

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, JANUARY 30, 2006
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Table of Contents

CHRONOLOGY OF THE MEETING.....	3
ATTENDANCE DURING THE MEETING	3
ITEM-1: ROLL CALL.....	4
ITEM-10: INVOCATION	4
ITEM-20: PLEDGE OF ALLEGIANCE.....	4
ITEM-30: Approval of Council Minutes	4
ITEM-31: 2006 NTDTV Chinese New Year Global Gala Day.....	5
CLOSED SESSION ITEMS	6
* ITEM-50: Nexus University Science Center Rezone	7
* ITEM-100: Jerabek Neighborhood Park and Elementary School Joint Use Upgrades Project.	8
* ITEM-101: First Amendment to the Consultant Agreement with T.Y. Lin International for First Avenue Bridge over Maple Canyon	9
* ITEM-102: Management Services Agreement with Newport Pacific Capital Company, Inc. for the Operation and Management of De Anza Point Tourist Area	12
* ITEM-103: Grant Application to the Bureau of Justice Assistance to Develop Crisis Response Team Resources	13
ITEM-104: Certification of South Course Environmental Document for Torrey Pines Golf Course	15
* ITEM-105: Easement Deed to San Diego Gas and Electric Company and Cox Communications for Underground Utility Facilities Along Hotel Circle South, Sefton Park.....	16

* ITEM-106: Being Alive San Diego Day..... 18

ITEM-107: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico..... 19

ITEM-108: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City 19

ITEM-150: Temporarily Changing Rule 2.2 (Order of Business) of the Permanent Rules of Council (SDMC) Section 22.0101.5, Under Rule 9 (Temporary Rules) Effective through Council President Scott Peters’ Term..... 20

ITEM-151: Accepting the Report of the Independent Budget Analyst Regarding City Council Budget Priorities for the Fiscal Year 2006-2007 23

ITEM-152: Establishing Short-Term Automated Refuse Container Fee Schedule Effective December 1, 2005 24

ITEM-250: SUBMISSION OF BALLOT PROPOSALS..... 27

ITEM-251: **Notice** of Pending Final Map Approval – Black Mountain Ranch North Village Unit No. 4..... 28

ITEM-252: **Notice** of Pending Final Map Approval - Biarritz 28

ITEM-253: **Notice** of Pending Final Map Approval – 1830 Upas Street..... 29

ITEM-S400: Power Purchase Agreement and Site License Agreement with Sun Edison SD, LLC, for Purchase of electricity at Alvarado Water Filtration Plant..... 30

NON-DOCKET ITEMS 32

ADJOURNMENT..... 33

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:04 p.m. Council President Peters recessed the meeting at 3:09 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:12 p.m. with all Council Members present. The meeting was adjourned by Council President Peters at 3:49 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 (gs)

FILE LOCATION: MINUTES

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 Reverend George Martin of Saint Bartholomew's Episcopal Church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Maienschein.

FILE LOCATION: MINUTES

ITEM-30: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

11/28/2005

11/29/2005

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:07 p.m.)

MOTION BY ATKINS TO APPROVE. 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: 2006 NTDTV Chinese New Year Global Gala Day.

MAYOR SANDERS' AND COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-619) ADOPTED AS RESOLUTION R-301202

Honoring and recognizing the 2006 NTDTV Chinese New Year Global Gala festivities in San Diego;

Declaring February 9, 2006, to be “2006 NTDTV Chinese New Year Global Gala Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:08 p.m. – 2:16 p.m.)

MOTION BY FRYE 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.

CLOSED SESSION ITEMS:

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

CS-1 *Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development v. City of San Diego*
San Diego Superior Court No. GIC 857723

Citizens for Responsible Equitable Environmental Development and Affordable Housing Coalition of San Diego County v. City of San Diego, et al
San Diego Superior Court No. GIC858098

REFERRED TO CLOSED SESSION OF TUESDAY, JANUARY 31, 2006

DCA assigned: R. Martinez

This litigation was brought against the City and Owner/Developers challenging the City's processes for condominium conversions. In closed session the City Attorney will update the Council on the status of the litigation

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:44 p.m. – 3:45 p.m.)

Council President Peters closed the hearing.

CS-2 *John Torres, Ronald Saathoff, Cathy Lexin, Terri Webster, Sharon Wilkinson, Mary Vattimo v. City of San Diego*
San Diego Superior Court Case No. GIC 852293

REFERRED TO CLOSED SESSION OF TUESDAY, JANUARY 31, 2006

DCA assigned: A. Jones

Plaintiffs, former SDCERS board members, seek specific performance and declaratory relief demanding that the City defend and indemnify plaintiffs in two civil cases that the City has brought against plaintiffs. These cases are: People of the State of CA v. Grissom et al (GIC 850246) and the City v. SDCERS et al. (GIC 841845). Plaintiffs claim that the City through its City Council agreed to indemnify "all past and future members" of the SDCERS board, by way of Resolution No. R-297335. On August 3, 2005, a Motion was made to provide such a defense. The Motion failed 4-2. A Summary Judgment hearing was held on January 20, 2006, in which the court determined the plaintiffs were entitled to indemnification.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 3:45 p.m. – 3:45 p.m.)

Council President Peters closed the hearing.

* ITEM-50: Nexus University Science Center Rezone.

(University Community Plan Area. District 1.)

CITY COUNCIL'S RECOMMENDATION:

Adopt the following ordinance which was introduced on 1/17/2006, Item 331, Subitem C. (Council voted 6-0. District 2-vacant and District 8-vacant):

(O-2006-80 Cor. Copy) ADOPTED AS ORDINANCE O-19459
(New Series)

Changing 9.57 acres located on Pueblo Lot 1307, Miscellaneous Map No. 36, within the University Community Plan Area, in the City of San Diego, California, from the RS-1-14 Zone (previously referred to as the R1 Zone) into the IP-1-1 Zone, as defined by the San Diego Municipal Code Section 131.0602.

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:23 p.m. – 2:27 p.m.)

CONSENT MOTION BY ATKINS TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. 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-100: Jerabek Neighborhood Park and Elementary School Joint Use Upgrades Project.

(Scripps Miramar Ranch Community Area. District 5.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-594) ADOPTED AS RESOLUTION R-301203

Authorizing a \$25,000 increase in the Fiscal Year 2006 Capital Improvements Program Budget in CIP-29-820.0, Jerabek Neighborhood Park and Elementary School Joint Use Upgrades, Fund No. 11230, Special Park Fees;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$25,000 from CIP-29-820.0, Jerabek Neighborhood Park and Elementary School Joint Use Upgrades, Fund No. 11230, Special Park Fees, to supplement funding previously authorized to cover design and construction of Jerabek Neighborhood Park and Elementary School Joint Use Upgrades (the Project);

Declaring the Council of the City of San Diego finds that this activity is exempt from the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15301 because this Project involves the minor alteration of an existing facility;

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

STAFF SUPPORTING INFORMATION:

Jerabek Neighborhood Park and Jerabek Elementary School are located at the west of Avenida Magnifica in the community area of Scripps Miramar Ranch in Council District 5. This project provides for the upgrades of the antiquated irrigation system. The original scope provided for upgrades of the Joint Use Elementary School. Additional funds are available to also improve the adjacent Jerabek Neighborhood Park.

FISCAL IMPACT:

The total estimated cost for this project is \$45,000 of which \$20,000 has been previously authorized for the irrigation system for the elementary school joint use area by the Scripps Miramar Ranch Community from Special Park Fees. The additional funds, in the amount of \$25,000 have been approved for the irrigation system upgrades for the neighborhood park by Scripps Miramar Ranch Community from Special Park Fees.

Oppenheim/Medina/AP

Aud. Cert. 2600514.

Staff: April Penera – (619) 525-8223
Eric A. Swenson – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:23 p.m. – 2:27 p.m.)

CONSENT 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-101: First Amendment to the Consultant Agreement with T.Y. Lin International for First Avenue Bridge over Maple Canyon.

(See memorandum from Charlene M. Gabriel dated 8/23/2005. Uptown Community Area. District 2.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-530 Cor. Copy 2) ADOPTED AS RESOLUTION R-301204

Authorizing the City Mayor to accept an additional \$294,882 of Highway Bridge Replacement and Rehabilitation (HBRR) Funds into Fund 38701 contingent upon receipt of a fully executed Program Supplement;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2006 CIP Budget in CIP-52-554.0, First Avenue Bridge over Maple Canyon, Fund 79512, by \$411,000;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$705,882 from CIP-52-554.0, First Avenue Bridge over Maple Canyon: \$294,882 from Fund 38701, HBRR funds, and \$411,000 from Fund 79512, Uptown DIF funds, contingent upon the City Auditor and Comptroller certifying that the necessary funds are available;

Authorizing the Mayor to execute the First Amendment to the Consultant Agreement with T.Y. Lin International for the First Avenue Bridge over Maple Canyon (First Amendment) under the terms and conditions set forth in the in the document contingent upon receipt of a fully executed Program Supplement and upon the City Auditor and Comptroller certifying that the necessary funds are available;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$182,059 from CIP-52-554.0, First Avenue Bridge over Maple Canyon for the purpose of funding the First Amendment, contingent upon the City Auditor and Comptroller certifying that the necessary funds are available;

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

Declaring this activity is exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15060(c)(2), because it will not result in a direct or reasonably foreseeable indirect physical change in the environment.

STAFF SUPPORTING INFORMATION:

The First Avenue Bridge over Maple Canyon (Bridge No. 57C-416) was built in 1931, and is a steel truss arch bridge spanning Maple Canyon Open Space. It has been certified a historic structure by the City of San Diego Historical Resources Board and the California Department of Parks and Recreation. The design of the project will provide environmental approval and preparation of plans, specifications & estimate for the seismic retrofit, rehabilitation, lighting, lead abatement and painting to meet the current engineering standards.

On November 17, 2003, the City Council authorized the Consultant Agreement with T.Y. Lin International to provide Engineering services for the design of First Avenue Bridge over Maple Canyon Project, RR-298585.

This action will authorize the First Amendment to the Agreement for additional work associated with the First Avenue Bridge over Maple Canyon project that was not included in the original Contract and add additional HBRR funds into the project for this purpose. Changes in the scope of work were due to unforeseen changes in the original seismic retrofit design strategy, additional environmental analysis and processing requirements, design of a new bridge lighting system, and utility relocation coordination.

FISCAL IMPACT:

City of San Diego Council previously authorized \$384,952.52, for the Consultant Services for seismic retrofit, rehabilitation, lead abatement and painting for the First Avenue Bridge over Maple Canyon which is included in the Uptown Public Facilities Financing Plan. In addition \$294,882 of HBRR funds, Fund 38701 and \$411,000, of Uptown DIF funds, Fund 79512, will be added into the project. The grant HBRR funding was awarded on October 13, 2005, per the Program Supplement Agreement No. 083 Revision 2. The DIF funds were requested to be appropriated into the project in FY 2006 and the funds have been allocated and are available. The First Amendment to Agreement is \$182,059, of which \$30,000, is included for additional services, if needed, for a total consultant fee of \$567,011.52.

Boekamp/DZ

Aud. Cert. 2600418.

Staff: Dave Zoumaras - (619) 533-3138
Jeremy A. Jung - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:23 p.m. – 2:27 p.m.)

CONSENT 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-102: Management Services Agreement with Newport Pacific Capital Company, Inc. for the Operation and Management of De Anza Point Tourist Area.

(See Report to the City Council No. 06-008. Mission Bay Park Community Area. District 6.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-532 Cor. Copy) ADOPTED AS RESOLUTION R-301205

Authorizing the Mayor, for and on behalf of the City, to execute an agreement with Newport Pacific Capital Company, Inc. to manage all day to day operations and facilitate the orderly transition of the De Anza Point Tourist Area to a legal park use, under the terms and conditions set forth in the Agreement.

Staff: Chris Hargett – (619) 236-6766
Maria C. Severson - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:23 p.m. – 2:27 p.m.)

CONSENT 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-103](#): Grant Application to the Bureau of Justice Assistance to Develop Crisis Response Team Resources.

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-580 Cor. Copy) ADOPTED AS RESOLUTION R-301206

Authorizing the Mayor, or his designee, for and on behalf of the City of San Diego, to apply for, accept and expend grant funds from the U.S. Department of Justice Assistance to be used to research and develop crisis intervention methods and strategies for officers, to provide training to officers to help them identify and safely respond to potentially violent situations and to prevent the escalation of violence, and for the purchase of related equipment;

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 by the U.S. Department of Justice, and certifying that the City will comply with all applicable statutory or regulatory requirements related to said program;

Declaring any resources received hereunder shall be used to supplement, and not to supplant expenditures controlled by this body.

STAFF SUPPORTING INFORMATION:

SDPD has been selected to receive a grant award of \$493,322 to develop Crisis Response Team resources. This two-year grant will be used to develop methods, strategies and tools to identify and safely respond to calls where there is a strong potential for violent resistance (such as mental illness, drug intoxication, etc.) that could result in serious injury or death.

Among the leading challenges in public safety is the response to calls with an especially strong potential for violent resistance by defendants - calls that have the potential to escalate to serious injury or death. The resultant use of police force often leads to strong community reaction, which, in turn, may result in further violence, disorder and destruction. SDPD plans to research and develop crisis intervention methods, strategies, equipment and officer training to identify and safely respond to such potentially violent situations, and to prevent the escalation of violence.

The approved proposal, which was developed several months ago, presently focuses on tasers and launchers (for pepper balls, bean bags, etc.). However, a vital initial first step in the project will be to appoint an SDPD Coordinator to research and assess available options in less-lethal weaponry, equipment and techniques. Once these are identified and selected, the coordinator will work with BJA staff to modify the proposal and budget as necessary.

In addition to selecting, and training officers in the use of, alternative less-lethal equipment and techniques, the program will incorporate a variety of complementary resources, such as Mental Health and Drug Rehabilitation services, to help subjects resolve problems and prevent repeat incidents.

FISCAL IMPACT:

There is no requirement for matching funds. There is no requirement to continue grant-funded activities, expenditures or programs after grant funds are depleted or terminated. Federal law requires that these funds supplement and not supplant funds otherwise available to law enforcement.

The City is authorized to request a cash advance of approximately 5%. In addition, the City Auditor anticipates submitting reimbursement requests timely and as frequently as possible. Therefore, the amount of cash outlay by the City should be minimal.

Froman/Lansdowne/DJW

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:23 p.m. – 2:27 p.m.)

CONSENT 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-104: Certification of South Course Environmental Document for Torrey Pines Golf Course.

(University Community Area. District 1.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-571 Cor. Copy) CONTINUED TO TUESDAY, FEBRUARY 21, 2006

Certifying the information contained in the Torrey Pines Golf Course Improvements Mitigated Negative Declaration (MND), has been completed in compliance with the California Environmental Quality Act and State CEQA Guidelines, and that said MND reflects the independent judgment of the City of San Diego as Lead Agency;

Stating for the record that the final MND has been reviewed and considered prior to approving the project;

Adopting the Mitigation, Monitoring, and Reporting Program.

STAFF SUPPORTING INFORMATION:

On January 11, 2005, City Council directed staff to proceed with the improvements required on Torrey Pines Golf Course South to better suit play of the "average golfer" and to accommodate the US Open in 2008. At that time, the submitted environmental document included improvements on both the Torrey Pines North and South Courses. The environmental document has subsequently been revised to omit the North Course green, bunker, tee and water hazard improvements and address improvements on the South Course, as directed by Council. Relocation of the North Course 18th green will allow for proper establishment and continued use of the green prior to Council's consideration of the proposed Clubhouse project and specific environmental document in the future. Furthermore, relocation of the green will provide for an improved par 4 hole and quality finish to the round of play, consistent with that to be expected of at Torrey Pines Golf Course. Certification of this environmental document will allow the Friends of Torrey Pines, LLC, to implement course modifications for the US Open as previously approved by City Council on October 14, 2002, in Document RR-297193.

FISCAL IMPACT:

No fiscal impact with this action.

Oppenheim/Medina

Staff: Kevin J. Oliver - (619) 533-3015
Shannon M. Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:19 p.m. – 2:23 p.m.)

MOTION BY FRYE TO CONTINUE TO TUESDAY, FEBRUARY 21, 2006, FOR FURTHER REVIEW. 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-105: Easement Deed to San Diego Gas and Electric Company and Cox Communications for Underground Utility Facilities Along Hotel Circle South, Sefton Park.

(Mission Valley Community Area. District 6.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-573 Cor. Copy) ADOPTED AS RESOLUTION R-301207

Authorizing the Mayor, or designee, to execute a deed conveying to San Diego Gas & Electric Company, an easement to be used for underground electrical transmission and distribution facilities and appurtenances and related purposes, along Hotel Circle South, Sefton Park, affecting a portion of Pueblo Lot 1102 according to Miscellaneous Map No. 36 and a portion of Lots 1, 2, 3, and 4 of Block 443 together with portions of vacated Cherry and Mason Streets all of Old San Diego according to Miscellaneous Map No. 40, in the City and County of San Diego, State of California, as set forth in the easement deed;

Authorizing the Mayor, or designee, to execute a deed conveying to Coxcom, Inc., d/b/a Cox Communication San Diego, an easement to be used for underground telecommunication equipment and related purposes, along Hotel Circle South, Sefton Park, affecting a portion of Pueblo Lot 1102 according to Miscellaneous Map No. 36 and a portion of Lots 1, 2, 3, and 4 of Block 443 together with portions of vacated Cherry and Mason Streets all of Old San Diego according to Miscellaneous Map No. 40, in the City and County of San Diego, State of California, as set forth in the easement deed;

Declaring this activity is covered under Project Nos. 63220 and 65157, Formation of Underground Utility Districts - FY2005, Mitigated Negative Declaration dated April 5, 2005, and therefore, is not a separate project for purposes of CEQA review per CEQA Guidelines Section 15060(c)(2) and 15378(c).

STAFF SUPPORTING INFORMATION:

As part of the City's utility undergrounding program, (Council Policy 600-08), existing aboveground utility facilities will be relocated underground. In order to accomplish the relocation, San Diego Gas & Electric Company (SDG&E) and Cox Communications San Diego (COX) have requested an easement for underground facilities.

The easements will provide the necessary rights for SDG&E and COX to relocate as requested by the City's undergrounding program. The two utilities will share a trench. SDG&E's easement allows for communications facilities and the COX easement is a non-exclusive easement, which will allow for the shared use. The total area of the easement is approximately 2,919 square feet.

The easement has been valued by City valuation staff to be worth \$2,189.

Since this project is a California Public Utilities Code 20SD conversion, the cost of which is paid by the City, no compensation is requested for this easement. An Easement Processing Fee of \$1,590 has been charged.

FISCAL IMPACT:

Processing Fee of \$1,590 has been deposited to Fund 100.

Farris/DSL

Staff: Steve Geitz - (619) 263-6311
Elisa A. Cusato - Deputy City Attorney

FILE LOCATION: DEED F-9977

COUNCIL ACTION: (Time duration: 2:23 p.m. – 2:27 p.m.)

CONSENT 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-106: Being Alive San Diego Day.

COUNCILMEMBER FRYE'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-618) ADOPTED AS RESOLUTION R-301208

Commending and thanking Being Alive San Diego for its efforts to improve the quality of life for people living with HIV/AIDS;

Proclaiming January 27, 2006, to be “ Being Alive San Diego Day” in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:23 p.m. – 2:27 p.m.)

CONSENT 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-107: 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-2006-637) ADOPTED AS RESOLUTION R-301209

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: 2:28 p.m. – 2:34 p.m.)

MOTION BY MADAFFER TO ADOPT. 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-108: 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-2006-329 Cor. Copy) ADOPTED AS RESOLUTION R-301210

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: 2:34 p.m. – 2:35 p.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-150: Temporarily Changing Rule 2.2 (Order of Business) of the Permanent Rules of Council (SDMC) Section 22.0101.5, Under Rule 9 (Temporary Rules) Effective through Council President Scott Peters' Term.

(See memorandum from Council President Scott Peters dated 1/11/2006.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2006-644 Cor. Copy) ADOPTED AS RESOLUTION R-301211

Adopting the following temporary rule, to be known as "San Diego City Council Temporary Rule 2.2":

Temporary Rule 2.2 Order of Business (Superceding Permanent Rule 2.2)

The order of business for Council meetings during Councilmember Peters' term as Council President shall be as follows:

Monday at 2:00 p.m.

1. Roll Call
2. Invocation and Pledge of Allegiance
3. Requests for Continuances
4. Communications
5. Adoption Agenda
 - a. Committee Items
 - b. Other Legislative Items

- c. Noticed Hearings (to be scheduled at various times throughout the day by the City Clerk based on the number of hearings and reasonable expectation of length) and Special Hearings
6. Public Comment on Closed Session Items
7. Public Notices
8. Non-Agenda Items
9. Adjournment

Tuesday at 9:00 a.m.

1. Closed Session

Tuesday at 10:00 a.m.

1. Roll Call
2. Special Orders of Business
3. Non-agenda Public Comment (limited to three minutes)
4. Requests for Continuance
5. Adoption Agenda
 - a. Consent Items
 - b. Noticed Hearings (to be scheduled at various times throughout the day by the City Clerk based on the number of hearings and reasonable expectation of length) and Special Hearings
 - c. Unfinished Business from Monday
6. Non-Agenda Items
7. Adjournment

Declaring the above temporary rule shall be effective and supercede Permanent Rule 2.2 from adoption and continuing through Councilmember Peters' term as Council President or until such time that, the Permanent Rules of the City Council are amended to incorporate the subject matter addressed in the temporary rule.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS
COMMITTEE'S RECOMMENDATION:**

On 1/25/2006, Rules voted 5-0, to approve Council President Peters' recommendation with the following changes:

- 1) Correctly identify that the public portion of the Council meeting begins at 10:00 a.m. with Closed Session beginning at 9:00 a.m.
- 2) Add an item to the order of Monday items indicating that "Public Testimony on Closed Session Items" follows the "Adoption Agenda."

(Councilmembers Peters, Young, Maienschein, Frye, and Madaffer voted yea.)

SUPPORTING INFORMATION:

The Permanent Rules of City Council (SDMC §22.0101.5) govern the procedures and proceedings of the San Diego City Council. Rule 2.2 (Order of Business) establishes the day (Monday or Tuesday) and order that certain types of items are heard.

Rule 9 of the Permanent Rules of Council allow for the establishment of temporary rules superseding the permanent rules of Council for a fixed period of time subject to City Council approval by resolution.

To provide increased predictability for Council business and for persons wishing to address the Council on matters, which are and are not listed on the Council Docket, the Council President proposes the following changes to the Permanent Rules:

1. Move Special Orders of Business from Mondays to Tuesdays following the Roll Call
2. Consolidate “Consent Items” on Monday under the “Adoption Agenda” to Tuesday so that all published consent items are heard on Tuesday.
3. Permit Noticed Hearings and Special Hearings to be docketed on Mondays when needed.

The above changes are proposed and as a temporary rule which will be effective beginning with the City Council Docket of February 21 and continuing through Councilman Peters’ term as Council President.

Peters/Kinsley/CMC

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

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:45 p.m. – 3:06 p.m.)

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-151: Accepting the Report of the Independent Budget Analyst Regarding City Council Budget Priorities for the Fiscal Year 2006-2007.

(See Independent Budget Analyst Report IBA Report No. 06-4; memorandums from Council President Peters dated 1/10/2006, Councilmember Atkins dated 1/11/2006, Council President Pro Tem Young dated 1/17/2006, Councilmember Maienschein dated 1/11/2006, Councilmember Frye dated 1/11/2006, and Councilmember Madaffer dated 1/13/2006; memorandums from Councilmember Faulconer dated 1/25/2006 and Councilmember Hueso dated 1/23/2006, not available at Committee.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2006-645) ADOPTED AS RESOLUTION R-301212

Accepting the report of the Independent Budget Analyst regarding City Council Budget Priorities for the Fiscal Year 2006-2007, and directing that said Report be delivered to the Mayor together with the Council Members' budget priority memoranda.

BUDGET AND FINANCE COMMITTEE'S RECOMMENDATION:

Reviewed by Budget on 1/18/2006, no vote taken. Budget Priorities submitted and referred to the Independent Budget Analyst.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:12 p.m. – 3:44 p.m.)

MOTION BY YOUNG 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-yea.

NOTE: It is anticipated that the originating department will request to have this item returned to staff for further evaluation.



ITEM-152: Establishing Short-Term Automated Refuse Container Fee Schedule Effective December 1, 2005.

(See City Manager Report CMR-05-191; and City Attorney Report dated 6/13/2005, not available at the Committee.)

(Continued from the meetings of November 22, 2005, Item 331, and December 6, 2005, Item 331, last continued at the request of the Mayor, for further review.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2006-454 Cor. Copy) RETURNED TO THE ORIGINATING
DEPARTMENT

Authorizing and directing the Mayor as follows:

1. To establish and impose a short-term fee for automated refuse containers of \$50 per container, for new service requests, replacement of non-serviceable containers no longer under warranty, and replacement of lost or stolen containers, effective December 1, 2005 and until a long-term replacement plan for automated containers is implemented, as set forth in City Manager Report No. 05-191;
2. To establish and impose a short-term fee for non-warranty automated refuse container field repairs of \$30 per repair trip plus cost of parts and labor, effective December 1, 2005 and until a long-term replacement plan for automated containers is implemented, as set forth in City Manager Report No. 05-191;
3. To establish and impose a fee for both refuse and recycling automated container delivery services of \$30 per delivery, effective December 1, 2005, as set forth in City Manager Report No. 05-191;
4. To issue a Waste Management Regulation revising the existing automated container program to provide for the above fees;

5. To review the above short-term fees and make adjustments in accordance with Council Policy 100-05 and Administrative Regulation 95.25, to ensure that all reasonable costs of goods and services incurred in connection with the provision of these automated containers are being recovered; and
6. To deposit all automated container program fees into the Automated Container Fund No. 10509, to be used solely for purposes of the automated container program.

Directing the City Clerk to amend the Ratebook of City Fees and Charges to include the automated container program fees described above;

Declaring this activity is statutorily exempt from CEQA pursuant to CEQA Guidelines Section 15273 because this activity pertains to the establishment, modification, structuring, restructuring, or approval of rates, fares, tolls, or other charges by a public agency, which the City Council finds are for the purpose of meeting operating expenses and purchasing supplies, equipment or materials.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 10/26/2005, NR&C voted 3 to 1 to approve the Staff's recommendations. (Councilmembers Young, Frye, and Madaffer voted yea. Councilmember Maienschein voted nay.)

SUPPORTING INFORMATION:

The People's Ordinance of 1919, codified as Section 66.0127 of the San Diego Municipal Code, provides that "Residential Refuse shall be collected, transported and disposed of by the City at least once a week and there shall be no City fee imposed or charged for this service by City forces." Historically, from 1919 through 1994, it was the responsibility of residents and small businesses receiving City collection services to provide, maintain, repair and replace the containers used for storage and collection of refuse. In 1995, to ease the transition to automated refuse and recycling collection from manual collection, the City provided uniform automated collection containers to residences and small businesses without charge. This was done to ensure all containers would be fully compatible with new automated and semi-automated collection systems and be able to withstand the heavy industrial use.

A significant portion of the City's automated collection container inventory is now approaching the end of its expected life span and warranty period. In an attempt to keep up with growing demand and the anticipated increase in container failure rates, \$220,000 was requested but not funded in the FY 2006 General Fund budget.

To mitigate the unbudgeted expenditures to the General Fund that occur as additional and replacement containers are required, it is recommended that effective December 1, 2005 a cost-recovery fee of \$50 per refuse container be established for all new service requests, lost or stolen containers, and non-warranty replacements. Additionally, a fee of \$30 (plus parts and labor) is proposed for non-warranty repairs on automated refuse containers and a \$30 fee is proposed to recover the cost associated with delivery of recycling and refuse automated containers. Recycling containers are provided free of charge and currently have a \$25 delivery fee. This action does not alter the free recycling container policy but brings the delivery fee in line with the current estimated cost of \$30 per container.

FISCAL IMPACT:

It is anticipated the proposed refuse container fees will generate approximately \$110,000 in revenue for FY 2006 allowing the City to continue to provide this service to residents until other options are evaluated. This approach allows the City to bridge short-term automated refuse container replacement issues with the longer-term need for citywide replacement of over 500,000 10-year-old automated refuse and recyclables containers reaching the end of their life. Ten-year lease purchase cost estimates for citywide replacement of all automated refuse and recyclables containers total \$24 to \$30 million.

Heap/Monroe

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:18 p.m. – 2:18 p.m.)

MOTION BY COMMON CONSENT TO RETURN THIS ITEM TO THE ORIGINATING DEPARTMENT FOR FURTHER REVIEW. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, 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 back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the June 6, 2006 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	1/20/2006	137	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee
Wednesday	1/25/2006	132	Rules Committee review
Monday	1/30/2006	127	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee
Monday	2/06/2006	120	Council adopts propositions for ballot; directs City Attorney to prepare ordinances
Monday	2/27/2006	99	Council adopts ordinances prepared by City Attorney
Friday	3/10/2006	88	Last day for City Clerk to file with Registrar of Voters all elections material
Thursday	3/23/2006	75	Last day to file ballot arguments with City Clerk

If you have questions, please contact the Office of the City Clerk at (619) 533-4050.

ITEM-251: **Notice** of Pending Final Map Approval – Black Mountain Ranch North Village Unit No. 4.

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 “Black Mountain Ranch North Village Unit No. 4” (T.M. No. 40-0528/PTS No. 50283), located northeasterly of Paseo Del Sur and Haviland Glen in the Black Mountain Ranch Community Plan Area in Council District 1, 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 Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-252: **Notice** of Pending Final Map Approval - Biarritz.

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 “Biarritz” (T.M. No. 175875/PTS No. 73875), located northwesterly of Redwood Street and Sixth Avenue in the Uptown Community Plan Area in Council District 2, 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 Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-253: Notice of Pending Final Map Approval – 1830 Upas Street.

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 “1830 Upas Street” (T.M. No. 78520/PTS No. 73738), located northeasterly of Park Boulevard and Upas Street 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 Deputy City Engineer Lee Hennes at (619) 446-5291.



[ITEM-S400:](#) Power Purchase Agreement and Site License Agreement with Sun Edison SD, LLC, for Purchase of electricity at Alvarado Water Filtration Plant.

(See Report to City Council No. 06-013. Navajo Community Area. District 7.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2006-89) INTRODUCED, TO BE ADOPTED ON TUESDAY,
FEBRUARY 21, 2006

Introduction of an Ordinance authorizing a 20-Year Power Purchase Agreement with Sun Edison SD, LLC, for the purchase of electricity at the Alvarado Water Filtration Plant; allowing Sun Energy SD to finance, install, own, operate, maintain, and generate renewable energy at the Alvarado Filtration Plant; authorizing other Power Purchase Agreements with Sun Edison SD subject to City Council approval; and finding no Environmental Impact.

STAFF SUPPORTING INFORMATION:

In early 2005, the Energy Division developed a Request for Qualification targeted towards firms or a team of firms that could provide the City with renewable power at prices equal to or better than the local utility. More than 70 firms were issued copies of the Request for Qualification. Ultimately, six firms responded to the Request for Qualification.

During the final selection process, Sun Edison SD LLC provided the City with the best proposal for the design, installation and maintenance of a large scale photovoltaic installation at the Alvarado Filtration Plant. Additionally, Sun Edison SD LLC provided the best purchase price per kilowatt hour.

Under the proposed terms of the Power Purchase Agreement, Sun Edison SD LLC will be responsible for designing and installing approximately 928 kilowatts of Photovoltaics at the Alvarado Filtration Plant, and provide for the future designs and installations of Photovoltaic systems at other City owned facilities over the next 5 years.

Under this agreement, all Photovoltaic systems will be installed, owned, operated and maintained by Sun Edison SD LLC, for a period of 20 years from the date the systems are commissioned and begin generating electricity for the City of San Diego.

FISCAL CONSIDERATIONS:

The installation of Photovoltaics at the Alvarado Filtration Plant will save the City approximately \$710,500 dollars in energy cost at the Alvarado Treatment Plant over the next twenty years. Future energy pricing is anticipated to increase at a rate of 2 percent per year. Currently, the average energy cost for the Alvarado Filtration Plant is 0.13 cents per kWh. The cost of renewable energy under this proposed agreement is fixed at 0.12 cents per kilowatt hour (kWh) in the first year, with an escalation of 1 percent per year over the next twenty years.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On September 14, 2004 the Rule, Finance and International Relations Committee voted 5-0 to direct the City Manager to issue a Request for Proposal (RFP) to develop partnership(s) to install solar systems using funding methods that minimize impact to City funds.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

In January 2005 the Environmental Services Department, Energy Conservation and Management Division advertised a Request for Qualification and Proposal. The City placed advertisements in the San Diego Daily Transcript, the Voice and the Viewpoint.

KEY STAKE HOLDERS & PROJECTED IMPACTS:

Sun Edison LLC is the primary stake holder on this project. The Investor Company providing financing to Sun Edison LLC for the installation of 928 kilowatts of Photovoltaics is Goldman Sacks.

Heap/Blair/JH

Aud. Cert. 2600562.

Staff: John Helminski - (858) 492-6005
Frederick M. Ortlieb - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:35 p.m. – 2:45 p.m.)

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

NON-DOCKET ITEMS:

None.

