgrounds, a community room, and an on-site daycare facility. The property was built in 1969 by a non-profit affiliate of St. Paul United Methodist Church. St. Paul's has owned and operated Bay Vista since its opening and has recently agreed to sell the property to Amerland Group, LLC (Amerland).

Amerland intends to acquire Bay Vista, preserve and extend the affordable rents, and substantially rehabilitate the property. Amerland is a San Diego-based company founded in 2001 by Ruben Islas and Jules Arthur. The firm specializes in the creation and maintenance of affordable multifamily housing. Amerland currently owns 15 affordable housing developments totaling over 2,500 units.

Through the Housing Commission's Bond Program, rents on all the units will be restricted at 50% and 60% of the Area Median Income (AMI) (\$35,100 and \$49,150 for a family of four) for a minimum of 55 years. However, Amerland will also be seeking a 20-year extension of the

HUD Section 8 contract to ensure that tenants will continue to pay 30% of their incomes toward rent after the acquisition and rehabilitation of the project.

The total development cost of the project is estimated to be approximately \$33 million. Other sources of permanent funds for the project will include federal tax credits, a deferred developer fee, and income from operations. The developer currently proposes to issue the bonds through a private placement. The bonds would meet all the requirements of the Housing Commission's Multifamily Housing Revenue Bond Program policy and would fully comply with the City's ordinance on bond disclosure.

FISCAL CONSIDERATIONS:

There are no fiscal impacts to the Housing Commission, City, or Housing Authority associated with the requested actions. Approval of the bond inducement and TEFRA resolutions do not commit the Housing Authority to issue bonds. The bonds would not constitute a debt of the City of San Diego. If bonds are ultimately issued for the project, the bonds will not financially obligate the City, the Housing Authority or the Housing Commission because security for the repayment of the bonds will be limited to specific private revenue sources. Neither the faith and credit nor the taxing power of the City or the Authority would be pledged to the payment of the bonds. The developer is responsible for the payment of all costs under the financing, including the Housing Commission's annual administrative fee.

PREVIOUS HOUSING AUTHORITY and/or COMMITTEE ACTIONS: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Amerland will present their proposal for Bay Vista to the Encanto Community Planning Group in the near future.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

The residents of Bay Vista are stakeholders. Amerland will acquire and rehabilitate the project. The seller of the property is a non-profit established by St. Paul's United Methodist Church. Amerland has selected Red Capital Markets as the tax credit investor for the project.

Fisher/Morris

NOTE: See the Housing Authority Agenda of September 18, 2007, for a companion item.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:04 p.m. – 2:04 p.m.)

MOTION BY YOUNG TO CONTINUE TO TUESDAY, SEPTEMBER 25, 2007, FOR FURTHER REVIEW. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

ITEM-S500: Actions Related to the Construction of the Bayshore Bikeway, PTS No. 1901 of a 1.8-mile Class I bikepath to be located along the Otay River Berm and the Main Street Dike and the relocation of an existing haul road utilized by the South Bay Salt Works. (Otay Mesa-Nestor Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying or denying an application for the construction and operation of a 1.8-mile Class I bikepath to be located along the Otay River Berm and the Main Street Dike and the relocation of an existing haul road utilized by the South Bay Salt Works. The bikepath would be a segment of the 24-mile Bayshore Bikeway and would connect to an existing segment at 13th Street (City of Imperial Beach) on the west side and Main Street (City of San Diego) on the east.

The bike path would be located primarily within the Metropolitan Transit System (MTS) right-of-way, on an asphalt path with 2-foot wide paved porous concrete shoulders on each side of the bikepath. A chain link fence would be erected on both sides of the bikepath along the entire alignment. The proposed project would include the placement of two steel truss bridges above the existing, unserviceable wooden trestle bridges that currently cross the Otay River at these locations. The existing wooden trestle bridges, as well as, the existing wooden railroad rails and

ties, are part of the locally historically designated Coronado Railroad Belt Line (CBL) Historical Resources Board (HRB) Number 640.

The proposed project requires a Site Development Permit due to impacts to Environmentally Sensitive Lands (ESL), specifically to sensitive biological resources and for deviations to construct two steel truss bridges where structures are not permitted in special flood hazard areas and to impact Historical Resource No. 640, the Coronado Belt Line (CBL) Railroad. The impacts to the historically designated railroad are related to the removal of the existing wooden ties, capping the existing railroad rails with soil and placement of steel truss bridges on top of the existing wooden trestle bridges.

(See Report to the City Council No. 07-141. Otay Mesa-Nestor Community Plan Area. District 8.)

(Continued from the meeting of September 11, 2007, Item 337, at the request of Councilmember Faulconer, for further review.)

NOTE: Hearing open. No testimony taken on 9/11/2007.

STAFF'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-2008-137) ADOPTED AS RESOLUTION R-303016

Adoption of a Resolution certifying that Final Environmental Impact Report No. 1901, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act (CEQA) of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency; and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this City Council in connection with the approval of a site development permit and easement deed for the Bayshore Bikeway project;

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

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

Declaring that pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference;

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

Subitem-B: (R-2008-138) ADOPTED AS RESOLUTION R-303017

Adoption of a Resolution approving Site Development Permit No. 3276.

Subitem-C: (R-2008-123) ADOPTED AS RESOLUTION R-303018

Adoption of a Resolution authorizing the Mayor, or his designee, to accept SANDAG MC Transnet Funds, in the amount of \$3,774,000 for CIP-58-140.0, Bayshore Bikeway;

Authorizing the City Auditor or Comptroller to establish a new fund to receive SANDAG Transnet Major Corridor (MC) funds;

Authorizing the Mayor, or his designee, to accept Transnet Bikeway funds (Fund 30301), in the amount of \$718,000 for CIP-58-140.0, Bayshore Bikeway;

Authorizing the City Auditor and Comptroller to deappropriate and transfer an amount not to exceed \$850,000 in Federal Congestion Management Air Quality (CMAQ) funds from CIP-58-140.0, Bayshore Bikeway, Fund No. 38683, Federal and State funds, back to the appropriate agencies;

Amend by increasing the budget amount by \$3,642,000, the Fiscal Year 2008 Capital Improvements Program Budget for CIP-58-140.0, Bayshore Bikeway;

Authorizing the expenditure of an amount not to exceed \$4,492,000 from CIP-58.140.0, Bayshore Bikeway, \$3,774,000 in SANDAG Transnet Major Corridor (MC) funds and \$718,000 of Transnet Bikeway Fund 30301, solely and exclusively for the purpose of providing funds for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

Authorizing the Mayor, or his designee, to enter into a Construction Contract (BID No. K083903C) with the lowest responsible and reliable bidder, after advertising for bids in accordance with law, and contingent upon receipt of all permits, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with the City Treasurer;

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

Subitem-D: (R-2008-139) ADOPTED AS RESOLUTION R-303019

Adoption of a Resolution authorizing the Mayor, or his representative, to accept an easement deed executed by M&A Gabae, CLP, granting the City a permanent easement and right-of-way for pedestrian and non-motor vehicular purposes and incidents thereto, over, under, upon along and across all that real property situated in the City of San Diego, County of San Diego, State of California, as more particularly described in said deed.

Subitem-E: (R-2008-140) ADOPTED AS RESOLUTION R-303020

Resolution authorizing and empowering the Mayor to execute, for and on behalf of said City, a licensing agreement with the Metropolitan Transit System (MTS)/SD&E Railroad (SD&E), for the use of the MTS/SD&E right-of-way for purposes of constructing and operating the Bayshore Bikeway, under the terms and conditions set forth in the Licensing Agreement.

OTHER RECOMMENDATIONS:

Planning Commission Board voted on September 6, 2007, 4-2-1 to approve this project.

Ayes: Smiley, Schultz, Otsuji, Ontai

Nays: Griswold, Naslund

One Vacancy

The Otay Mesa-Nestor Community Planning Group voted on September 18, 2002, to approve this project with no conditions.

On August 23, 2007, HRB voted 7:0:1 to support the preservation of the bridges, those areas proposed for preservation of lines and ties in place, and the interpretive programs, with further research and consideration given to preserving more ties in place through capping and limiting the chain link fence to 3feet-6 inches. There was clarification that there should be consideration of both technological and economic factors in determining the feasibility of capping more of the resource. Their motion to preserve the ties in place through capping has not been implemented. This situation is considered unsafe and presents significant safety issues for future users of the bike path because the wooden ties are in various states of deterioration and are expected to continue to deteriorate. If the ties were to remain in place the bike path would be expected to experience surface pavement deterioration (potholes, cracks, and surface level changes) over time, as the ties continue to deteriorate and crumble under the bike path surface, creating voids under the bike path users and an uneven path surface. The US Fish and Wildlife Service required a 7-foot security fence to provide a barrier between the bike path and adjacent sensitive habitat.

STAFF SUPPORTING INFORMATION:

REQUESTED ACTIONS:

Approval of a Site Development Permit and associated actions for the construction and operation of the 1.8-mile long "Western Salt Segment" of the Bayshore Bikeway which is to be located along the Otay River Berm and the Main Street Dike, and the relocation of an existing haul road utilized by the South Bay Salt Works in the Otay Mesa-Nestor Community Plan area.

STAFF RECOMMENDATIONS:

1. CERTIFY Environmental Impact Report (EIR) No. 1901; ADOPT Final EIR No. 1901; ADOPT the Findings and Statement of Overriding Considerations; and ADOPT the Mitigation, Monitoring, and Reporting Program;
2. APPROVE Site Development Permit No. 3276;

3. APPROVE the Resolution authorizing the Auditor and Comptroller to establish a new fund to receive SANDAG Transnet Major Corridor (MC) funds;
4. APPROVE the Resolution authorizing the Mayor, or his representative, to accept \$3,774,000 in SANDAG MC Transnet funds to fully fund CIP-58-140.0;
5. APPROVE the Resolution authorizing the Auditor and Comptroller to increase the amount of Transnet Bikeway funds (Fund 30301) by \$718,000
6. APPROVE the Resolution authorizing the increase in the FY 2008 budget of CIP-58-140.0 to \$4,658,775;
7. APPROVE the Resolution authorizing the deappropriation and return of previously received Federal and State funds (Fund 38683, not to exceed \$850,000) to the appropriate agencies;
8. APPROVE the Resolution authorizing the Auditor and Comptroller to return excess budgeted funds, if any, to the appropriate reserves;
9. APPROVE the Resolution authorizing the Mayor, or his representative, to expend up to \$4,802,306.13 for purposes of designing and constructing the Bayshore Bikeway, CIP-58-140.0;
10. APPROVE the Resolution authorizing the Mayor, or his representative, to accept an easement deed from M&A Gabae, CLP, for that portion of the bikeway not owned by MTS/SD&AE;
11. APPROVE the Resolution authorizing the Mayor, or his representative, to enter into a license agreement for the use of the MTS/SD&AE right-of-way for purposes of constructing and operating the Bayshore Bikeway; and
12. APPROVE the Resolution authorizing the Mayor, or his representative, to enter into a Construction Contract (BID No. K083903C) with the lowest responsible and reliable bidder contingent upon receipt of all permits.

EXECUTIVE SUMMARY:

The proposal is for the construction and operation of a 1.8-mile Class I bike path to be located along the Otay River Berm and the Main Street Dike and the relocation of an existing haul road utilized by the South Bay Salt Works. The bike path would be a segment of the 24-mile Bayshore Bikeway and would connect to an existing bike path segment at 13th Street (City of Imperial Beach) on the west side and Main Street (City of San Diego) on the east.

The bike path would be located primarily within the Metropolitan Transit System (MTS) railroad right-of-way. The bike path would be 12-feet wide, including an 8-foot wide paved asphalt path with 2-foot wide paved porous concrete shoulders on each side of the bike path. A chain link fence would be erected on both sides of the bike path along the entire alignment. The proposed project would include the placement of two steel truss bridges above the existing, unserviceable wooden trestle bridges that currently cross the Otay River at these locations. The existing wooden trestle bridges, as well as, the existing wooden railroad rails and ties, are part of the locally historically designated Coronado Railroad Belt Line (CBL) Historical Resources Board (HRB) Number 640.

The proposed project requires a Site Development Permit due to impacts to Environmentally Sensitive Lands (ESL), specifically to sensitive biological resources and for deviations to construct two steel truss bridges where structures are not permitted in special flood hazard areas and to impact Historical Resource No. 640, the Coronado Belt Line (CBL) Railroad. The impacts to the historically designated railroad are related to the removal of the existing wooden ties, capping the existing railroad rails with soil and placement of steel truss bridges on top of the existing wooden trestle bridges.

FISCAL CONSIDERATIONS:

All costs are recovered through CIP-58140.0, Bayshore Bikeway, which will be fully funded by Transnet Bikeway and Transnet Major Corridor funds from SANDAG.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The previously authorized funding (see below) for the Bayshore Bikeway Capital Improvement Project CIP-58.140.0 was Federal Congestion Management Air Quality (CMAQ) funds. In order to expedite the project approval process and construction to begin during the October 1st to February 15th allowable window this fall (an annual restriction based on endangered species nesting seasons), the decision was made by SANDAG to substitute additional SANDAG Transnet Bikeway and SANDAG Transnet Major Corridor (MC) funds for the Federal funds, thereby removing the need for Federal review and approval time prior to advertising for construction. The project was able to be advertised for bids in July/August, with bids opened August 8, 2007. The SANDAG Transnet MC funds were substituted from another project (SR52 Highway Improvements) which already had Federal FHWA approval required. The Transnet funds received by these actions are in addition to the City's Transnet allocation.

R-293689 (8/15/2000) Established the CIP/Accepted \$350,000 in Federal CMAQ funding for preliminary engineering C-10288 (9/25/2000) Consultant Contract with Kimley-Horn, and Associates, Inc. R-300662 (7/18/2005) Increased the Federal CMAQ funding by \$500,000 to \$850,000, and authorized Amendment #1 to Consultant Agreement with Kimley-Horn.

PLANNING COMMISSION ACTION:

This information is unavailable at this time. The Planning Commission will be acting on matter on September 6, 2007.

HISTORICAL RESOURCES BOARD ACTION:

On August 23, 2007, HRB voted 7:0:1 to support the preservation of the bridges, those areas proposed for preservation of lines and ties in place, and the interpretive programs, with further research and consideration given to preserving more ties in place through capping and limiting the chain link fence to 3 feet-6 inches. There was clarification that there should be consideration of both technological and economic factors in determining the feasibility of capping more of the resource. Their motion to preserve the ties in place through capping has not been implemented. This situation is considered unsafe and presents significant safety issues for future users of the

bike path because the wooden ties are in various states of deterioration and are expected to continue to deteriorate. If the ties were to remain in place the bike path would be expected to experience surface pavement deterioration (potholes, cracks, and surface level changes) over time, as the ties continue to deteriorate and crumble under the bike path surface, creating voids under the bike path users and an uneven path surface. The US Fish and Wildlife Service required a 7-foot security fence to provide a barrier between the bike path and adjacent sensitive habitat.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Otay Mesa-Nestor Planning Group - The planning group voted to approve the project, with no conditions, on September 18, 2002.

Save Our Heritage Organization (SOHO) - The City has worked with SOHO to redesign the project to response to their input and concerns. Specific project features that have been incorporated include: 1) maintaining the existing railroad trestle bridges in their current condition and in a manner that maintains the ability to view the structures from various locations; 2) maintaining the existing steel rails in place; and 3) providing interpretive facilities regarding the history of the CBL on the proposed bikeway segment. Their request to leave the wooden ties in situ has not been implemented. This situation is considered unsafe and presents significant safety issues for future users of the bike path because the wooden ties are in various states of deterioration and are expected to continue to deteriorate. If the ties were to remain in place the bike path would be expected to experience surface pavement deterioration (potholes, cracks, and surface level changes) over time, as the ties continue to deteriorate and crumble under the bike path surface, creating voids under the bike path users and an uneven path surface.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

- City of San Diego Engineering and Capital Project Department, Applicant
- MTS/SD&AE, Owner
- M&E Gabae, CLP, Owner
- South Bay Salt Works, Lessee
- Har Construction, Inc.
- Adkan Engineers
- JCF BRIDGE & CONCRETE
- JD PAVING
- LSI
- MTGL Incorporated
- San Diego Erosion Control
- Varanus (Biological) Monitoring Services

Boekamp/Haas/PG

LEGAL DESCRIPTION:

The proposed project is located in the northern portion of the Otay Mesa-Nestor Community Plan Area, west of Interstate 5, and is bordered by the City of Imperial Beach to the west and south, and the City of Chula Vista to the north.

Staff: Patricia Grabski – (619) 446-5277
Frank Gaines – (619) 533-3771
Peter Mesich – Deputy City Attorney
Andrea Contreras Dixon – Deputy City Attorney

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

FILE LOCATION: SUBITEMS A, B, C: MEET
SUBITEM D: F-10158

COUNCIL ACTION: (Time duration: 2:04 p.m. – 3:10 p.m.)

Testimony in favor of the item by Dennis Landaal, Jennifer Quijano, Stephan Vance, Kathy Keehan, Joy Sunyata, Andrew Yuen, Gordy Shields, and Greg Cox.

Testimony in opposition of the item by Bruce Coons and Katheryn Rhodes.

MOTION BY HUESO TO ADOPT THE RESOLUTION IN SUBITEM A TO CERTIFY ENVIRONMENTAL IMPACT REPORT NO. 1901; ADOPT THE RESOLUTION IN SUBITEM B TO GRANT SITE DEVELOPMENT PERMIT NO. 3276; ADOPT THE RESOLUTION IN SUBITEM C TO AUTHORIZE THE EASEMENT DEED; AND ADOPT THE RESOLUTION IN SUBITEM D TO AUTHORIZE THE LICENSING AGREEMENT WITH METROPOLITAN TRANSIT SYSTEM AND SD&E RAILROAD . Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

REPORT OUT OF CLOSED SESSION:

To view the list of all available City Council Closed Session Meetings Reports refer to the link below:

<http://www.sandiego.gov/city-clerk/closedsess.shtml>

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:24 a.m. – 10:25 a.m.)

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 6:10 p.m. in honor of the memory of:

Prudy Wood at the request of Council Member Frye; and
Tamam Hasenin at the request of Council President Peters.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:06 p.m. – 6:10 p.m.)

000159

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, SEPTEMBER 24, 2007
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:03 p.m. Council President Peters recessed the meeting at 2:48 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 2:54 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 4:06 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
 - (2) Council Member Faulconer-present
 - (3) Council Member Atkins-present
 - (4) Council Member Young-present
 - (5) Council Member Maienschein-present
 - (6) Council Member Frye-present
 - (7) Council Member Madaffer-present
 - (8) Council Member Hueso-present
- Clerk-Maland (mz)

FILE LOCATION: MINUTES

000160

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ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Ed Day of Horizon Christian Fellowship.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Hueso.

FILE LOCATION: MINUTES

CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

CS-1 *Kedar Pyatt, et al. v. City of San Diego*
San Diego Superior Court Case No. GIC 880621-1

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 25, 2007

DCA Assigned: C. Fitzgerald

The Pyatts' filed an inverse condemnation action resulting from a storm drain failure in La Jolla. The City Attorney will update the Mayor and City Council on the status of the litigation in Closed Session and communicate a settlement offer.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:01 p.m. – 4:01 p.m.)

Council President Peters closed the hearing.

CS-2 *Coastal Law Enforcement Action Network v. City of San Diego;*
Air California Adventure, LLC;
David Jebb - (Complaint);
City of San Diego v. Air California Adventure, LLC;
Air California Adventure, Inc.;
David Jebb; Maya Jebb - (Cross Complaint)
San Diego Superior Court Case No. GIC 861914

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 25, 2007

DCA Assigned: M. Dickenson

This matter is a challenge under the California Coastal Act relating to the City's lease of the property known as the Torrey Pines Gliderport. The City Attorney will update the Mayor and City Council on the status of the litigation and requests that the Mayor and City Council consider a possible settlement of this case in Closed Session.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:01 p.m. – 4:01 p.m.)

Council President Peters closed the hearing.

CS-3 *City of San Diego v. Todd and Stacey Sabin; Stephen and Sandy Games*

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 25, 2007

DCA Assigned: M. Dickenson

The City Attorney requests the City Council consider initiation of litigation to enforce a settlement agreement between the City and certain landowners in the La Playa area of the City of San Diego

Closed Session Comment 1:

Katheryn Rhodes commented on gates and fencing involved in the La Playa area.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:01 p.m. – 4:03 p.m.)

Council President Peters closed the hearing.

CS-4 *City of San Diego v. Manchester Pacific Gateway, LLC*

REFERRED TO CLOSED SESSION OF TUESDAY, SEPTEMBER 25, 2007

DCA Assigned: M. Dickenson

The City Attorney requests the City Council consider initiation of litigation to enforce Manchester Pacific Gateway, LLC's agreement to indemnify the City of San Diego.

Closed Session Comment 1:

Katheryn Rhodes commented on an active fault investigation for the property.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 4:03 p.m. – 4:03 p.m.)

Council President Peters closed the hearing.

ITEM-200: City Response to July 23, 2007 Securities and Exchange Commission Letter.

(See Independent Budget Analyst Report No. 07-80; draft letter from Mayor Jerry Sanders; letter from Jay M. Goldstone dated 8/7/2007; and Power Point Presentation regarding Response to Securities and Exchange Commission Letter from Audit Committee dated 8/6/2007.)

(Continued from the meetings of September 4, 2007, Item 333 and September 11, 2007, Item S500; last continued at the request of Councilmember Frye, for further review.)

MAYOR SANDERS' RECOMMENDATION:

Take the following actions:

(R-2008-268) ADOPTED WITH DIRECTION AS RESOLUTION
R-303021

Authorizing the Mayor to submit City's Response to July 23, 2007 Securities and Exchange Commission letter;

Directing the City Attorney to prepare the appropriate resolutions in accordance with Charter Section 40.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:06 p.m. – 2:43 p.m.)

MOTION BY MADAFFER TO ADOPT WITH DIRECTION TO HAVE THE INCLUSION OF COUNCIL PRESIDENT PETERS' SIGNATURE IN THE CITY'S RESPONSE LETTER TO THE SECURITIES AND EXCHANGE COMMISSION; AND ALSO, TO AMEND MR. JOHN HARTIGAN'S CONTRACT TO INCLUDE MAYOR AND CITY COUNCIL IN NOTIFICATION OF ANY AND ALL FUTURE CORRESPONDENCE FROM THE SECURITY AND EXCHANGE COMMISSION IN A TIMELY MANNER. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-201: Approval of Participation and Administration Agreements in San Diego City Employees' Retirement System (SDCERS) Group Trust.

(Continued from the meetings of June 18, 2007, Item 200; June 26, 2007, Item S400; July 10, 2007, Item 339; September 4, 2007, Item 330; and September 10, 2007, Item S400; last continued at the request of Roxanne Parks, Chief Compliance Officer from SDCERS, for further review.)

SAN DIEGO CITY EMPLOYEES' RETIREMENT SYSTEM'S RECOMMENDATION:

Take the following actions:

TRAILED TO TUESDAY, SEPTEMBER 25, 2007 AT 3:00 P.M.
TIME CERTAIN

Approving the attached Participation and Administration Agreement between SDCERS and the Unified Port District; and

Approving the attached Participation and Administration Agreement between SDCERS and the Airport Authority; and

Approving the attached Participation and Administration Agreement between SDCERS and the City of San Diego;

Directing the City Attorney to prepare the appropriate resolutions in accordance with Charter Section 40.

SUPPORTING INFORMATION:

Along with the City, the Port and the Airport Authority participate in SDCERS under City Charter Section 149 and San Diego Municipal Code Sections 24.1801 et seq. These provisions allow a public agency to contract with SDCERS to participate in the SDCERS Trust Fund, after the City Council makes a finding that the public agency is eligible and approves the contract between the agency and SDCERS. In 2002, the City Council found that the Port and the Airport Authority were eligible to participate in SDCERS under Charter Section 149, and approved the initial contracts between SDCERS and each agency.

Under Charter Section 149 and Municipal Code Section 24.1806, all funds contributed by a contracting public agency and its employees must be held in trust and used only to pay benefits and necessary expenses related to administering the retirement benefits of that agency.

In order to carry out the intent of these provisions, and prevent the use of any contracting agency's plan assets to pay the liabilities associated with another agency's plan, tax counsel advised SDCERS to establish a Group Trust, within which SDCERS would administer each public agency's plan as a separate trust. Based on this advice, on March 16, 2007, the SDCERS Board unanimously approved a "Declaration of Trust" establishing the SDCERS Group Trust effective July 1, 2007. At that same time, the Board unanimously approved the three attached Participation and Administration Agreements with the City, the Port and the Airport Authority.

The Port and Airport Authority Boards have unanimously approved their respective Participation and Administration Agreements. Municipal Code Section 24.18020(j) requires that the Participation and Administration Agreements between SDCERS and each contracting public agency be approved by the City Council by Resolution.

A Council vote to approve the Participation and Administration Agreements of the City, Port, and Airport will ensure that the plan assets associated with each plan sponsor currently participating in SDCERS are unavailable to satisfy the liabilities of each other plan sponsor's plan. Both the Port and Airport Boards have made it clear that the participation of their assets in

the SDCERS Group Trust is critical to their continued participation in SDCERS. If the City Council does not approve their Participation and Administration Agreements, the Port and Airport may be forced to seek out another pension alternative to SDCERS.

FISCAL CONSIDERATIONS:

There is no financial impact associated with this action.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The key stakeholders are the City, Port, and Airport Authority, as well as their employees and retirees. Council approval of the three SDCERS Group Trust Participation and Administration Agreements will assure the employees and retirees of all three agencies that the assets in their retirement plans are safe from claims by or against the other SDCERS-administered plans.

Hebrank/Wescoe

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:49 p.m. – 2:49 p.m.;
2:55 p.m. – 4:00 p.m.)

ITEM-202: Settlement of Binding Arbitration Award in Favor of the San Diego Chargers.

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-31) INTRODUCED, TO BE ADOPTED ON TUESDAY,
OCTOBER 9, 2007

Introduction of an Ordinance amending Ordinance No. O-19652 (New Series) entitled "An Ordinance Adopting the Annual Budget for the Fiscal Year 2007-2008 and Appropriating the Necessary Money to Operate the City of San Diego for Said Fiscal Year," by authorizing the City Auditor and Comptroller to appropriate and to transfer up to \$1,980,339.60 from the City's General Fund

Unallocated Reserve to the Public Liability Fund to pay an arbitration settlement with the San Diego Chargers.

SUPPORTING INFORMATION:

The proposed payment would resolve all claims brought by the San Diego Chargers which were the subject of Binding Arbitration of the 2002, 2003, 2004, and 2005 seasons. Binding arbitration was agreed to after the Chargers Football Company LLC demanded to be compensated for present and future loss revenue, due to the loss of seats that resulted after renovation of Qualcomm Stadium in order to comply with ADA requirements. Future payments will depend on the percentage of actual seats sold based on the formula approved by the Arbitrator.

FISCAL CONSIDERATIONS:

The Auditor will be authorized to appropriate and transfer \$1,980,339.60 from Unallocated Reserves to the Public Liability Fund. The Arbitration Award will be paid from the Public Liability Fund.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

This item was heard in closed session when authority was obtained to enter into binding arbitration.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable): N/A

Jones/Goldstone

Aud. Cert. 2800189.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 4:03 p.m. – 4:06 p.m.)

MOTION BY MADAFFER TO INTRODUCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

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ITEM-250: The list of ticket users for the City Suites at Qualcomm Stadium and Petco Park will be posted on the City Clerk's website quarterly. This information will also be available for viewing by the public in the Office of the City Clerk.

ITEM-251: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the February 5, 2008 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	9/14/2007	144	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	9/19/2007	139	Rules Committee review
Monday	9/24/2007	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee (<i>NB: E-127 is 10/1/2007, a legislative recess</i>)
Monday	10/8/2007	120	Council adopts propositions for ballot; directs City Attorney to prepare ordinances
Monday	10/29/2007	99	Council adopts ordinances prepared by City Attorney

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Friday 11/9/2007 88 Last day for City Clerk to file with Registrar of
Voters all elections material

Monday 11/26/2007 71 Last day to file ballot arguments with City Clerk

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 4:06 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:06 p.m. – 4:06 p.m.)

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, SEPTEMBER 25, 2007
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:01 a.m. Council President Peters recessed the meeting at 10:56 a.m. for the purpose of a break. Council President Peters reconvened the meeting at 11:01 a.m. with all Council Members present. The meeting was recessed by Council President Peters at 11:59 a.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:03 p.m. with Council Member Hueso not present. Council President Peters recessed the regular meeting at 2:06 p.m. to simultaneously convene the Redevelopment Agency and the regular meeting. Council President Peters recessed the meeting at 3:08 p.m. for the purpose of a break. Council President Peters reconvened the regular meeting at 3:12 p.m. with all Council Members present. Council President Peters recessed the meeting at 4:54 p.m. to reconvene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 4:58 p.m. with all Council Members present and thereafter recessed the regular meeting to reconvene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 4:59 p.m. with all Council Members present and thereafter convened the Housing Authority. Council President Peters reconvened the regular meeting at 5:11 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 5:14 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present

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(7) Council Member Madaffer-present

(8) Council Member Hueso-present

Clerk-Maland (dlc/sr)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-not present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:24 a.m. – 10:26 a.m.)

PUBLIC COMMENT-2:

Al Strohlein commented on alcohol in Pacific Beach and supporting Kevin Faulconer.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:26 a.m. – 10:29 a.m.)

PUBLIC COMMENT-3:

Hud Collins commented on the financial crisis in San Diego and the Iraq War.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. – 10:32 a.m.)

PUBLIC COMMENT-4:

Lynn Rowland commented on last weeks' Council item regarding the Amicus Brief.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:32 a.m. – 10:33 a.m.)

PUBLIC COMMENT-5:

Mignon Scherer commented on water conservation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. - 10:37 a.m.)

PUBLIC COMMENT-6:

Sunshine Horton announced a community walk for her birthday.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:37 a.m. – 10:40 a.m.)

PUBLIC COMMENT-7:

Phil Hart commented on home foreclosures and the Gay Pride Parade.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:43 a.m.)

PUBLIC COMMENT-8:

Ted Cook gave thanks to San Diego City Council for the Amicus Brief participation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:43 a.m. - 10:45 a.m.)

PUBLIC COMMENT-9:

Barbara Winton commented on traffic fines.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:45 a.m. - 10:47 a.m.)

PUBLIC COMMENT-10:

Jarvis Ross commented on parking concerns at Shoreline Plaza.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:47 a.m. - 10:51 a.m.)

PUBLIC COMMENT-11:

Katheryn Rhodes commented on the Bayshore Bikeway Project.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:51 a.m. - 10:54 a.m.)

PUBLIC COMMENT-12:

Referred to City Attorney: Jerry Butkiewicz commented on the living wages with Prudential.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:54 a.m. - 10:56 a.m.)

COUNCIL COMMENT:

None.

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

ITEM-30: Crossroads Foundation Day.

COUNCILMEMBER ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2008-55) ADOPTED AS RESOLUTION R-303022

Commending the Crossroads Foundation for its services to the San Diego community;

Proclaiming September 25, 2007, to be "Crossroads Foundation Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:02 a.m. – 10:05 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

ITEM-50: Tobacco Retailer Ordinance – Version D, Relating to Requirements for Permits for Tobacco Project Sales. (Citywide.)

(See Independent Budget Analyst Report No. 07-85 and letter from Judy Strang dated 9/10/2007 [not available at the Committee]; Report from the City Attorney dated 6/29/2006; E-mail from Molly Bowman dated 7/12/2006; letter from Auday P. Arabo, Esq. dated 7/12/2006; City Manager Report No. 05-091; and Reports from the City Attorney dated 5/4/2007, 3/23/2007, 4/8/2005, and 4/7/2005 [not available at the Committee].)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced as amended on 9/10/2007,
Item 150. (Council voted 7-0. Council President Peters not present):

(O-2007-128 Rev.) CONTINUED TO TUESDAY, OCTOBER 16, 2007

Amending Chapter 3, Article 3, of the San Diego Municipal Code by adding Division 45, Sections 33.4501 to 33.4518, titled "Permits for Tobacco Product Sales," relating to requirements for permits for tobacco product sales. State Assembly Bill 71, codified in California Business and Professions Code section 22971.3, created a state licensing program for the sale of tobacco products, and authorizes local governments to adopt their own ordinances to provide for the suspension or revocation of a local license for any violation of a state tobacco control law. This ordinance provides for local regulation of tobacco retail businesses by requiring police permits. The intent is to discourage violations of law prohibiting the sale or distribution of tobacco products to minors to protect their health, welfare, and safety. It is also the intent that all costs associated with the administration and enforcement of this Division be borne by tobacco retailer applicants and permittees. It is further the intent that recoveries hereunder shall be used to pay the costs of enforcement of this Division.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:08 a.m. – 10:21 a.m.)

MOTION BY ATKINS TO CONTINUE TO TUESDAY, OCTOBER 16, 2007, FOR FURTHER REVIEW. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-51: Installation of Angle Parking on 15th Street Between Broadway and "E" Streets.
(Centre City Community Area. District 2.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-25) INTRODUCED, TO BE ADOPTED ON
TUESDAY, OCTOBER 9, 2007

Introduction of an Ordinance authorizing the creation of an angle parking zone on 15th Street between Broadway and "E" Streets, pursuant to the authority conferred by and in accordance with the provisions of California Vehicle Code Section 22503 and the San Diego Municipal Code Section 86.03;

Authorizing the installation of the necessary signs and markings to be made on said street, and the regulations hereinabove imposed shall become effective upon the installation of such signs;

Authorizing the expenditure of \$3,615 for the installation of angle parking on 15th Street between Broadway and "E" Streets, solely and exclusively, for this Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer.

STAFF SUPPORTING INFORMATION:

This action will authorize the installation of angle parking on the west side of 15th Street between Broadway and "E" Streets. This action is in accordance with Municipal Code Section 86.03, and California Vehicle Code Section 22503.

15th Street between Broadway and "E" Streets is a two-lane 52-foot wide two-way street with parking permitted on both sides of the street. It is located within the vicinity of East Village. In their efforts to increase the available parking, the San Diego Police Department has requested the conversion of the west side of this segment of 15th Street from parallel to angle parking.

This section of 15th Street is currently a parking meter zone in effect from 8 AM to 6 PM, Sundays and certain holidays excepted, and will remain as a parking meter zone if the angle parking is installed. The installation of angle parking would result in a net gain of eight parking spaces and the installation of eight additional parking meters. The existing single-head parking meters will be replaced with double-head parking meters to accommodate the 20 new angle parking spaces. One disabled parking space will also be installed, thus complying with Federal ADA regulations and Council Policy 500-08.

FISCAL CONSIDERATIONS:

\$3,615. The cost of the ten double head parking meters will be shared on a 55%-45% basis between the City and the Community Parking District (District One) administered by the Centre City Development Corporation. The City's share (\$2,818) will be from the General Services Department's budget. It is expected that the eight new meters will increase revenues by \$2,582 per year.

The striping of the angle parking spaces will be completed by the City of San Diego Street Division at a cost of \$797. General funds are not budgeted for this specific project. However, Street Division will reprioritize other maintenance needs to complete this project.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The adjacent property on this block of 15th Street is the San Diego Police Department. Both the S.D.P.D. and the Downtown Parking Management Group (DPMG) are in support of this action.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The San Diego Police Department, East Village residents, the public visiting the SDPD Headquarters and the DPMG will benefit from increased parking.

Boekamp/Jarrell

Aud. Cert. 2800159.

Staff: Deborah Van Wanseele - (619) 533-3012
Michael P. Calabrese – Chief Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:21 a.m. – 10:23 a.m.)

MOTION BY FAULCONER TO INTRODUCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- * ITEM-52: Installation of Angle Parking on the East Side of San Diego Avenue Between West Washington Street and India Street. (Uptown Community Area. District 2.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-23) INTRODUCED, TO BE ADOPTED ON
TUESDAY, OCTOBER 9, 2007

Introduction of an Ordinance authorizing the creation of an angle parking zone on the east side of San Diego Avenue between West Washington Street and India Street, pursuant to the authority conferred by and in accordance with the provisions of California Vehicle Code Section 22503 and the San Diego Municipal Code Section 86.03;

Authorizing the installation of the necessary signs and markings to be made on said street, and the regulations hereinabove imposed shall become effective upon the installation of such signs;

Authorizing the expenditure of \$8,932 for the installation of angle parking on the east side of San Diego Avenue between West Washington Street and India Street, solely and exclusively, for this Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

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

STAFF SUPPORTING INFORMATION:

This action will authorize the installation of angle parking on the east side of San Diego Avenue between West Washington Street and India Street. This action is in accordance with Municipal Code Section 86.03, and California Vehicle Code Section 22503.

San Diego Avenue between West Washington Street and India Street is a three-lane 52-foot wide one-way street with parking permitted on both sides of the street. It is located adjacent to a commercial strip with a high parking demand. The Uptown Partnership formed a technical advisory committee composed of residents, businesses, and Transportation Engineering staff to identify traffic and parking issues in the area and to develop solutions. In its effort to increase the available parking and address speeding concerns, the committee recommended, among other things, the conversion of this segment of San Diego Avenue from parallel to angle parking.

The installation of angle parking at this location will result in a net gain of nine parking spaces, one of which will be a disabled parking space in compliance with Federal ADA regulations and Council Policy 500-08. The proposed angle parking will also require the removal of one of three existing travel lanes. The remaining two lanes will be adequate to accommodate the daily traffic volumes on this section of San Diego Avenue. The proposed angle parking in combination with the required lane reduction is also expected to result in a traffic calming effect.

The segment of San Diego Avenue, where the angle parking is proposed, is currently a parking meter zone in effect from 8 AM to 6 PM, Sundays and certain holidays excepted. The parking meter zone will remain in effect after the installation of angle parking and the existing parking meters will be reconfigured to accommodate the new angle parking zone. Eight additional parking meters will also be installed adjacent to the gained parking spaces.

FISCAL CONSIDERATIONS:

\$8,932. The cost of reconfiguring the existing parking meters and the installation of eight additional parking meters will be shared on a 55%-45% basis between the City and Uptown Partnership, Inc., which serves as the Community Parking District for Uptown. The City's share (\$5,924) will be funded from the General Services Department's budget. It is expected that the eight new meters will increase revenues to the City by \$2,982 per year.

The installation of the angle parking spaces; the signage and striping required for the lane removal to accommodate the new angle parking; and the installation of a disabled parking space will be completed by the Street Division at a cost of \$3,008. General funds are not budgeted for this specific project. However, Street Division will reprioritize other maintenance needs to complete this project.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The property owner adjacent to this segment of San Diego Avenue has signed a petition in favor of the proposed angle parking. In addition, the Uptown Partnership Board of Directors, the Mission Hills Business Improvement District, and the Uptown Planners are all in support of this action.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Area businesses, business patrons, area residents, and the Uptown Partnership will benefit from the increased parking.

Boekamp/Jarrell

Aud. Cert. 2800160.

Staff: Deborah Van Wanseele - (619) 533-3012
Michael P. Calabrese – Chief Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:06 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

* ITEM-53: Installation of Angle Parking on West Side of Kettner Boulevard Between Kalmia Street and Ivy Street. (Centre City Community Area. District 2.)

STAFF’S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-26) INTRODUCED, TO BE ADOPTED ON
TUESDAY, OCTOBER 9, 2007

Introduction of an Ordinance authorizing the creation of an angle parking zone on the west side of Kettner Boulevard between Kalmia Street and Ivy Street, pursuant to the authority conferred by and in accordance with the provisions of California Vehicle Code Section 22503 and the San Diego Municipal Code Section 86.03;

Authorizing the installation of the necessary signs and markings to be made on said street, and the regulations hereinabove imposed shall become effective upon the installation of such signs;

Authorizing the expenditure of \$2,453 for the installation of angle parking on the west side of Kettner Boulevard between Kalmia Street and Ivy Street, solely and exclusively, for this Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer.

STAFF SUPPORTING INFORMATION:

This action will authorize the installation of angle parking on the west side of Kettner Boulevard between Kalmia Street and Ivy Street. This action is in accordance with Municipal Code Section 86.03, and California Vehicle Code Section 22503.

Kettner Boulevard between Kalmia Street and Ivy Street is a three-lane 51 foot wide one-way street with parking permitted on both sides of the street. It is located within the vicinity of Little Italy. In their efforts to increase the available parking, the Little Italy Association has requested the conversion of the west side of this segment from parallel to angle parking. This action has been supported by a petition of 75% of adjacent business properties on these blocks of Kettner Boulevard between Kalmia Street and Ivy Street.

This section of Kettner Boulevard is currently a 2 hour parking un-metered zone in effect 8 AM to 6 PM, Monday through Saturday and will remain as a parking un-metered zone if the angle parking is installed. The installation of angle parking would result in a net gain of six (6) parking spaces. Two disabled parking blue zones will be installed, thus complying with Federal ADA regulations and Council Policy 500-08. The proposed angle parking will also require reducing the travel lanes on this segment of Kettner Boulevard from 3 lanes to 2 lanes. The remaining two lanes will be adequate to accommodate the daily traffic volumes on this section of Kettner Boulevard.

FISCAL CONSIDERATIONS:

\$2,453. The striping of the angle parking spaces will be completed by the City of San Diego Streets Division at a cost of \$2,453, and it will be completed within the Streets Division existing budgeted resources. General funds are not budgeted for this specific project. However, Street Division will reprioritize other maintenance needs to complete this project.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

75% of adjacent business properties on these blocks of Kettner Boulevard between Kalmia Street and Ivy Street submitted a petition in support of the proposed angle parking. In addition, the Downtown Parking Management Group (DPMG) and the Little Italy Association are in support of this action.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Adjacent businesses and Little Italy parking users in the vicinity of Kettner Boulevard will benefit by additional parking.

Oskoui/Jarrell

Aud. Cert. 2800157.

Staff: Deborah Van Wanseele - (619) 533-3012
Michael P. Calabrese – Chief Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:06 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

- * ITEM-54: Amending the San Diego Municipal Code by Adding Section 54.0110 Entitled "Unauthorized Encroachments Prohibited". (Citywide.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-3) INTRODUCED, TO BE ADOPTED ON
TUESDAY, OCTOBER, 9, 2007

Introduction of an Ordinance amending Chapter 5, Article 4, Division 1, of the San Diego Municipal Code by adding Section 54.0110 entitled "Unauthorized Encroachments Prohibited", relating to prohibiting unauthorized encroachments on public property or in the public right-of-way;

Declaring that the above activity is not a project and therefore is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

One of the functions of the Environmental Services Department's (ESD) Code Enforcement Section is to enforce encroachments of refuse and recycling dumpsters or bins in public rights-of-ways. Due to the revisions to in the Land Development Code, Municipal Code Section 62.0306 "Unauthorized Encroachments Prohibited" was repealed on November 28, 2005 by O-19446 n.s.; effective February 9, 2006. This section was the principal encroachment enforcement code section for ESD. There is currently no enforcement code section which states that it is unlawful for persons to place dumpsters in the public rights-of-way without an encroachment permit.

In order to eliminate potential safety hazards and liability associated with these types of encroachments, ESD recommends that a new code section (SDMC 54.0110) be added to Chapter 5 (Public Safety, Morals & Welfare), Article 4 (Public Hazards and Public Nuisances), Division 1 (General Provisions). As with the inadvertently deleted code section, the new code section also addresses any other unauthorized object on public property or in the public right-of-way which is not a facility or structure as those terms are used in the Land Development Code. These objects would include, but not be limited to, such items as skate board ramps and basketball apparatus, which are the responsibility of other City Departments.

FISCAL CONSIDERATIONS:

No fiscal impact.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Municipal Code Section 62.0306 "Unauthorized Encroachments Prohibited" was repealed on November 28, 2005 by O-19446 n.s.; effective February 9, 2006.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Heap/Haas

Staff: Nancy Lovell - (619) 573-1206
Grace C. Lowenberg - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:06 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

* ITEM-100: Contributions Agreement with Caltrans for Improvements to Pomerado Road/Miramar Road/I-15 Interchange. (Scripps Miramar Ranch Community Area. District 5.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-186) ADOPTED AS RESOLUTION R-303023

Authorizing the Mayor to execute, for and on behalf of the City, an agreement with Caltrans, for improvements under the terms and conditions set forth in the Agreement;

Authorizing the appropriation and expenditure of an amount not to exceed \$250,000 from Job Order No. 296705, Caltrans Contribution Agreement for I-15, Fund No. 39300, I-15 Improvements Fund, solely and exclusively, for the purpose of providing funds for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to allow remaining interest and any future interest accrued in Fund No. 39300, I-15 Improvements Fund, to be used for transportation-related projects within the Scripps Ranch Miramar Ranch North communities to be determined in future fiscal years;

Declaring that this activity is covered under the MND and FONSI for I-15 Managed Lanes Project, SCH#2002101112. The activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because of the prior environmental document adequately covered this activity as part of the previously-approved project, the activity is not a separate project for purposes of CEQA review pursuant to State CEQA Guidelines Section 15060(c)(3).

STAFF SUPPORTING INFORMATION:

Caltrans is currently planning major highway improvements to Interstate 15 from State Route 163 to State Route 56. As part of these improvements, Caltrans will restripe westbound Pomerado Road at the Interstate 15 overpass, and will modify the on-ramp from westbound Pomerado Road to southbound Interstate 15. These improvements are being made at the request of the Scripps Miramar Ranch community planning group. Developer funds have been deposited into the I-15 Improvements Fund (39300) for this purpose and are part of the Scripps Miramar Ranch Public Facilities Financing Plan (PFFP). By entering into this Contribution Agreement with Caltrans for the interchange improvements, the City will be obligating \$250,000 from the I-15 Improvements Fund for the project.

FISCAL CONSIDERATIONS:

\$250,000 will be expended from the I-15 Improvements Fund (39300) for this project.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

These improvements were requested by the Scripps Miramar Ranch community planning group.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Residents of the Scripps Miramar Ranch community will obtain improved access across Interstate 15 at Pomerado Road/Miramar Road, and improved access to Interstate 15 southbound as a result of the project.

Boekamp/Haas

Aud. Cert. 2800178.

Staff: Larry Van Wey - (619) 533-3005
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:06 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

- * ITEM-101: Twenty-Five Year Lease Agreement with San Dieguito River Valley Regional Open Space Park Joint Powers Authority for Lake Hodges Reservoir Bicycle and Pedestrian Bridge. (Lake Hodges and Rancho Bernardo Community Areas. District 5.)

(See Report to the City Council No. 07-146.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-199) ADOPTED AS RESOLUTION R-303024

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City of San Diego, a 25-Year Lease Agreement with the San Dieguito River Valley Regional Open Space Park Joint Powers Authority for the construction, maintenance, and operation of the Lake Hodges Reservoir Pedestrian/Bicycle Bridge under the terms and conditions set forth in the City of San Diego Lease Agreement (Lease);

Authorizing the City Auditor and Comptroller to accept the Lease rent payments and deposit them in Water Department Fund 41500.

STAFF SUPPORTING INFORMATION:

The San Dieguito River Park Open Space Joint Powers Authority (JPA) proposes to construct and operate the Lake Hodges Reservoir pedestrian/bicycle bridge to allow for a recreational and transportation route for people to cross Lake Hodges Reservoir and the San Dieguito River Valley. The bridge is a component of the San Dieguito River Park's 55-mile-long trail network and will provide direct access for pedestrians and bicyclists to the planned Coast to Crest Trail from the south side of the lake. The bridge is to be used by pedestrians and bicyclists and their leashed dogs. No equestrian or motorized uses will be allowed. Fishing is also specifically prohibited. The bridge will include locking gates at each end to prohibit access between the hours of 9:00 PM and 6:00 AM.

BACKGROUND:

The JPA proposes to construct the 990-foot-long, 14-foot-wide pedestrian/bicycle bridge and related trail connections across Lake Hodges Reservoir linking the Lake Hodges Reservoir North Shore Trail with the Bernardo Bay trail staging area and Piedras Pintadas Trail. The bridge location is approximately 1,000 feet west of Interstate 15 as it passes over Lake Hodges Reservoir.

The project site is located on land owned by the City of San Diego Water Department and is within the San Dieguito River Park Focused Planning Area. The bridge is identified as a top priority "Programmed Bikeway Project" Class I bicycle transportation facility in the City's Bicycle Master Plan (2002). The project would be constructed by the JP A with funds from the Federal Highway Administration Transportation Enhancement Activity grant administered by the California Department of Transportation, District 11.

The bridge will have a 14-foot wide outside dimension, with 12-foot-wide interior clearance for bicyclists and pedestrians. It will also have a 10-foot high clearance at flood conditions, allowing boats to safely pass underneath. It is proposed as a "stress ribbon" design with two piers in the lake and concrete abutments at either end. The bridge will be constructed by a series of pre-cast concrete panels strung on cables anchored into the two bridge abutments. The bridge platform will be supported by two piers in the lake, which will widen at each pier to create two 24-foot wide belvédères for interpretive displays and bench seating. Two seating areas overlooking the lake will be installed at the north and south ends.

The term of the proposed lease is twenty-five (25) years. Staff determined the property to be of nominal rental value. Accordingly, an annual rent equivalent to the current non-profit lease administration fee of \$2,970 per year has been agreed, which will be used to offset the City's costs associated with administering this lease. The rent will be adjusted annually in accordance with the Consumer Price Index. The lease provides for the preparation of an emergency response plan, required by the California Department of Public Health, to protect water quality in the unlikely event of a water contamination incident. There are also stringent daily cleaning specifications and monitoring specifications in the lease, which is in accordance with the City's Domestic Water Supply Permit.

FISCAL CONSIDERATIONS:

Initial rent of \$2,970 annually, will be deposited into the Water Department Fund 41500. On the anniversary date of each lease year the rent shall be adjusted upward per Consumer Price Index.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

In May 2005, a Mitigated Negative Declaration was approved by the JPA Board of Directors. In September 2005, the San Diego City Council approved the Site Development Permit.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

In June 2006, the San Pasqual/Lake Hodges Planning Group voted 7-6-0 to recommend approval of the concept plan for the bridge. In August 2006, the Rancho Bernardo Planning Board voted 21-0-0 to recommend approval of the proposed lease.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

San Dieguito River Valley Regional Open Space Park Joint Powers Authority, a Joint Powers Authority composed of public agencies pursuant to California Government Code section 6500, et seq.

Barwick/Murray

Staff: Gary Jones - (619) 236-6264

Brock Ladewig – Chief Deputy City Attorney

FILE LOCATION: LEAS – San Dieguito River Valley Regional Open Space
Park Joint Powers Authority

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:06 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

* ITEM-102: Second Amendment to Agreement for As-Needed Archaeological Monitoring for Underground Utilities Conversion. (Citywide.)

STAFF’S RECOMMENDATION:

Adopt the following resolution:

(R-2008-129) ADOPTED AS RESOLUTION R-303025

Authorizing the Mayor to execute, for and on behalf of the City, a Second Amendment to the Agreement with Laguna Mountain increasing the maximum contract amount \$750,000, from \$650,000 to \$1,400,000, for a period of up to five years from the original date of execution, June 1, 2005, for consultant services under the terms and conditions set forth in the Agreement, on file in the Office of the City Clerk as Document No. RR C-13294;

Authorizing the appropriation and expenditure of an amount not to exceed \$750,000, from CIP-37-033.8, Consultant Review for Various Underground Projects, Fund 30101, Underground Surcharge-CIP, solely and exclusively, for the purpose of providing funds for executing this Second Amendment to the Agreement, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

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

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

STAFF SUPPORTING INFORMATION:

On June 2005, after a competitive interview process for an as-needed archaeological monitoring consultant for the Utilities Undergrounding Program, the firm Laguna Mountain was awarded a two year contract, not to exceed \$250,000. Prior to that time, archeological needs were contracted out on a project by project basis. The as-needed contract serves to streamline the archeological monitoring needs of the Utilities Undergrounding Construction Program. Amendment No.1, dated November 28, 2005, was required due to archaeological finds which required extensive unanticipated monitoring and mitigation requirements.

To continue with the management of archaeological monitoring and mitigation needs of the program, it is most efficient to amend the existing contract for an additional three years, which will cover approximately 14 projects.

FISCAL CONSIDERATIONS:

Funds in an amount not to exceed \$750,000 are available in CIP-37-033.8, Consultant Review for Various Underground Projects, for this agreement.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On November 28, 2005, per Resolution Number 301072, the City Council authorized to execute a first amendment to the Agreement with Laguna Mountain Environmental, Inc., increasing the maximum contract amount from \$250,000 to \$650,000.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Citywide Community and Public Outreach has been in effect for all Underground Utilities Conversion projects.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Laguna Mountain Environmental, Inc. and City of San Diego.

Oskoui/Haas

Aud. Cert. 2800105.

Staff: Afshin Oskoui - (619) 533-3102
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:06 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

* ITEM-103: First Amendment to Agreement with Kimley-Horn, Inc. for Balboa Avenue Corridor Improvements. (Kearny Mesa Community Area. District 6.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2007-1175) ADOPTED AS RESOLUTION R-303026

Authorizing the Mayor to execute, for and on behalf of the City, a First Amendment to an Agreement with Kimley-Horn increasing the maximum contract amount \$24,700 from \$24,800 to \$49,500, for preliminary engineering services for the Balboa Avenue Corridor Improvements Project, CIP-52-274.0, (Project) under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$24,700 from CIP-52-274.0, Balboa Avenue Corridor Improvements Project, Fund No. 38978, for the First Amendment to the Agreement with Kimley-Horn for the above referenced Project;

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

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

STAFF SUPPORTING INFORMATION:

In May 2001, the City entered into a Cooperative Agreement with the State of California to transfer State Route 274 to the City of San Diego. State Route 274 consists entirely of Balboa Avenue from Interstate 5 to Interstate 15. As part of the Cooperative Agreement, Caltrans provided funding to bring Balboa Avenue up to City standards. The City awarded a consultant contract to Kimley-Horn and Associates, Inc. to analyze existing and future traffic conditions on Balboa Avenue between I-805 and I-15, and to identify potential improvements. The contract amendment will include the preliminary engineering and the prioritization of the recommended improvements.

FISCAL CONSIDERATIONS:

The original contract agreement with Kimley-Horn, Inc. was for \$24,800. The contract amendment #1 with Kimley-Horn, Inc. for preliminary engineering is for \$24,700, for a total expenditure of \$49,500. Funds for the action are available in Fund 38978, CIP-52-274.0

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Council Resolution R-294888 dated May 22, 2001, authorized the Cooperative Agreement with the State of California and acceptance of funding for Capital Improvements and maintenance on State Route 274.

Council Resolution R-298114 dated June 24, 2003, authorized the transfer of \$275,000 from CIP-52-274.0 to CIP-52-496.0, Balboa Avenue Streetscape Improvements.

Council Resolution R-300893 dated October 10, 2005, authorized the transfer of \$1,070,855 from CIP-52-274.0 to CIP-52-496.0, Balboa Avenue Streetscape Improvements and \$500,000 to special interest bearing funds for the maintenance of Balboa Avenue Streetscape Improvements.

Council Resolution R-301364 dated April 26, 2006 authorized the transfer, appropriation, and expenditure of \$550,000 from CIP-52-274.0 to CIP-52-496.0.

Council Resolution R-302335 dated February 14, 2007, authorized the transfer of \$300,000 from CIP-52-274.0 to CIP-52-496.0, Balboa Avenue Streetscape Improvements to special interest bearing funds for the maintenance of Balboa Avenue Streetscape Improvements and \$130,000 to CIP-52-496.0

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Kearny Mesa Planning Group

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Kearny Mesa Community,
Kimley- Horn, Inc.

Boekamp/Haas

Aud. Cert. 2700726.

Staff: Dave Zoumaras - (619) 533-3138
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:06 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

* ITEM-104: **NOTE:** This item has been taken off the docket.

* ITEM-105: North Park Main Street/University Streetscape Improvements. (Greater North Park Community Area. District 3.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-204) ADOPTED AS RESOLUTION R-303027

Amending the Fiscal Year 2008 Capital Improvements Program Budget for CIP-39-207.0, North Park Main Street/University Avenue Streetscape Improvements (Project), Fund No. 79502, North Park Developer Impact Fees, by increasing the budget amount by \$250,000;

Authorizing the appropriation and expenditure of an amount not to exceed \$250,000 from CIP-39-207.0, North Park Main Street/University Avenue Streetscape Improvements, Fund No. 79502, North Park Development Impact Fees, solely and exclusively, for the purpose of providing funds for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

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

Declaring that this activity is categorically exempt from CEQA pursuant to State CEQA Guidelines Section 15301, existing facilities.

STAFF SUPPORTING INFORMATION:

The North Park Main Street/University Avenue Streetscape Improvements project will provide enhanced sidewalks, new curb and gutter, traffic calming measures, and landscape at locations along University Avenue between 28th Street and Granada Avenue, and on 30th Street between University Avenue and North Park Way.

The plans for this project were originally prepared by Earth Tech Consultants in the early 1990s. However, due to unavailability of funding, the project was put on hold. In 2004, the City re-entered into an agreement with Earth Tech Consultants to finalize the plans and specifications for this project.

However, due to further funding unavailability, the project was put on hold again until adequate funds for construction were identified. \$60,000 was requested and approved by Council Action Resolution No. 302871 on July 24, 2007. An additional \$250,000 is being requested to fully fund the project and allow City staff to proceed with advertising, awarding and construction activities. Specifically, these funds will be used to contribute towards the construction costs of the improvement project. Construction is scheduled to begin in early January, 2008.

FISCAL CONSIDERATIONS:

Funds for this action in the amount of \$250,000 are available in Fund 79502, North Park Development Impact Fees. Current funding in the amount of \$319,337.40 for this project is available from Fund 18521, HUD Section 108 Public Improvements, as well as \$60,000 from Fund 79502, Development Impact Fees, AC No. 2700829.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Item 102, Resolution No. R-302871, was approved on July 24, 2007, authorizing the increase, appropriation, and expenditure of \$60,000 from Fund 79502 to supplement funding for this project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Engineering and Capital Projects' staff have worked closely with the North Park Main Street Design Committee, community members, and Council District 3 staff throughout the design phase, and will continue to do so once in construction.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key Stakeholders: City of San Diego; Greater North Park Community.

Projected Impacts: The approval of this action will make funding available so that the City can begin the award and construction phases of the project.

Boekamp/Haas

Aud. Cert. 2800151.

Staff: Dave Zoumaras - (619) 533-3138
Peter A. Mesich - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:06 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

* ITEM-106: 6th Avenue Storm Drain Easement Acquisition. (Midtown Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-179) ADOPTED AS RESOLUTION R-303028

Authorizing the Mayor to accept Grant of Easement Document by Windmill Construction Company/Promontory Point LLC, granting a drainage easement across portions of Lots 28 and 29 of Fleisher's Addition to San Diego, according to Map thereof, No. 811, filed in the Office of the County Record;

Authorizing the City Auditor and Comptroller to disburse \$2,500, from CIP-13-005.0 (JO 130082), 6th Avenue Drain Replacement, for acquisition of the property rights required for completion of the project.

STAFF SUPPORTING INFORMATION:

As part of the settlement agreement between the City and Sleepy Hollow Apartments, the City agreed to construct new drainage facilities at and adjacent to the 6th Avenue cul-de-sac. The improvements include an enlargement of the storm drain (replace existing storm drain) to increase ability to collect water draining downhill on 6th Avenue, replacing existing underground pipe with a larger pipe, and installation of new and larger diameter drainage pipe running down slope at the foot of the Sleepy Hollow Apartment driveway. The down slope portion of the construction requires acquisition of easement rights on adjoining land for the construction of an extended drain pipe and "headwall" improvements just above CalTrans right of way.

FISCAL CONSIDERATIONS:

\$2,500 for acquisition of property rights.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

City of San Diego Water Department
Sleepy Hollow Apartments owner

Repair and improvements to the existing storm drain will result in the increased collection of storm water runoff into drainage facilities resulting in increase protection of the adjacent apartments from flooding.

Barwick/Anderson

Aud. Cert. 2800194.

Staff: Steve Geitz - (619) 236-6311
Todd Bradley - Deputy City Attorney

FILE LOCATION: F-10154

COUNCIL ACTION: (Time duration: 10:05 a.m. – 10:06 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-not present.

* ITEM-107: Establishment of a Commercial Vehicle Prohibition on Riviera Drive. (Pacific Beach Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2008-184) ADOPTED AS RESOLUTION R-303029

Authorizing the Mayor to establish a prohibition of commercial vehicles with a rated capacity of five tons or more on Riviera Drive between Pacific Beach Drive and Ingraham Street;

Authorizing the expenditure of \$900 from Fund 100, solely and exclusively, for this Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Declaring that this activity is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(2).

STAFF SUPPORTING INFORMATION:

This action will prohibit commercial vehicles with a rated capacity of five tons or more from using Riviera Drive between Pacific Beach Drive and Ingraham Street. By law, passenger buses, public utility vehicles, and commercial vehicles with an origin or destination on the affected street are exempt from this provision. Council approval is required according to Municipal Code Section 85.04.

This proposal was initiated by residents along Riviera Drive who expressed concerns with trucks shortcutting on Riviera Drive to access the commercial zones to the north and west of this street. Riviera Drive is a two lane collector street with 100% residential frontage. Alternative routes to access the commercial areas are Ingraham Street and West Mission Bay Drive which are both major streets with fronting commercial facilities.

FISCAL CONSIDERATIONS:

The fiscal impact is estimated to be \$900. Funds are not budgeted for this specific project. However, Street Division will reprioritize other maintenance needs in order to complete this project.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This proposal is supported by residents along Riviera Drive and the Pacific Beach Community Planning Committee voted unanimously to support this action with a 12-0-0 vote.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Oskoui/Jarrell

Aud. Cert. 2800158.